

Draft Concept Note towards WHO's 13th General Programme of Work¹
Comment by Judith Richter

The *Draft Concept Note towards WHO's 13th General Programme of Work* (dtGPW) proposes to work for a “transformed WHO”, following up on the new Director-General’s promise to render the World Health Organisation “fit for the 21st century.”² The draft Concept Note proposes to ‘align’ WHO’s General Programme of Work “towards the Sustainable Development Goals” (SDGs), asserting that there is a “remarkable alignment of the SDGs with WHO’s constitution.”³

The aim of this paper is to point at some suggestions where ‘aligning’ WHO towards the SDGs risks undermining WHO's capacity to fulfil its constitutional mandate and prime functions. This may be the case, in particular, with respect to the SDG 17 which, in the words of WHO, is “a cross-cutting goal on means of implementation that is relevant to all the others...”⁴

The dtGPW includes proposals which will affect the governance of the whole global health arena. The SDG discourse underlies much of the current draft. It is the SDGs overarching ‘partnership goal’ which seems to be behind the suggestion to complement WHO’s current governance system by a “platform for multi-stakeholder governance” and to turn WHO into a humble enabler of an ever increasing number of “partnerships.”

My present comment employs a simple discourse analysis when looking at the draft Concept Note. It is hoped that this can help to debate future drafts of the General Programme of Work without language and assumptions that risk to stand in the way of a clear analysis of the challenges ahead for WHO under the guidance of the new Director-General, Dr.Tedros. It is in support of his vision that the World Health Organization is about “serving people... about fighting to ensure the health of people as a basic human right...”⁵

SDG partnership goal – a simple discourse analysis

A simple discourse analysis, inspired by Noam Chomsky’s work, consists in reading documents by asking three questions: **What is said? How is it said? And what is left out – what is missing?** Significant gaps can be as important as what is written – and this is where collaborative, contextual, work is so important.

Let us start with the Sustainable Development Goal 17 “**Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.**” It has a number of subsets. Of particular relevance is **SDG 17.16**, the goal to:

¹ WHO (2017). "Keep the World Safe, Improve Health, Serve the Vulnerable." *Draft Concept Note towards WHO's 13th General Programme of Work 2019-2023*, 25 August http://www.who.int/about/draft-concept-note_13th-programme-work.pdf (dtGPW)

² Vision statement by WHO Director-General: Together for a healthier world, www.who.int/dg/vision/en/, accessed 26.10.2017

³ dtGPW13, p. 3, para 2

⁴ WHO Doc. A69/15, 8 April 2016

⁵ Tedros, A. G. (2017). "Director-General Dr Tedros takes the helm of WHO: address to WHO staff, 3 July." www.who.int/dg/speeches/2017/taking-helm-who/en/, accessed 10.10.2017.

“enhance the **global partnership for sustainable development** complemented by **multi-stakeholder partnerships** that mobilize and share knowledge, expertise, technologies and financial resources to support the achievement of sustainable development goals in all countries, particularly developing countries.”

How exactly are “**multi-stakeholder partnership**” (**MSP**) are defined? When I send this question sent to the relevant UN agency I was told to refer to UN websites. I found there that “**partnerships for sustainable development**” are:

“**multi-stakeholder initiatives** voluntarily undertaken by Governments, intergovernmental organizations, major groups and others stakeholders, which efforts are contributing to the implementation of inter-governmentally agreed development goals and commitments, as included in Agenda 21, the Johannesburg Plan of Implementation, the Millennium Declaration, the outcome document of the United Nations Conference on Sustainable Development (Rio+20) entitled “The Future We Want”,... and the 2030 Agenda for Sustainable Development.”⁶

And I found there that **Global Partnership for Sustainable Development** is, in essence, a **policy paradigm – and discourse** which affirms that:

“**A successful sustainable development agenda requires partnerships between governments, the private sector and civil society.** These **inclusive partnerships** built upon **principles** and values, a **shared vision, and shared goals** that place people and the planet at the centre, **are needed at the global, regional, national and local level.**

Urgent action is needed to mobilize, redirect and unlock the transformative power of trillions of dollars of private resources to deliver on sustainable development objectives....”⁷

In short, the SDG 17 discourse says that there is no alternative to ‘multi-stakeholder partnership’ approaches if one wants to work successfully towards achieving sustainable development. It asserts that all actors are ‘partners’ and ‘stakeholders’ in this endeavour. Governments and intergovernmental agencies, public interest actors (including corporate accountability networks), mega corporations, venture philanthropies are all said to, ultimately, share the same vision, values, and goals.

