Georgetown Journal on Poverty Law and Policy
Volume XXXII, Number 1, Fall 2024

Born of Necessity: The Rationale Behind International Humanitarian Efforts to Meaningfully Increase Access to Family Planning Services

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ABSTRACT

Family planning ("FP") services are essential to women planning their reproductive futures around the world. Women in lower- and middle-income countries ("LMIC") have not always had access to the FP healthcare they deserve. Although international human rights organizations have been advocating to increase access to these services for decades, they have not always presented a unified justification for the importance of this care. By pivoting from rationales that stress the importance of preventing overpopulation in LMIC to advocating for increased access to FP services to enable women to make their own reproductive decisions and maintain their health, international organizations are moving in the just direction. However, these organizations are still reluctant to recognize that many factors outside of access to FP services contribute to the decreases in fertility rates seen across many LMIC today. By acknowledging that economic conditions and the availability of pediatric healthcare in LMIC also shape families' reproductive decisions, organizations working to expand the reach of FP services can more fully come to terms with the fact that fertility rates in LMIC are likely to continue decreasing due to factors other than access to reproductive healthcare. This can empower organizations endeavoring to make FP services more accessible to focus solely on promoting women's autonomy and health, which are the only appropriate goals for this type of international aid work.

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Introduction

Increasing access to FP services, or crucial reproductive health and education services that enable individuals and families to plan whether and when to have children, has been a priority of international human rights organizations and activists since the end of World War II.[1] By expanding access to contraceptives, knowledge about reproductive processes, and perinatal care for women living in LMIC, the international human rights community has worked diligently to ensure that women are able to dictate their reproductive futures and space their pregnancies in a way that promotes their own health and the wellness of their children.[2]

The idea that every human has the right to access FP services to plan or prevent pregnancy has been inferred from the enumerated rights listed in several foundational international human rights treaties. Article 16 of the 1948 Universal Declaration of Human Rights ("Universal Declaration"), as well as Article 23.2 of the 1966 International Covenant on Civil and Political Rights, states that all adults have the right "to found a family."[3] Additionally, Article 25.1 of the Universal Declaration asserts that every person has the right to an adequate standard of living, which includes "medical care and necessary social services."[4] Article 25.2 of the Universal Declaration even goes as far as to state that

1. Inst. of Med. et al., A Review of the HHS Family Planning Program: Mission, Management, and Measurement of Results 42 (Adrienne Butler Stith & Ellen Wright Clayton eds., 2009); Jeremy Shiffman & Kathryn Quissel, *Family Planning: A Political Issue*, 380 The Lancet 181, 181 (2012).

2. Inst. of Med. Et. Al., *supra* note 1; Throughout this paper, the words "woman" and "women" are used to conform with the language utilized by materials produced by international advocacy groups and human rights organizations. This language seems to be used as a shorthand to describe individuals who are capable of becoming pregnant. While the individuals in need of family planning services are most commonly cisgender women who are assigned the label of female at birth, the availability of this type of healthcare also impacts the lives of transgender men and nonbinary and gender diverse individuals who can get pregnant. The FP services international organizations advocate to expand must be inclusive and nondiscriminatory to truly satisfy the needs of every person who can benefit from this form of care.

3. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 16 (Dec. 10, 1948); G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights art. 23.2 (Dec. 16, 1966).

4. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 25.1 (Dec. 10, 1948).

"motherhood and childhood are entitled to special care and assistance."[5] Article 10 of the 1966 International Covenant on Economic, Social and Cultural Rights echoes these rights of the family in holding that families are entitled to "the widest possible protection and assistance," and that mothers should receive "special protection" in the periods before and after they give birth.[6] Finally, the Final Act of the United Nations ("UN").

International Conference on Human Rights in 1968 states that "couples have a basic human right to decide freely and responsibly on the number and spacing of their children and a right to adequate education and information in this respect."[7]

Despite the widespread agreement regarding the need for these services and individuals' entitlement to this care, international human rights activists and organizations have not always shared a unified rationale for the necessity of this work.[8] Reducing the populations of LMIC was the primary motivation for many early attempts to increase access to FP services. Today, however, rationales that emphasize FP healthcare's ability to foster women's autonomy and health have become more prominent. Additionally, the success of these efforts to increase accessibility of FP services around the world may be overstated by human rights advocates and groups who fail to acknowledge that a myriad of other global changes has affected the rate at which women in LMIC have children. International efforts to promote FP services in LMIC have reached the correct conclusion that these efforts should be centered on the need to promote the autonomy of women living in LMIC rather than to prevent overpopulation. However, it is important for human rights activists and organizers to recognize that the declines seen in the birth rates of many LMIC are likely due to an amalgam of factors, including economic influences on women's decision-making and access to pediatric healthcare. The fact that fertility rates in many LMIC are decreasing due to factors unrelated to the availability of FP healthcare should reinforce the idea that organizations advocating for the expansion of these services are right to focus their efforts entirely on assisting women in exercising their autonomy and taking care of their health.

I. Competing Approaches to the Promotion of Family Planning Services in LMIC

Though it has long been accepted that reproductive healthcare and special assistance during the perinatal period should be accessible to every woman, the international human rights organizations and activists working to ensure this right is guaranteed to women in LMIC have not always been driven by the same

5. *Id.* at art. 25.2.

6. G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights art. 10.1–10.2 (Dec. 16, 1966).

7. Karen Hardee & Sandra Jordan, *Advancing Rights-Based Family Planning from 2020 to 2030*, 12 Open Access J. of Contraception 151, 159 (2021); International Conference on Human Rights, Teheran, A/CONF.32/41, *Final Act*, U.N. Sales No. E.68. XIV.2, III (XVIII(3)) (1968).

8. Shiffman & Quissel, *supra* note 1, at 181–82.

rationale.[9] International humanitarian organizations have debated the central goal to focus on when promoting access to FP services around the world since these groups began working to supply this type of foreign aid.[10] The language employed by various international human rights advocacy groups and in influential human rights documents over time reveals the extent of this internal disagreement. Although at any given time various organizations have chosen to focus on preventing overpopulation, empowering women, or improving the health of mothers and children in LMIC, a more universal consensus that the complementary objectives of promoting women's rights and women's health are the proper goals to center when promoting FP services has emerged.

A. Focus on Preventing Overpopulation: 1960s–1980s

The international movement to increase the availability of FP healthcare was largely born out of the American and European concern that the intense population growth occurring in many LMIC was unsustainable.[11] The United States and many European countries began funding efforts to make FP services more accessible to women and families in LMIC out of a desire to curb the perceived threat of overpopulation.[12] To many organizations involved in the early promotion of reproductive healthcare services in the mid-twentieth century, the central hope was that FP services would "[reduce] fertility" in countries dealing with untenable population growth.[13]

The pervasive anxiety over the increase in the populations of some LMIC that inspired so many international actors to get involved in the promotion of global FP services can be characterized as a neo-Malthusian concern.[14] In the eighteenth century, political economist Thomas Malthus theorized that at some point, the human population would increase at a rate that exceeds the speed of global food production.[15] Malthus theorized that while a dearth of food would ultimately correct any overpopulation problem that had grown large enough to trigger a period of intense famine, it is possible to prevent unsustainable population increases before they reach deadly proportions through the use of various forms of birth control, "including abortion, and infanticide."[16] In 1968, biologist Paul R. Ehrlich notably contributed to the American and European alarm surrounding the accelerated rates of population growth in LMIC by publishing *The Population Bomb*.[17] In this popular book, Ehrlich emphasized that LMIC were confronted by "an inevitable population-food crisis" wherein "[e]ach year food

9. *Id.* at 181.
10. *Id.*
11. *Id.*
12. *Id.*
13. Ronald Freedman & Bernard Berelson, *The Record of Family Planning Programs*, 7 STUD. IN FAM. PLAN. 1, 3 (1976).
14. KOULA MELLOS, PERSPECTIVES ON ECOLOGY: A CRITICAL ESSAY 15 (1st ed. 1988).
15. *Id.*
16. *Id.*
17. PAUL R. EHRLICH, THE POPULATION BOMB (1st ed. 1968).

production . . . falls a bit further behind burgeoning population growth."[18] He explained that although both under- and overdeveloped countries are growing at problematic rates, even the wealthiest countries would find it nearly impossible to fulfill the subsistence needs of a population doubling at the rate at which the populations of many underdeveloped countries are doubling.[19] Ehrlich's neo-Malthusian apprehension that unchecked increases in the global population will present too substantial a drain on natural and human-made resources and result in irreparable environmental harm was central to the initial development of international FP efforts in the 1960s and 1970s.[20]

Because the perceived threat of overpopulation in some LMIC was the initial impetus behind international humanitarian efforts to promote FP services, it follows that the stated goals of many of the earliest attempts to increase access to FP services involved combatting rapid population growth.[21] The United Nations' first World Population Conference was held in Rome in 1954.[22] This meeting focused on the importance of population science and the need to increase population tracking in regions that had been understudied.[23] In 1965, the Second World Population Conference in Belgrade concentrated on the potential connections between fertility and development planning policy.[24] While the UN's 1974 Third World Population Conference in Bucharest also focused on overpopulation concerns, its additional focus on respecting individuals' rights to determine their reproductive futures regardless of international demographic goals signified an international move towards recognizing the human rights of individuals living in rapidly growing LMIC.[25] Although there was an unmistakable shift in the UN's messaging regarding the purpose of FP access initiatives after this third conference, international organizations continued to use rhetoric that revealed that their efforts were still motivated by the threat of overpopulation, even as they began mentioning the necessity of protecting the human rights of women living in LMIC.[26] Even the 1994 Background Document on the Population Programme of the United Nations highlights the UN's accomplishments in "influenc[ing] population variables" and promoting recognition of "the social, economic, and

18. *Id.* at 3.

19. *Id.* at 7.

20. MELLOS, *supra* note 14, at 15.

21. Freedman & Berelson, *supra* note 13, at 2–3.

22. World Population Conference, *Proceedings of the World Population Conference, 1954*, U.N. DOC. E/CONF.13/415 (Vol. 3), https://digitallibrary.un.org/record/3926459?v=pdf.

23. *Id.*; *Conferences | Population*, U.N. (2024), https://www.un.org/en/conferences/population.

24. *See, e.g.*, *Conferences | Population*, *supra* note 23; *Outcomes on Population*, U.N. (2024), https://www.un.org/en/development/devagenda/population.shtml#:~:text=The; World Population Conference, *Proceedings of the World Population Conference, 1965*, E/CONF.41/4 (Vol. 3), U.N. DOC. SALES NO. E.66.XIII.7 (1967).

25. *World Population Conference, August 19-30 1974, Bucharest, Romania*, U.N. (2024), https://www.un.org/en/conferences/population/bucharest1974; World Population Conference, *Report of the United Nations World Population Conference*, *1974*, U.N. DOC. E/CONF.60/19, SALES NO. E.75.XIII.3 46 (1975), https://digitallibrary.un.org/record/722922?ln=en#files.

26. *See Outcomes on Population*, *supra* note 24.

environmental implications of national and international population problems."[27] Rather than centering the abilities of individuals and families to determine their own reproductive futures, these early efforts to promote contraceptive use and education were set forth with the central goal of shrinking countries' populations without concern for the desires of the people this aid was pushed upon.