The discourse moreover implies that their interactions are based on sound ‘principles.’ ‘Trust’ and ‘inclusiveness’ seem to top the list of what today are presented as overarching ‘principles’ of partnership-engagement.⁸

⁶ UN Sustainable Development Knowledge Platform (2017) [Multi-stakeholder partnerships & voluntary commitments](https://sustainabledevelopment.un.org/sdinaction), <https://sustainabledevelopment.un.org/sdinaction>, accessed 11.10.2017

⁷ UN (2017) "Goal 17: Revitalize the global partnership for sustainable development." [Sustainable Development Goals: 17 Goals to Transform our World](http://www.un.org/sustainabledevelopment/globalpartnerships/), accessed 11.10.2017

⁸ See, e.g., the Principles of Engagement of the Scaling Up Nutrition (SUN) multi-stakeholder alliance. You find ‘trust’ when clicking on principle 9, “be mutually respectful”. <http://scalingupnutrition.org/about-sun/the-vision-and-principles-of-sun/>

Left out in the dominant SDG discourse is reference to anything – whether controversial political debates, civil society protest, or academic analyses - that might indicate that there is not necessarily a consensus that “multi-stakeholder partnership” approaches are the best way to go towards the fulfilment of peoples’ human rights, including that of a sustainable development.

Left out are is also reference to concerns over the influence of corporate- and venture philanthropy actors on the 2030 SDG agenda and goals;⁹ and reference to the fact that already the *2003 OECD Guidelines on Managing conflict of interest in the public service* considered ‘public-private partnerships’ and ‘sponsorships’ as particular “at risk areas” for conflicts of interest which would need to be addressed.

Political significance of ‘partnership’ & ‘stakeholder’ terminology part I

It may not be well known in the sustainable development community that, six years ago, many WHO Member States actively opposed the setting up of a global multi-stakeholder *World Health Forum*. It is, however, astonishing that this resistance is not reflected in the draft concept towards WHO’s new General Programme of Work.

When the last Director-General, Dr. Chan, tried to resolve WHO’s financial problems, she proposed to open up WHO to corporate funding. At the same time, she announced a ‘reform’ of WHO which included the setting up of a multi-stakeholder *World Health Forum*.¹⁰ A number of WHO Member-States expressed their reservations about this agreement which had been taken without their consent. Terminology, definitions, and discourse, were part of the reflection when WHO Member States considered whether or not to add this parallel multi-stakeholder forum to its existing governance mechanisms.

At a briefing, civil society organisations brought the following argument from an international relations analysis to the attention of Member States:

“It is problematic to use the term “partnership” [and stakeholder-relations] to characterize the relationship between state and nonstate actors, because what the term suggests is an ... equal status for the actors involved. This relativizes both the special political status of governmental institutions under international law and their (democratic) legitimacy. The use of terms like ‘partnership’ is for this reason not just a question of stylistics, it has eminently political significance. It implicitly downgrades the role of governments and intergovernmental organizations and

⁹ E.g. Civil Society Reflection Group on the 2030 Agenda for Sustainable Development (2017) Reclaiming policies for the public - Spotlight on Sustainable Development 2017 www.2030spotlight.org/en; Adams, B. & J. Martens (2015). Fit for whose purpose? Private funding and corporate influence in the United Nations. Global Policy Forum (GPF), Bonn/New York.

¹⁰ For context & links to relevant key documents, see Richter, J. (2012). "WHO reform and public interest safeguards: An historical perspective. Editorial." *Social Medicine* 6(3): 141-150. www.medicinasocial.info/index.php/socialmedicine/article/viewArticle/637

upgrades the (political) status of private actors, in particular of the transnational corporations involved in these cooperation models.”¹¹

In November 2011, at the Special Session of the Executive Board, Dr. Chan announced that she was abandoning the idea of establishing a regular multi-stakeholder forum due to lack of support from Member States.¹²

A transformed WHO –an ‘emerging platform for multi-stakeholder health governance’ and ‘enabler’ of, and participant in, ‘partnerships’?

Now the idea of a multi-stakeholder ‘governance’ arrangement is back. It is part of the top priority of “transforming WHO.” The dtGPW lists as strategic priority No 5: “provide the world’s platform for collective decision-making in health.”¹³

Apart from the use of the word “platform”, there is actually nothing new about this suggestion. As the draft General Programme of Work rightly points out, **WHO has been mandated** in its constitution to act as the “**directing and coordinating authority on international health work**”;¹⁴ and the dGWP describes how this is done at global and regional levels, with regular Executive Board and World Health Assemblies, WHO Regional Committee Meetings and a broad range of technical and advisory committees.¹⁵

What then is new? Two important changes are announced:

According to the dtGPW, “It is recognized that the global governance has evolved from intergovernmental governance alone...”. WHO is thus described as “an **emerging platform for multi-stakeholder... governance.**” Examples of ‘stakeholders’ in this added global health decision-making body are “governments” as well as “nongovernmental organizations, private sector entities, philanthropic foundations and academic institutions.”¹⁶

The dtGPW also proposes that WHO **expand and strengthen “partnerships”** with “partners” such as “United Nations agencies, nongovernmental organizations, private sector entities, philanthropic foundations and academic institutions.” In addition, it promises that **WHO, the world’s highest authority in international health, “will strive to work as a good partner... and with a sense of humility.”**

Whoever wonders whether it is a good idea that WHO further expands the number of partnership initiatives it is involved in, may also be concerned when reading that there is not really a choice since “**WHO exists in an ecosystem of partners who can only achieve the SDG targets if they all work together.**” In short: new is reference to SDG targets – not

¹¹ Martens, J. (2003). *The future of multilateralism after Monterrey and Johannesburg*. Berlin, Friedrich Ebert Stiftung, insertions mine, since the terms public-private partnerships and multi-stakeholder initiatives were often used as synonyms at the time this document was written.