This now-antiquated idea that women living in LMIC should shoulder the responsibility of preventing global overpopulation by having fewer children has been widely denounced in the twenty-first century for both scientific and humanitarian reasons. Individuals concerned with the starvation crisis that Malthus and Ehrlich prophesied failed to predict that improvements in technology facilitating food production would ultimately prevent a global famine. The Green Revolution began in earnest in the 1960s, at the time that Ehrlich was publishing *The Population Bomb*, and continued through the end of the twentieth century.[28] During this period, humans' ability to produce food greatly increased even as the global population continued to rise.[29] In fact, "between 1966 and 2000, the population of densely populated low-income countries almost doubled, but food production increased by 125%."[30]

Alongside dwindling scientific support for the notion that FP services are necessary to curb population growth in LMIC, it has become less socially acceptable for organizations and activists to imply that women in LMIC must have fewer children for the good of the global community. While the number of children that families have in any country undoubtedly impacts that country's ability to meet the subsistence needs of its population and, more broadly, the global environment, it does not follow that individual women in LMIC should have to bear the brunt of the potential problem of overpopulation by altering their reproductive plans. Additionally, prioritizing the decline of fertility rates over women's reproductive goals creates perverse incentives for the FP movement, as can be seen from the way FP service providers in the past suggested that their patients get sterilized.[31] International human rights organizations based in the Global North should exercise great caution when putting measures into place that will encourage women in LMIC to have fewer children. A desire to combat future overpopulation is not a sufficient reason to justify this interference into the realm of women's reproductive decision-making. Additionally, it is now widely accepted, as well as empirically supported, that any international efforts to improve the planet's ecological situation should focus on reining in corporate actors and pressuring states to improve their dedication to providing for their populations,

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27. ICPD Secretariat, *Background Document on the Population Programme of the United Nations*, U.N. POPULATION INFO. NETWORK 2, 13.b (Mar. 24, 1994), https://www.unfpa.org/resources/background-document-population-programme-un.

28. Gurdev S. Khush, *Green Revolution: The Way Forward*, 2 NATURE REVS. 815 (2001).

29. *Id.*

30. *Id.*

31. Rishita Nandagiri, *What's So Troubling About 'Voluntary' Family Planning Anyway? A Feminist Perspective*, 75 POPULATION STUD. 221, 222 (2021).

rather than policing the comparatively minor choices individuals having children.[32]

B. Focus on Women's Autonomy: 1980s–2000s

As the international human rights community began to prioritize the protection of women's rights around the globe, many organizations began to believe that the promotion of women's autonomy should be the sole motive guiding international FP efforts. International organizations taking this approach encourage women to utilize the FP services available to them to prepare for and space their pregnancies in a time frame that feels right to them. Additionally, FP services that strive to help women meet their reproductive goals can be utilized by women who are not seeking to have children at all, as these services can also provide information about contraception and options for terminating pregnancies. By emphasizing each woman's right to make informed decisions about her reproductive future, these more modern international FP initiatives prioritize the wants and needs of individuals and avoid treating women as birth-giving instruments of the state.

The rise of the use of language that prioritizes the goals of women in LMIC can be seen as early as 1984, when the United Nations convened the International Conference on Population in Mexico City.[33] Although this conference announced continued support for the agreements made at the 1974 Third World Population Conference, it also highlighted the human rights of women.[34] The 1994 International Conference on Population and Development ("ICPD"), held in Cairo, marked a true turning point for international FP advocacy by ushering in "a shift [of international aid organizations] away from fertility reduction and [demographic] target-setting" and towards "voluntary family planning as intrinsic to . . . women's empowerment."[35] Though the stated themes of the ICPD were "population, sustained economic growth, and suitable development," topics including gender equity, women's empowerment, the rights of the family, and reproductive health were also addressed at this conference.[36]

In the time since the 1994 ICPD, the international human rights community's commitment to promoting women's autonomy through the expansion of access to FP services has only become more pronounced. For example, the first key message highlighted in the World Family Planning 2022 report issued by the Population Division of the United Nations Department of Economic and Social Affairs asserts that expanding access to FP services is just one part of the effort to

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32. Josh Axelrod, *Corporate Honesty and Climate Change: Time to Own Up and Act*, NAT. RES. DEF. COUNCIL (Feb. 26, 2019), https://www.nrdc.org/bio/josh-axelrod/corporate-honesty-and-climate-change-time-own-and-act.

33. *See Outcomes on Population*, *supra* note 24.

34. *Id.*; International Conference on Population, *Report of the International Conference on Population*, *Mexico City, 6-14 August 1984*, 3, U.N. DOC. E/CONF.76.19 2 (Sep 14, 1984).

35. Nandagiri, *supra* note 31, at 221.

36. International Conference on Population and Development, *Population and Dev. Programme of Action, Int'l Conf. on Population and Dev., Cairo*, 17, 22, 30, U.N. DOC. ST/ESA/SER.A/149, U.N. SALES NO. E.95.XIII.7, iii (1995).

ensure women's sexual and reproductive health rights are being fulfilled.[37] The World Health Organization set forth a list of nine human rights that are implicated in the "provision of contraceptive information and services."[38]

FP2030 and its predecessor FP2020 are global partnerships focused on increasing access to FP services that have taken a completely rights-based approach to their work.[39] Some of the principles FP2020 aimed to advance by expanding FP services around the world included autonomy, empowerment, informed choice, and voice and participation.[40] Additionally, a 2019 study conducted by FP2020 found that key figures involved in governmental and nongovernmental organizations across the globe agreed that international efforts to promote family planning should center human rights.[41] The FP2030 partnership has similarly elected to focus on reproductive choice, autonomy and empowerment, and gender equality.[42] Nongovernmental entities have also embraced rights-based rhetoric in communications about their efforts to increase access to reproductive healthcare. This is evidenced by the Family Planning branch of the Bill & Melinda Gates Foundation, which states that its goal is to "empower women and girls to take charge of their own reproductive health [and] enable them to make informed decisions."[43] This influential foundation asserts that access to FP services, including contraception and sexual health education, can give women and girls the freedom to choose to continue attending school or enter the workforce.[44]