¹² Richter, J. (2012), op. cit.

¹³ See table, p. 4

¹⁴ Constitution of the World Health Organization, 1946, Art. 2 (a)

¹⁵ For more details, cf. p. 8, emphasis added

¹⁶ Ibid.

human rights arguments – to affirm that there are no alternatives to the course charted out in the draft Concept Note towards WHO’s General-Programme of Work.¹⁷

To allay any potential concerns about undue influences when making WHO into a partner in a sea of partnerships, the dtGW promises that “WHO will use **FENSA**”, the 2016 *WHO Framework of Engagement with non-State Actors*,¹⁸ as an “**enabler of responsible and productive partnerships.**”¹⁹

No mention is made of:

- the fact that FENSA was not meant to be an enabling framework for partnerships. It was developed as a safeguard against undue influences. It was established in response to Member State concerns over the continued massive restructuring of WHO’s relations with private-sector actors and venture philanthropies under terms such as “widening engagement” with ‘non-State actors’ and ‘stakeholders’.²⁰
- concerns that FENSA has still a contradictory nature. While its specific policies have closed important doors for undue influences, its overarching part has opened floodgates to corporate and venture philanthropy influence in the global health arena, among other things, due the adoption of “inclusiveness” as an “engagement principle” for all “non-State actors,” its change of WHO policy to allow private sector and philanthropic actors easier access to Official Relations status, and its problematic redefinition of traditional conceptions of conflict of interest.²¹
- the fact that public-private partnerships may also need to undergo checks as outlined in *WHO’s 2010 Policy on engagement with Global Health Partnerships and Hosting Arrangements and the Framework of Engagement with Non-State Actors*²² (and the fact that WHO’s reform brought to light that WHO’s partnership policy had not been implemented).

Seen these significant gaps, no consecutive GWP draft based on this Concept Note is likely to mention the need to urgently revise FENSA – and other relevant safeguards - before inappropriate interactions and neglect of conflicts of interest cause serious harm in the international public health arena.

¹⁷ It is interesting to read in full the section which justifies why a WHO General Programme of Work should “align” with the SDGs (p 3, point 2). The following sentence is quoted to prove the total compatibility between WHO’s constitution and the SDGs “the health of all peoples is fundamental to the attainment of peace and security and is dependent on the fullest cooperation of individuals and states.” This sentence does not say that it depends on full cooperation between TNCs and states. Discussion on the alignment claim is not encouraged.

¹⁸ WHO (2016). “Framework of engagement with non-State actors.” [Doc WHA69/2016/REC/1](http://www.who.int/about/collaborations/non-state-actors/A69_R10-FENSA-en.pdf?ua=1).
http://www.who.int/about/collaborations/non-state-actors/A69_R10-FENSA-en.pdf?ua=1

¹⁹ p. 11, under heading “Strengthening and expanding partnerships”

²⁰ Richter, J (2012), Op. cit. Richter, J. (2014). “Time to turn the tide: WHO’s engagement with non-State actors & the politics of stakeholder-governance and conflicts of interest.” 12 May, [RR, www.bmj.com/content/343/bmj.d5012/rr/697686](http://www.bmj.com/content/343/bmj.d5012/rr/697686)

²¹ Pointed out as problem since 2014; reconfirmed, repeatedly, by experts since work on WHO’s tools for addressing CoIs in nutrition at national level started in October 2015. For more information on problems, see contributions by Professor Marc Rodwin, institutional corruption/corrosion Jonathan Marks; as well as Lida Lhotska and myself for information on the politics of conflicts of interest in WHO; under *comments by GIFA (Lhotska) & Comments from participants of the technical consultation 2015* www.who.int/nutrition/consultation-doi/comments/en/

²² Partnerships, WHO website, <http://www.who.int/about/collaborations/partnerships/en/>, accessed 09.11.2017

Political significance of 'partnership' & 'stakeholder' terminology part II

The arguments brought forward when the Member States resisted the setting up of a global 'multi-stakeholder' *World Health Forum* - in addition to WHO's existing governance mechanisms - remain valid. As remain concerns that governments, UN agencies (as well as other public interest actors) may be turned into just a 'partner' among 'partners' instead of recognizing their very specific role in the international health arena as the UN specialised agency in health. In the draft Concept Note, WHO is even indirectly told to be a lesser, a more humble partner (and this reference remains in the draft General Programme of Work).

Unfortunately, those who continue to object to "there-is-no-alternative" (TINA) to the public-private partnership paradigm are often side-lined by being portrayed as out-of-sync actors and individuals who have an 'adversarial' stance.²³

The following may help sceptics to insist on debate. Analyses indicate that the main result of the 'partnership' and 'stakeholder' discourse and policy paradigm has been to turn big business and mega-sponsors into privileged 'stakeholders' in global health affairs.²⁴

Such analyses are not encouraged in the draft Concept note. In fact, the paragraph which refers to the "remarkable alignment of the SDGs with the WHO constitution," ends with the affirmation that "the world has analysed global challenges and agreed upon the SDGs, [and therefore], we will not review the context of global health again here²⁵."