Although several foundational human rights declarations enumerate the rights of all adults to have families without undue interference,[45] modern efforts to increase access to FP services focus primarily on the rights of women alone to determine the size of their families.[46] While the rights and interests of families and women often overlap, they are not always harmonious. Men living in patriarchal societies around the world wielded an inordinate amount of control over

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37. U.N. Dep't of Econ. & Soc. Affs., *Population Div., World Fam. Plan. 2022: Meeting the Changing Needs for Fam. Plan.: Contraceptive use by age and method*, i, U.N. Doc. DESA/POP/2022/TR/NO. 4 (2022).

38. Hardee & Jordan, *supra* note 7, at 160 (including non-discrimination, availability, accessibility, acceptability, quality, informed decision-making, privacy and confidentiality, participation, and accountability).

39. *Family Planning 2020: Rights and Empowerment Principles for Family Planning*, Fam. Plan. 2020 (2024), https://www.fp2030.org/resources/resources-family-planning-2020-rights-empowerment-principles-family-planning/.

40. *Id.*

41. Hardee & Jordan, *supra* note 7, at 162.

42. *About FP2030*, Fam. Plan. 2030 (2024), https://www.fp2030.org/about/.

43. *Family Planning*, Bill & Melinda Gates Found. (2024), https://www.gatesfoundation.org/our-work/programs/gender-equality/family-planning.

44. *Id.*

45. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 16 (Dec. 10, 1948); International Covenant on Civil and Political Rights art. 23, Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights art. 10.1, Dec. 16, 1966, 993 U.N.T.S. 3.

46. *Gender*, Fam. Plan. 2030 (2024), https://www.fp2030.org/focus-areas/gender/; Bill & Melinda Gates Found., *supra* note 43.

family planning and household size determinations for much of the past.[47] Under an approach to FP that upholds families' rights rather than the rights of women, women's FP goals may be overshadowed by the desires of male heads of household. Framing the decision to have children as one that is fully within women's control ensures that the individuals who risk their lives and ability to meaningfully participate in life outside of the home to birth and raise children retain agency in this process. By centering women's needs and desires in the expansion of FP services, international organizations promoting this form of healthcare ensure that the people who are most likely to have their freedoms limited by the decision to have children are given tools to make informed reproductive choices.

Utilizing rights-based language to justify the effort to encourage more women in LMIC to take advantage of FP services is the most just way for international organizations to explain their attempts to expand access to this kind of care. Some activists and organizations have gone even further to demonstrate their commitment to women's autonomy by advocating for increased access to family building services in addition to FP services.[48] Unlike FP services, which primarily focus on helping individuals prevent or delay pregnancy, family building services provide fertility assistance to women and families who have trouble becoming pregnant or who are unable to conceive children without medical intervention.[49] Family building programs recognize infertility treatment as a human right and offer infertility education and interventions, as well as access to various forms of assisted reproductive technology.[50] Because family building efforts enable individuals who may not have been able to have children without these services to contribute to their states' populations,[51] the promotion of family building services directly contradicts the goals espoused by activists of the past who advocate for the expansion of FP services as a method of preventing overpopulation.[52]

More recent publications of international development conferences and advocacy groups reveal that there is a growing trend of abandoning overpopulation rhetoric in favor of language that emphasizes women's autonomy when promoting FP services.[53] However, if these groups are as committed to increasing women's autonomy as they

47. Sushmita Roy & Pia Gralki, *5 Ways Family Planning Is Crucial to Gender Equality*, GLOB. CITIZEN (Jul. 11, 2019), https://www.globalcitizen.org/en/content/world-population-day-2019-family-planning/.

48. Bart C.J.M. Fauser et al., *Declining Global Fertility Rates and the Implications for Family Planning and Family Building: An IFFS Consensus Document Based on a Narrative Review of the Literature*, 30 HUM. REPROD. UPDATE 153, 154 (2024).

49. *Id.* at 155.

50. *Id.* at 163–64 (inferring this human right from the right of adults to create families, found in Article 16 of the United Nations Charter, the 1948 United Nations Declaration of Human Rights, and the 1994 ICPD plan of action).

51. *Id.*

52. Freedman & Berelson, *supra* note 13, at 2–3.

53. U.N. Dep't of Econ. & Soc. Affs., *supra* note 37, at i; Hardee & Jordan, *supra* note 7, at 160; FAM. PLAN. 2020, *supra* note 39; BILL & MELINDA GATES FOUND., *supra* note 43.

claim to be, they should be funding efforts to increase the accessibility of family building services alongside FP services to every woman in LMIC.

C. Focus on Global Health: 2000s–2020s

When international human rights organizations dedicated to promoting increased access to FP services began backing away from framing the prevention of overpopulation in LMIC as their central goal, many advocacy groups elected to maintain a scientific approach to promoting FP services, albeit from a new angle. Many organizations found success by centering the maternal and pediatric health benefits that families experience when they can carefully prepare for and space out their pregnancies with the assistance of FP services. Unlike advocates for FP services that aim to empower women living in LMIC, proponents of this approach who focus on the global health benefits of FP services can point to epidemiological studies that confirm these services have the effects their proponents allege. Because the science surrounding the physiological effects of having multiple children in quick succession overwhelmingly supports the efficacy of FP healthcare, international groups using this approach may be able to replicate the perceived legitimacy awarded to FP promotion campaigns of the past that cited demographic data.