As following summary of the partnership discourse in historical context shows there is, on the contrary, a need to examine how the history WHO - since its move towards "Health for All" - interlinked with other international debates to fully understand the implications any of the proposed major changes in WHO's future Global Work Programme.

Evolution of the partnership & stakeholder discourse in the international arena

The appearance of the stakeholder-partnership discourse is closely linked to the history of UN agencies working for effective international regulation of transnational corporations. Calls for the UN to assist Member States in keeping control over these powerful actors started in

²³ A Gates-funded evaluation of SUN, for example, mentions that its "efforts to bring business into MSPs [multi-stakeholder partnerships] as equal partners demand fundamental shifts in political attitude by many participants in government and civil society"; notes that there is still "much residual resistance"; and portrays critics as having "phobias about business engagement" and "misguided concern" about conflicts of interest. [http://scalingupnutrition.org/wp-content/uploads/2015/05/SUN_ICE_FullReport-All\(1-5-15\).pdf](http://scalingupnutrition.org/wp-content/uploads/2015/05/SUN_ICE_FullReport-All(1-5-15).pdf), accessed 07.11.2017

²⁴ E.g. Civil Society Reflection Group on the 2030 Agenda for Sustainable Development (2017), op. cit.; Birn, A.-E. & J. Richter (Forthcoming 2018). U.S. Philanthrocapitalism and the Global Health Agenda, advance chapter, <http://www.uio.no/english/research/interfaculty-research-areas/globalgov/globalgov-for-health/news-and-events/news/2017/us-philanthrocapitalism.html>; Martens, J. & K. Seitz. (2015). *Philanthropic Power and Development: Who shapes the agenda?* Aachen/Berlin/Bonn/New York, Brot für die Welt/Global Policy Forum/MISEREOR.

²⁵ p. 3, para 2

the early seventies. In 1976, the UN Commission on Transnational Corporations made the formulation, adoption and implementation of a *UN Code of Conduct on Transnational Corporations* one of its top priorities.

As part of its Health for All programme, WHO joined the move of trying to ensure that transnational corporations do no harm by adopting the *International Code of Marketing of Breastmilk-Substitutes* in 1981. Other specific codes could have followed, since WHO's Constitution gives the World Health Assembly the authority to pass international health Conventions to protect, promote and fulfil peoples' right to health. However, the USA and other influential industrial countries admonished WHO not to turn itself into a 'supranational regulatory authority.'²⁶ Combined with the US withholding funds for the WHO, the pressure led to the end of work on a comprehensive code for the pharmaceutical sector.²⁷

The death knell for an overarching code for TNCs came during the **1992 UN Conference on Development and Environment**. Corporations had lobbied heavily that they should be seen as '**partners**' in the solutions rather than as parts of the problem. The sustainable development arena, which does not have governance mechanisms which can be compared to the regular World Health Assemblies, accepted the idea of business participation on equal footing with, e.g. women's groups. At that time, business actors were accepted as one of the 'nine major groups' of 'non-state actors.'

This view of a harmonious world got a further boost when Kofi Annan became the Secretary-General of the United Nations in 1996 and called upon business leaders and 'civil society' to work in a 'spirit of partnership' towards a better world.

This was followed by a total turn-around of the dominant stakeholder discourse in 2002. Until then it was understood that the term stakeholder was originally created to argue that corporations should take into account not only their fiduciary duty to make profits for 'shareholders' but also the effect of their operations on 'stakeholders.' In 2000, UN Secretary General Kofi Annan defined **stakeholders** as:

"those individuals and groups that have an interest, or take an interest, in the behaviour of a company... and who therefore establish what the social responsibility of a company entails."

Two years later, during the run-up to the *Rio + 10 Conference on the Environment and Sustainable Development*, however, a **Novartis-funded publication redefined the term stakeholder**, as:

"those who have an interest in a particular decision, either as individuals or as representatives of a group. This includes people who influence a decision, or can influence it, as well as those affected by it."²⁸

²⁶ Richter, J. (2001). Holding corporations accountable: Corporate conduct, international codes, and citizen action. London and New York, Zed Books.

²⁷ Richter, J. (2001), op. cit. box 5.2, The Pharmaceutical Industry and WHO

²⁸ Hemmati, M. (2002). Multi-stakeholder processes for governance and sustainability: beyond deadlock and conflict. London, Earthscan. For other references & context of this shift, see Richter, J. (2002). Dialogue or engineering of consent? Opportunities and risks of talking to industry. Geneva, International Baby Food Action Network/Geneva Infant Feeding Association (IBFAN-GIFA), p. 18 ff.

At first, multi-stakeholder dialogues and initiatives were used primarily to undermine moves towards legally-binding regulation and corporate accountability (done, for example, through civil society monitoring and ‘naming-and-shaming’). But soon this went much further. As an environmental activist pointed out, corporations tried to “stakeholderize” every conflict.²⁹

By now, **‘stakeholderization’ has turned into a means to insert of powerful economic actors into public fora.** Indeed, the currently dominant definition has made it possible for powerful economic actors to henceforth claim a right to participation in all kind of public decision fora in the name of ‘inclusiveness’ – another ‘principle’ which has been turned around since it came originally from calls for more inclusive public participation.³⁰

Any actor just has to ‘stakeholderize’ the arena, i.e. to launch a ‘multi-stakeholder’ initiative (MSI), or insert the word ‘stakeholder’ into a document, and transnational corporations can participate in the debate. This happened, for example, when Kofi Annan, together with the International Chamber of Commerce, launched the *Global Compact* at the World Economic Forum in 1999. It also happened when the United States suggested to insert ‘stakeholder’ terminology into what was to become the *2004 Global strategy on diet, physical activity and health*.³¹ At that time the mood was to address the commerciogenic roots of the ‘obesity epidemic’ by working towards a convention on unhealthy food, following the example of the Tobacco Convention. But then the discourse shifted and WHO said they were committed to ‘multi-stakeholder dialogues’ because food was not tobacco.

Since that time, the term stakeholder had become so common that few seemed concerned when, in 2010, the World Economic Forum (WEF) launched a **Global Redesign Initiative (GRI)** which proposed to reshape our multilateral system into a system of **‘multi-stakeholder governance.’** The WEF GRI turns corporations into legitimate key stakeholders in global public affairs; at the same time, it delegitimizes intergovernmental and governmental institutions and processes, allows for public issues to be taken off the agenda of UN agencies and handing them over to multi-stakeholder ‘alliances of the able and the willing’, and advocates for the mushrooming of public-private partnerships implemented through market-led approaches.³² UN agencies and their deliberative fora are not necessarily the center of such a system, as another term recent suggests, that of **“polycentric governance.”**³³

http://www.gifa.org/wp-content/uploads/2016/05/JRichter_2002_Dialogue_or_Engineering_of_Consent.pdf

²⁹ Environmental campaigner Peter Gerhardt, RobinWood, quoted in Monbiot, G. (2014). "Loved to Death: By embracing their critics and colonising governments, corporations engineer a world of conformity and consumerism." *The Guardian*, 8 April

³⁰ Utting, P. (2000). "Business responsibility for sustainable development". *Occasional paper* No 2, Geneva, United Nations Research Institute for Social Development (UNRISD), p. 37

³¹ Personal observation

³² For more details, see e.g. Gleckman, H. (2013). "The World Economic Forum proposes a public-private United "Nations"." Carnegie Council for Ethics in International Affairs; UMass Boston's School for the Environment, Center for Governance and Sustainability, *Readers' Guide: Global Redesign Initiative*, <https://www.umb.edu/gri>

³³ It was evoked, for example, to legitimize the fact that work on international binding regulation of transnational corporations had until 2014 been totally displaced by ‘multi-stakeholder’ discussions which ended up inviting corporations as “relevant stakeholders” while renaming victims of corporate human rights violations into “affected stakeholders.” See e.g. United Nations Forum on Business and Human Rights,

<http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx>

Blurring distinctions between profit-interest and public interest actors, between powerful funders and recipients, is counter to the notion of democratic, as well as good public, governance. When the term 'governance' was introduced into the international jargon in the mid-nineties, the Report of the Commission on Global Governance emphasized that the global governance system needed to be more democratic than in the past and that it would need to bring powerful economic, political, and military actors under public control. Today, however, we live a world where the WEF GRI has opened up the road towards **plutocratic governance** - a system where money rules - which has **totalitarian features**.

The emerging **global, polycentric, 'stakeholder' governance architecture is a system which is spinning out of public control**. It is a system where those still advocating alternatives to its 'stakeholder-partnership' modes of interaction and public-private governance ideas are either co-opted or silenced and side-lined. Censorship and self-censorship is rampant. Effective regulation of harmful practices of transnational corporations is discouraged. Research methodologies are changed to produce results which suit the dominant perspective, while research for example on corporate criminal responsibility or on conflicts of interests in public-private 'partnerships', seems desperately low on the research agenda – if present at all.

It is also a system which has already resulted in much loss of public trust. It simply goes counter to the common understanding that “one does not invite the fox into the chicken coop.”

What is a multi-stakeholder partnership?

What is a “multi-stakeholder partnership”? When UN leaders started the promotion of the partnership paradigm in the 1990ies, the terms 'public-private partnerships' and 'multi-stakeholder initiatives' were often used interchangeably.

Valid still today remains the finding of an 2003 UNRISD study that **the term “partnership”** was primarily used as **buzzword** “evoking notions of trust, common goals and voluntary commitment.” The Study quoted a chairman of a major UK company as describing “partnership” as a **“weasel word used in business by people who want to take advantage of you.”** And this is why no representative of a corporation would trust its competitor to have “mutual interest” in mind, when engaging into tough negotiations over a business partnership.