1. Maternal Health

A few of the goals at the forefront of international efforts to expand the availability of FP services in LMIC are to prevent girls from getting pregnant early in life and to help women slow the rate at which they get pregnant.[54] The maternal health benefits of being able to plan and space pregnancies are profound and well-documented.[55] For example, pregnant women living in LMIC who are not able to meet the substantial nutritional demands of their bodies as they grow fetuses face heightened risks of "anemia, pre-eclampsia, haemorrhage and death."[56] The condition "maternal depletion syndrome" has been identified to explain the decrease in health that many pregnant women in LMIC experience when they have multiple pregnancies within a short period of time and their bodies cannot meet the nutritional demands of their developing fetuses.[57] Women who have already had at least three children, are younger than twenty years old, or are older than thirty-five face the highest risk of experiencing life-threatening pregnancy complications.[58] Additionally, complications that arise as a result of pregnancy are one of the top causes of death for girls who are between the ages of fifteen and

54. *The U.S. Government and International Family Planning & Reproductive Health Efforts*, KFF (Jan. 2, 2024), https://www.kff.org/global-health-policy/fact-sheet/the-u-s-government-and-international-family-planning-reproductive-health-efforts/.

55. Ray Miller & Mahesh Karra, *Birth Spacing and Child Health Trajectories*, 46 POPULATION AND DEV. REV. 347, 347 (2020).

56. *Maternal Nutrition*, UNICEF (2024), https://www.unicef.org/nutrition/maternal.

57. Nicusor Bigiu et al., *Maternal Depletion Syndrome*, 11 GINECO EU 98, 98, 103 (2015).

58. Pramilla Senanayake, *Childspacing and Child Health*, 11 DRAPER FUND REP. 5, 5 (1982).

nineteen around the world.[59] FP services can be life-saving because they can allow women who are at high risk for developing these complications to prevent pregnancy or to receive the treatment and education they need to safely carry children.[60] The World Health Organization recommends that women plan not to get pregnant within at least twenty-four months of last giving birth to prevent health complications.[61] The United States Agency for International Development's ("USAID") 2011 report "Trends in Birth Spacing" highlights that, while the intervals between when many women give birth are still shorter than many advocates would like, efforts to educate women about the importance of spacing their pregnancies are paying off.[62]

Because the maternal health consequences of forgoing family planning are well-established, it follows that many advocacy groups dedicated to increasing access to FP services in LMIC point to concerns for women's health to convey the importance of funding efforts to expand the availability of this healthcare. For example, the United Nations' Millennium Development Goal 5 expresses the UN's commitment to improving maternal health by reducing the rates of maternal mortality and achieving universal access to reproductive healthcare.[63] Additionally, the Bill & Melinda Gates Foundation stresses that FP education and services can improve maternal health outcomes.[64] Organizations that have taken this approach to promoting FP services rely extensively on objective data to prove the need for FP services, in contrast to the more argumentative approach taken by proponents of the rights-based rationale for funding FP services.[65]

2. Children's Health

Many organizations aiming to expand access to reproductive healthcare have centered the positive effects of FP services in LMIC on infants and children in their promotional efforts. Just as giving women the knowledge and resources they need to plan and space their pregnancies improves maternal health outcomes, providing FP services in LMIC promotes healthier development in the infants these mothers deliver. There are many pediatric health risks associated with families living in LMIC having too many children or having children who are too close together in age. For example, the children of mothers in LMIC that have multiple children at "markedly short or wide preceding birth [intervals]" face elevated rates of child mortality and morbidity, including conditions like preterm birth and

59. *Adolescent and Young Adult Health*, WORLD HEALTH ORG. (Apr. 28, 2023), https://www.who.int/en/news-room/fact-sheets/detail/adolescents-health-risks-and-solutions.

60. Senanayake, *supra* note 58, at 5.

61. Miller & Karra, *supra* note 55, at 347; Shea O. Rutstein, *DHS Comparative Reports 28: Trends in Birth Spacing*, USAID, xiii (Sept. 2011).

62. Rutstein, *supra* note 61, at xiv.

63. *Millennium Development Goals*, *Goal 5*, U.N. (2015), https://www.un.org/millenniumgoals/maternal.shtml; *The Rebirth of Family Planning*, 380 THE LANCET 77 (2012).

64. BILL & MELINDA GATES FOUND., *supra* note 43.

65. *Id.*

low birthweight, which can be particularly difficult for infants to recover from.[66] The highest rates of fetal death occur when women become pregnant less than one year after they were pregnant with their previous child.[67] Additionally, children born within two years of their mother's last pregnancy face "a 60% increased risk of infant death" compared to those born three or more years after their elder sibling.[68]

The spacing between successive births is also known to affect children's nutritional status, with half of the studies in a 2007 systematic review finding that a child born at least 36 months after their mother last gave birth was between 10-50% less likely to experience childhood stunting.[69] These nutritional and developmental deficits can be the result of two causes. First, mothers suffering from maternal depletion syndrome as a result of having only short intervals between pregnancies have a heightened risk of their fetuses experiencing delays in growth.[70] Second, families living in LMIC that have had multiple children in quick succession may be unable to invest fully in the development of each of their children once they are born.[71] For many families in LMIC, "each subsequent child means less food for each family member."[72] A study of the developmental outcomes of 4,000 children from four LMIC published in 2020 found that "short preceding birth intervals are associated with growth faltering by early childhood," likely as a result of the lack of resources many parents in LMIC have to devote to children who are born close together.[73]

Given research that supports the finding that the inaccessibility of FP services in LMIC contributes to suboptimal infant health outcomes, some international human rights organizations incorporate messaging surrounding the power of FP services to improve children's health in LMIC into their advocacy approaches.[74] Just like organizations that expound on the health benefits of FP services on mothers in LMIC, groups that focus on children's health outcomes rely on indisputable evidence to ground their arguments. For instance, USAID highlights that access to voluntary FP services "save[s] the lives of 1.4 million children under 5 each year."[75] The UN Population Fund ("UNFPA") also centers children's health

66. Miller & Karra, *supra* note 55, at 347–48; Bigiu et al., *supra* note 57, at 103; Joseph Molitoris et al., *When and Where Birth Spacing Matters for Child Survival: An International Comparison Using the DHS*, 56 DEMOGRAPHY 1349 (2019).

67. Senanayake, *supra* note 58, at 6.

68. *Family Planning/Contraception Methods*, WORLD HEALTH ORG. (Sept. 5, 2023), https://www.who.int/news-room/fact-sheets/detail/family-planning-contraception.

69. Miller & Karra, *supra* note 55, at 348.

70. Janet C. King, *The Risk of Maternal Nutritional Depletion and Poor Outcomes Increases in Early or Closely Spaced Pregnancies*, 133 THE J. OF NUTRITION 5, 1734S (2003).

71. Senanayake, *supra* note 58, at 6.

72. *Id.*

73. Miller & Karra, *supra* note 55, at 367.

74. Naoko Kozuki et al., *The Associations of Birth Intervals with Small-for-Gestational-Age, Preterm, and Neonatal and Infant Mortality: A Meta-Analysis*, 13 BMC PUB. HEALTH 1, 1, 8 (2013).

75. *Family Planning and Reproductive Health*, U.S. AGENCY FOR INT'L DEV. (2024), https://www.usaid.gov/global-health/health-areas/family-planning.

in their promotional materials explaining the necessity of expanding access to FP services.[76] Citing data that explains the harsh toll that the lack of FP can have on infants and children in LMIC is a powerful and persuasive way for organizations to convey the necessity of these services.

D. Reigning Approach: 2010s Through Present

A clear consensus has formed among international organizations advocating for the expansion of dedicated FP services in LMIC that it is inappropriate to cite overpopulation as a justification for increasing access to these services. Considerations of women's rights to plan their own reproductive futures have trumped concerns regarding the possibility that families in LMIC may be contributing to global overpopulation. Although one historically common justification for the expansion of these healthcare services has been deemed unfit for use in the twenty-first century, the international groups and activists working to expand FP services in LMIC, such as the World Health Organization and the Bill & Melinda Gates Foundation, have not felt the need to choose between the other two most common approaches to explaining the need to fund FP healthcare.

The current prevailing approach to the promotion of FP services involves explaining the ways in which this type of healthcare both fosters women's empowerment and improves the maternal and pediatric health outcomes of families living in LMIC. The success of many influential reports and organizations reveal that these two approaches complement each other quite naturally. When women can safely prevent pregnancy until they are ready to have children, they have a better chance of having complication-free pregnancies and healthy children.[77] When women and their families are in better health, it is easier for them to act independently and direct their own futures. Because health and autonomy are closely linked in LMIC, advocates of the expansion of FP services can use these approaches in tandem to present even stronger reasoning for expanding these services. Additionally, it should be noted that individuals and groups who are skeptical about the possibility of empowering women in LMIC, or of giving poor women control over their own reproductive lives, are likely to be more receptive to FP advocacy efforts that cite scientific evidence of the ability of these services to positively impact the health outcomes of children in LMIC.

Family planning programs in LMIC must focus on supporting women's abilities to make autonomous reproductive decisions that take their health into account. Just as programs that prioritize health education over women's independent decision-making may result in pregnancies that women do not truly want, services that give more weight to women's empowerment than to reproductive health education may harm women by not fully informing patients of the consequences of their reproductive decisions. The international human rights

76. *Family Planning*, U.N. POPULATION FUND (2024), https://www.unfpa.org/family-planning#readmore-expand.

77. Senanayake, *supra* note 58, at 5.

community has reached the just conclusion that FP services should be promoted as a method to increase women's empowerment and the health of families in LMIC. To take these efforts towards promoting physical and mental health and wellness, as well as reproductive freedom, for all people who want to have children one step further, these international organizations should broaden their scope by working to provide family building services alongside FP care.

II. Human Rights Campaigns or Practicalities?: The Factors Actually Driving the Fertility Rate Shifts in LMIC

Although the international organizations engaging in the movement to increase access to FP services have not always been unified in their motivation for taking on this mission, proponents taking various approaches to the expansion of FP services have all claimed that the decreasing population rates seen in many LMIC around the world are the direct result of these international efforts.[78] However, the success of FP programs has varied dramatically by the locations in which these services have been expanded.[79] While efforts to increase access to FP services have been shown to impact the fertility rates of families in LMIC around the world, other factors, including reduced economic pressure to have many children and better pediatric healthcare, may also account for these reduced rates.[80] By refraining from concluding that international work to promote FP services has driven the population decreases seen in LMIC around the world, organizations interested in promoting women's well-being can gain a more realistic view of the factors that truly influence women's reproductive choices. The knowledge that reproductive healthcare is not solely responsible for slowing population growth can empower organizations to promote both FP and family building services and to ensure that their delivery is designed to meet the needs of the women who actually utilize them.

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78. Ann K. Blanc & Amy O. Tsui, *The Dilemma of Past Success: Insiders' Views on the Future of the International Family Planning Movement*, 36 Stud. in Fam. Plan. 263 (2005); Fauser et al., *supra* note 48, at 155.

79. Bernice Kuang & Isabel Brodsky, *Global Trends in Family Planning Programs, 1999-2014*, 42 Int'l Persp. on Sexual and Reprod. Health 33 (2016); John Cleland et al., *Family Planning: The Unfinished Agenda*, 368 The Lancet 1810 (2006).