When trying to grasp the concrete nature of UN-promoted public-private partnerships and multi-stakeholder initiatives, this study also found that their primary common feature was the fact that they were **close rather than arms-length relationships**.³⁴

In the global health arena, the term **public-private partnership (PPP)** at first most often referred to vertical, technology centred, public-private initiatives, the preferred funding mode of the Bill and Melinda Gates Foundation since Bill Gates and UNICEF co-founded GAVI. Most global health PPPs follow the GAVI model which by now has normalised the idea that corporate representatives should be on the board of these public-private hybrids at all levels.

But already early analyses showed that all kind of public-private initiatives were lumped together under the term PPP, from funding arrangements, over corporate social responsibility initiatives, and research collaboration, to outsourcing of public services - the World Bank type of PPPs which is now making its way back under the SDGs.

³⁴ Zammit, A. (2003). Development at risk: rethinking UN-business partnerships. Geneva, UNRISD in collaboration with South Centre, p. 54

It was thus proposed to be more specific what such public-private initiatives truly entailed and classify them under the most appropriate term. Without such disaggregation there can be no evaluation of whether or not they have an added value over purely public approaches. Nor can the associated risks and conflicts of interest be identified and assessed.³⁵

The term **multi-stakeholder initiative (MSI)**, on the other hand, was originally used for high-level policy interactions such as the *Global Compact*. Meanwhile such initiatives have developed towards coordinating MS 'platforms' such as the *Scaling-Up Nutrition* 'movement'³⁶ and the NCD alliance.

One could argue that the '**multi-stakeholder partnership**' is simply a combination of the terms 'multi-stakeholder' initiatives and public-private 'partnerships'. All are **public-private hybrids** which continue to carry the connotation that public interest actors should engage with corporate actors and powerful funders in a spirit of trust and include them into public decision making either on boards, or in public policy discussions, or more lately, as central actors in the proposed system of **polycentric 'global stakeholder governance'**.

In guise of conclusion

Being aware of the price of the partnership paradigm

This analysis indicates that the draft Concept Note towards WHO's General Programme of Work embraces the currently dominant stakeholder partnership discourse and policy paradigm. Yet: **one should not start from the assumption that aligning WHO towards the SDG agenda is necessarily in favour of strengthening WHO's constitutional role and prime functions.**

On the contrary, discourse analysis indicates that there have been shifts in discourse and terminology which have strengthened policy models suggestions that increase undue influences of corporations and rich funders in the public arena. The meaning of the terms 'partners' and 'stakeholders' have been changed over time³⁷. It would therefore be best to avoid their use in current policy documents as much as possible. Some concrete actions could be based on this, and similar, analyses.

The partnership- and multi-stakeholder mode of interaction have displaced earlier modes of interaction which were based on the notion of 'arms-length relations' and a spirit of vigilance between public institutions and powerful economic actors. Forgotten in this discourse are

³⁵ Zammit (2003), op.cit; Richter, J. (2004). "Public-private partnerships and Health for All: How can WHO safeguard public interests?" GASPP Policy Brief. Richter, J. (2005). Global partnerships and Health for All: Towards an institutional strategy. A discussion paper prepared for WHO's Department of Government, Civil Society and Private Sector Relations (GPR). Geneva, WHO: 20 pp.

³⁶ SUN is today promoted as a movement. However, this movement did not come up spontaneously. It was launched at a World Economic Forum as "principled, peoples', public-private partnership". See e.g. alternative account in Lhotska, L. A. C. Bellows. V. Scherbaum. (2012). Conflicts of interest and human rights-based policy making: the case of maternal, infant, and young children's health and nutrition, Right to Food And Nutrition Watch: Who Decides about Global Food and Nutrition – Strategies to regain control. Heidelberg 2012 FIAN: 31-37

³⁷ As has the meaning of multi-sectoral action. There are two meanings today: the earlier (e.g. during the time of Alma-Ata & ensuing Health for All guided agenda) was referring to better collaboration between health, water, agricultural sectors; today it is often used to denote initiatives & governance arrangements which include the private sector.

power-differences, the idea that ‘some have bigger steaks to fry.’ Forgotten is also the notion that there may be a ‘price’ to pay for corporate and venture philanthropy-type of funding and the idea to ‘attract’ trillions of private capital into the public health arena.³⁸

This price, including the risk of undermining the capacity of WHO and other public interest actors to fulfil their mandate and key functions, should not be left out of considerations when evaluating this draft Concept Note and any ensuing proposed WHO Global Programme of Work.

No to turning WHO into a humble ‘partner’ in a system of multi-‘stakeholder’ governance and a sea of PPPs and MSIs

Based on the fact that multi-stakeholder partnership arrangements tend to bring undue influences into public-health decision making, and based on the fact that the World Economic Forum’s Global Redesign Initiative has argued for a system of global multi-stakeholder governance which would weaken UN agencies, the Special Executive Board would be justified in arguing, once again, against setting up of a permanent “multistakeholder” governance platform.

WHO should not become an ‘enabler’ of yet more public-private hybrids and it should not be asked to be a humble ‘partner’ in what is depicted as a harmonious “ecosystem” of partnerships.