80. It is important to note that while many organizations that promote increased access to FP services highlight shifts in fertility rates to demonstrate the effects of this healthcare, changes in national fertility rates are an imperfect way to measure the success of efforts to increase access to this form of care. The expansion of family planning services in LMIC has likely contributed to decreasing fertility rates since many women seeking out reproductive healthcare are hoping to limit the number of children they have by delaying or preventing pregnancy. However, because the goal of family planning services is to help women make autonomous decisions and achieve the reproductive outcomes they desire, increasing access to FP services may result in some women using these resources to have more children in a safer way. Documented changes in national fertility rates are only satisfactory indicators of the success of FP when accompanied by the assumption that increased use of FP services will overwhelmingly result in women having fewer children.

A. Increased Access to Family Planning Services

The work done by international human rights advocates and organizations to make FP services more accessible to women living in LMIC is admirable and undeniably effective to some extent.[81] The World Health Organization recognizes that the number of women around the world who want to use FP methods has risen from 900 million to 1.1 billion between 2000 and 2021, which is especially notable given that currently there are just under two billion women of childbearing age.[82] In 2022, 77.5% of women aged 15 to 49 years old reported having the FP services they desired, including access to contraceptives that prevent and delay pregnancies and thereby reduce the rate at which the populations of some LMIC are growing.[83] International efforts to promote the use of FP services have been particularly successful in LMIC in Asia and Oceania.[84]

Despite the successes of the FP promotion movement, a significant portion of the population capable of becoming pregnant in LMIC still has unmet FP needs.[85] Although it is certainly promising that 77.5% of women of reproductive age had their FP needs met in 2022, that statistic reveals that 22.5% of women capable of becoming pregnant still do not feel that they are getting the reproductive healthcare that is right for them.[86] The uptake of FP services in LMIC in sub-Saharan Africa, Central Asia, and Eastern Europe and among adolescents and young adults in LMIC continues to be particularly low.[87] There are many challenges that prevent FP services from meeting the needs of every woman, including "limited choice of methods; limited access to services, particularly among young, poorer and unmarried people; fear or experience of side-effects; cultural or religious opposition; poor quality of available services; users' and providers' bias against some methods; and gender-based barriers to accessing services."[88] These explanations suggest that the international movement to promote access to this form of healthcare must focus not only on making such services physically accessible to women in LMIC, but also on promoting FP methods that will be acceptable to the women they are trying to reach.

B. Economic Pressure to Have Fewer Children

While improving the ability of women living in LMIC to access FP services has been shown to reduce the rates at which women have children in some countries, fertility rates have also declined in countries with populations that do not yet rely on FP

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81. Fauser et al., *supra* note 48, at 154–55; Cleland et al., *supra* note 79, at 1810.

82. WORLD HEALTH ORG., *supra* note 68.

83. *Id.*; U.N. DEP'T OF ECON. & SOC. AFFS., *supra* note 37, at i.

84. Kuang & Brodsky, *supra* note 79 at 33.

85. *Id.* at 41; Mark Landry, *Unmet Need for Family Planning (%)*, WORLD HEALTH ORG. (2024), https://www.who.int/data/gho/indicator-metadata-registry/imr-details/3414.

86. WORLD HEALTH ORG., *supra* note 68.

87. Kuang & Brodsky, *supra* note 79 at 33; U.N. DEP'T OF ECON. & SOC. AFFAIRS., *supra* note 37, at i.

88. WORLD HEALTH ORG., *supra* note 68.

services to prevent pregnancy.[89] This is evidenced by the estimation that, by the year 2100, 97% of all countries will have fertility rates that are below the population replacement level.[90] Clearly, factors other than access to FP services are involved in the global trend of families having fewer children. One potential variable driving this decline in fertility rates seen across LMIC may be changes in economic circumstances that make it less advantageous for parents to have many children.

Historically, adults living in LMIC had economic incentives to have children because children grow into beings that are capable of joining the labor force and contributing to families' incomes.[91] Although "children are costly in the first period of their life," they eventually "provide a positive net income" once they are old enough to begin working or otherwise contributing to the family unit.[92] When families rely on subsistence farming or are otherwise involved in the agricultural sector, as the majority of families in many LMIC are, the physical labor performed by children can have an enormous impact on a family's income.[93] However, as countries become wealthier and more industries move into various LMIC nations, "the share of the population working in agriculture tends to decline as people move towards employment in industry and services."[94] In fact, in 2018, "more than half of the global population live[d] in urban areas," and the percentage of individuals living in urban settings is expected to reach approximately 66% by 2050.[95]

Additionally, as it becomes more common for women to be employed outside of their homes in LMIC,[96] having multiple pregnancies and children to raise may begin to hinder households' economic success. While children carry the potential to earn an income for families many years after their birth, women who are employed outside of the home can earn money to sustain their families without any delay. For many women with jobs and no childcare assistance, their income may be too valuable to give up during the time it takes to have and look after an infant. Indeed, careful studies have found evidence of a causal connection between higher fertility rates and lower rates of women's participation in the

89. *Fertility Rate, Total (Births Per Woman) – Low & Middle Income*, The World Bank (2024), https://data.worldbank.org/indicator/SP.DYN.TFRT.IN?end=2021&locations=XO&start=1960&view=chart.

90. *The Lancet: Dramatic Declines in Global Fertility Rates Set to Transform Global Population Patterns by 2100*, Inst. for Health Metrics and Evaluation (Mar. 20, 2024), https://www.healthdata.org/news-events/newsroom/news-releases/lancet-dramatic-declines-global-fertility-rates-set-transform#:~:text=By.

91. Geeta Nargund, *Declining Birth Rate in Developed Countries: A Radical Policy Re-think Is Required*, 1 Facts Views Vis. OBGYN 191 (2009).