Empower WHO to open up public-private arrangements to greater public scrutiny

On the contrary, before any steps are taken to launch yet more global PPPs, **WHO should be empowered to bring more transparency into the sea of public-private hybrid arrangements to allow for better public-scrutiny.**

Since the partnership paradigm started, it was promised that Guidelines would help prevent negative impacts. In 2000, both UN and WHO leaders promised that relevant information would be posted regularly. This has been reconfirmed in the ***UN 2015 Guidelines on a Principle-based Approach to the Cooperation between the United Nations and the Business Sector***.³⁹ They are also “intended to serve as a common framework for all organizations of the United Nations system as a basis for their collaborative efforts with the business sector”. They state under **Transparency**:

“Cooperation with the business sector must be transparent. **Information on the nature and scope of major cooperative arrangements should be available** within the concerned United Nations entity and **to the public at large**. Concerned United Nations entities should **make relevant information available on their respective websites and** post relevant information on the **United Nations/business website** www.business.un.org. Subject to the regulations and rules governing each entity, this information should include disclosure of the partners, contributions, and matching funds for all relevant partnerships, including at the country-level.”

³⁸ See e.g. calculations in Curtis, M. (2016). *Gated development: is the Gates Foundation always a force for good?* London, Global Justice Now, Box 9, <http://www.globaljustice.org.uk/resources/gated-development-gates-foundation-always-force-good>. For systemic effects, see Birn & Richter (advance chapter), op. cit. & McGoey, L. (2015). "No such thing as a free gift: the Gates Foundation and the Price of Philanthropy."

³⁹ <https://business.un.org/en/documents/5292>, para 9 & 24_ accessed 10.11.2017

To fulfil this commitment, WHO's Secretariat could start by updating its 2014 list of **Partnerships and Collaborative Arrangements with WHO involvement**.⁴⁰

A question which Member States and public interest actors may want to raise during the Special Executive Board is **how to achieve a better overview over the number and type of partnership initiatives which have not been initiated by the UN but will have a significant impact in the arena. And what to do, if the assessment is that they are problematic?** Public-private initiatives of 2017 include:

- 22 biopharmaceutical companies launching in Davos *Accelerated Access* – a new “global initiative to advance access to non-communicable disease (NCD) prevention and care” - starting with one conflicted public interest partner, the *Union for International Cancer Control (UICC)* and as second partner The World Bank, which, according to IFPMA, will help “identify solutions to address financing, regulatory and service delivery barriers at country level.”⁴¹
- The Chatham House inviting speakers of Glaxo Smith and Kline, Johnson & Johnson, World Economic Forum, and the Global Compact to discuss the *Role of the Private Sector in Global Health Security* (under Chatham Rules which have advantages in some settings but are problematic when it should be clear what are the opinions the of private sector participants) and with financial support by Pfizer and Johnson & Johnson.⁴²
- The German government first successfully opposing the ban of ‘staff secondments’ from philanthropies to WHO during the FENSA negotiations;⁴³ then, in 2017, announcing a high-level Memorandum of Understanding between the BMGF and the German development agency BMZ. This MOU commits BMGF and the BMZ to join forces in advancing the UN’s 2030 Sustainable Development Goals (SDGs) through “revitalization” of global “partnership” approaches, a.o., by helping each other to “transform systems in development areas related to joint involvement in multi-lateral and governance-related multi-stakeholder platforms”. This arrangement also opens up BMZ’s large network of contacts to the BMGF and invites staff exchanges between the organizations,⁴⁴ little later the German Ministry of Health announced the creation of an *International Advisory Board on Global Health*, with the president of the BMGF’s Global Development Program being one of six high level person advising how to reshape Germany’s strategy on international health politics.⁴⁵
- The Bill and Melinda Gates Foundation exploring the establishment a new ‘multi-stakeholder mechanism’ with infant food industry involvement, ignoring warnings that

⁴⁰ [http://www.who.int/about/who_reform/partnerships-collaborative-arrangements-with-WHO-involvement.pdf?ua=1\(it\)](http://www.who.int/about/who_reform/partnerships-collaborative-arrangements-with-WHO-involvement.pdf?ua=1(it))

⁴¹ Beran, D. et al. (2017) “Pharmaceutical industry, non-communicable diseases and partnerships: More questions than answers”, *J Glob Health*, published online, Sep 21, www.ncbi.nlm.nih.gov/pmc/articles/PMC5609513/; & IFPMA (2017), 22 Biopharma Companies Partner and Launch First-of-its-kind Global Initiative to Address Rise of Non-Communicable Diseases, Press Release, 18 January, <https://www.ifpma.org/wp-content/uploads/2017/01/Access-Accelerated-Press-Release.pdf>, accessed 10.11.2017

⁴² <https://www.chathamhouse.org/event/role-private-sector-global-health-security>, accessed 10.11.2017

⁴³ <https://www.globalpolicy.org/component/content/article/270-general/52831-unease-over-seconded-philanthropic-foundation-staff-to-whos-top-management.html>, accessed 10.11.2017

⁴⁴ BMZ & the Bill and Melinda Gates Foundation, “Memorandum of Understanding between the German Federal Ministry for Economic Cooperation and Development and the Bill & Melinda Gates Foundation,” Berlin: BMZ; Seattle: BMGF, http://www.bmz.de/de/zentrales_downloadarchiv/Presse/1702145_BMZ_Memorandum.pdf