92. Claus C. Pörtner, *Children as Insurance*, 14 J. of Population Econ.s 119, 120 (2001).

93. Max Roser, *Employment in Agriculture*, Our World in Data (2024), https://ourworldindata.org/employment-in-agriculture.

94. *Id.*

95. Population Division, *Urbanization*, U.N. (2018), https://www.un.org/development/desa/pd/content/urbanization-0#:~:text=The%20world%20is%20becoming%20increasingly,around%20two%2Dthirds%20in%202050.

96. Esteban Ortiz-Ospina et al., *Women's Employment*, Our World in Data (2024), https://ourworldindata.org/female-labor-supply?preview_id=13372&preview_nonce=6d1f899c93&_thumbnail_id=-1&preview=true.

labor force.[97] For women who are employed outside of the agricultural sector globally, employment is negatively correlated with total fertility rates.[98] Although FP services may aid families in having only the number of children they desire, changes in the structure of a country's workforce undoubtedly account for a significant portion of the reduced fertility rates seen in LMIC.

C. Improved Access to Pediatric Healthcare

Decreases in infant and child mortality are yet another influence outside of the purview of international movements to increase FP access that may affect the number of children families in LMIC choose to have.[99] Parents around the world rely on the promise of the work and support that their children will provide once they reach adulthood.[100] When parents are unsure whether their children will survive to adulthood due to high child mortality rates, they may feel compelled to have more children to increase their chances of having the minimum number of children they feel they will need to contribute to the family's income and the parents' security later in life.[101] This reasoning may explain why fertility rates have been found to decrease in conjunction with rates of infant and child mortality.[102] As child mortality rates dramatically decrease due to international efforts to immunize children and increase access to preventative and emergent pediatric healthcare, it is likely that parents will elect to have fewer children since they can feel more confident that their children will survive to adulthood.[103]

Just as international human rights activists and organizations have made impressive headway in increasing access to FP services for women in LMIC, international groups have made significant advances in reducing child morbidity and mortality rates by expanding access to preventative care for infants and children in recent decades. Since 1990, the global number of deaths of children younger than five years old has been reduced by 59%.[104] Whereas in 1990 there were 90 deaths per 1,000 live births, by 2015, there were 43 deaths for every 1,000 babies born.[105] Successful international efforts to improve children's health have included expanding access to essential healthcare, early childhood development programs, HIV testing and treatment resources, and clean water.[106] Increasing the number of children who receive scheduled immunizations for diseases such as hepatitis B,

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97. *Id.*

98. Julia Behrman & Pilar Gonalons-Pons, *Women's Employment and Fertility in a Global Perspective (1960-2015)*, 43 DEMOGRAPHIC RSCH. 707, 726 (2020).

99. Pörtner, *supra* note 92, at 120.

100. *Id.* at 119–120.

101. *Id.* at 121, 133–34.

102. *Id.* at 120.

103. Marwân-al-Qays Bousmah, *The Effect of Child Mortality on Fertility Behaviors Is Nonlinear: New Evidence from Senegal*, 15 REV. ECON. HOUSEHOLD 93, 94, 111 (2017).

104. *Millennium Development Goals Goal 4*, U.N. (2015), https://www.un.org/millenniumgoals/childhealth.shtml#:~:text=GOAL; *Children's Health*, UNICEF USA (2023), https://www.unicefusa.org/what-unicef-does/childrens-health#:~:text=UNICEF.

105. U.N., *supra* note 104.

106. UNICEF USA, *supra* note 104.

measles, mumps, polio, rotavirus, and rubella has also greatly improved the health of infants and children around the world.[107] UNICEF and the organizations it partners with through Gavi, the Vaccine Alliance, have provided vaccinations to more than 760 million children since 2000, an effort that is estimated to have prevented over 13 million deaths.[108] Although so much progress has been made with regards to children's health, it is still estimated that 52 million children below the age of five will die between 2019 and 2030.[109] If international organizations want to ensure that parents' concerns about their children dying at young ages do not drive their FP decisions, they must continue funding efforts to improve children's health and access to medical care in LMIC.

Conclusion

International human rights organizations have effectively advocated for expanded access to FP services for women living in LMIC for decades. The motivations behind these efforts have changed for the better over time, from advocating for reproductive healthcare out of a desire to curb overpopulation in LMIC to attempting to give women the FP assistance they need to shape the course of their own lives and ensure the best possible health outcomes for themselves and their children. Despite the undeniable success of the funding and guidance these organizations have dedicated to this cause, international advocacy groups are too eager to take the credit for the declines in fertility rates seen in some LMIC. Organizations working to help women design their own futures and keep their families healthy owe it to the populations they serve to recognize the vast range of variables that impact families' decisions to have children. Activists and organizations that promote the expansion of FP services using autonomy- and health-centered approaches should not feel threatened by the fact that fertility rates have been seen to decline even in countries that are not yet able to meet the FP needs of their populations. In fact, this finding should inspire confidence in the approach these groups are taking. Because fertility rates in many LMIC have been found to be ebbing regardless of the reach of FP services, international groups advocating for increased access to these services should feel comfortable structuring their efforts around women's autonomy and health and providing a wider range of family building services, as these factors are proven to be within the movement's power to improve.

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107. *Immunization*, UNICEF (2024), https://www.unicef.org/immunization.

108. *Every Child Protected from Deadly Diseases*, UNICEF USA (2023), https://www.unicefusa.org/what-unicef-does/childrens-health/immunization; *Immunization*, Bill & Melinda Gates Found. (2024), https://www.gatesfoundation.org/our-work/programs/global-development/immunization.

109. Lucia Hug et al., *Levels & Trends in Child Mortality Report*, U.N. Inter-Agency Group for Child Mortality Estimation 15 (2019).