⁴⁵ Bundesministerium für Gesundheit (2017) Gröhe: „Globale Gesundheit gemeinsam gestalten“ Bundesgesundheitsminister beruft Internationales Beratergremium, press release 17 August; https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/4_Pressemitteilungen/2017/2017_3/170817-45_PM_Beirat_Int_Gesundheitspolitik.pdf, accessed 10.11.2017

this will set back the decade-long efforts of implementing the International Code of Marketing of Breastmilk-substitutes and independent monitoring. The first stakeholder meeting will take place shortly in a Hilton Hotel in Frankfurt.⁴⁶

Gaining an overview over what is happening in the name of the SDGs, and “leaving no-one behind” is one challenge. What to do, if an initiative risks to build up problematic networks/cartels of influence, and/or visibly violates basic notions of conflicts of interest, is another issue which needs to be urgently debated.

Rectifying the discourse - being specific about terminology

Terms such as ‘partners’ and ‘partnership’ have positive connotations. And this is why they could be used so successfully by powerful economic actors to undermine moves for social change and influence public agenda.

Analyses of how to ensure better corporate accountability and regulation warned that the ultimate barrier might be an emerging ‘**hegemony**’.⁴⁷ States of hegemony are characterized by the fact that those who risk losing out may have adopted a mode of thinking that does not allow them to any more clearly see problems and their underlying causes. They may thus lose the capacity to evaluate different courses of action than those proposed by powerful elites. **To allow a more neutral assessment of ‘partnership’ suggestions, attention to discourse and terminology are therefore essential.**

Two key terms may help correcting problems due to the dominance of the ‘multi-stakeholder/partnership’ discourse and related lack of critical assessment of policy actions. What about an ‘**unpartnering**’ and ‘**de-stakeholderizing**’ counterdiscourse – and counteractions⁴⁸ - to start correcting this problem? For example:

The term ‘**partner**’ and ‘**partnership**’ should be avoided whenever possible. Public-private ‘partnerships’ can be easily renamed e.g. as public-private initiatives (PPIs), -ventures (PPVs) or –alliances (PPAs). Calling a “**spade a spade**”, using more specific terms for specific types of relationship or cooperative arrangements is an indispensable step to better recognize the associated risk and conflict of interest and debate their risks to systems. Thus corporate sponsorships should not be renamed into called public-private ‘partnerships’ or ‘innovative resource mobilization.’

Also the term “**stakeholder**” should be avoided.⁴⁹ It is not needed (terms such as ‘relevant actors’, or more specific terms, such as constituency, civil society organisations, social movements etc. can be used to replace it as appropriate).

Since its redefinition, the term stakeholder blurs important distinctions between societal actors, and downgrades the political role of intergovernmental and governmental institutions: Corporations, rich funders and foundations are not ‘stakeholders’ in public affairs. On the

⁴⁶http://merid.org/en/Content/Projects/Marketing_of_Breast_Milk_Substitutes_and_Infant_Nutrition_and_Health.aspx; & <http://www.babymilkaction.org/archives/15050>, both accessed 10.11.2017

⁴⁷ Utting, P. & M., José Carlos, Ed. (2013). *Corporate social responsibility and regulatory governance: Towards inclusive development?* International Political Economy Classics. London, Palgrave Macmillan & UNRISD, p. xxiii

⁴⁸ E.g. Valente, F. (2016). "Nutrition and food - how government for and by the people became government for and by the TNCs." *TNI*. <https://www.tni.org/en/article/nutrition-and-food-how-government-for-and-of-the-people-became-government-for-and-by-the>, accessed 02.02.2016

⁴⁹ And if the term ‘stakeholder’ is used then under its original meaning, i.e. those affected, or at risk of being affected, by harmful corporate practices.

other hand, **“the peoples” of the UN Declaration are not just ‘stakeholders’**. They are human beings, and as such, they are **human rights holders**.

It is crucial that the differences among social actors remain clear. Distinctions must be made between powerful economic actors and governmental and intergovernmental institutions. Distinctions must also be made between powerful economic actors and civil society actors.

Therefore, if the term **non-State actor** is used, care should be taken to not lump all ‘non-State actors’ together in overarching statements which cannot be substantiated, such as all non-State actors sharing the same goals and visions. It may be useful to remember that there are differences between what could be roughly called public-interest NSAs (PiNSAs), business-interest NSAs (BinSAs), and philanthropic NSAs (PhinNSAs)?⁵⁰

The people(s) - not the corporations - are the constituency whom the UN system, their officials and civil servants, are meant to serve loyally and in total honesty.

Re-aligning the World Health Organization and its GWP with WHO’s constitutional mandate

To ensure that an SDG focused agenda is not undermining WHO’s capacity to fulfil its mandate and constitutional key functions, **cooperation with private sector non-State actors should not be seen as an end.**

When the trend towards partnerships with corporation started, the *2001 Report of the Secretary-General to the General Assembly on **Cooperation between the United Nations and all relevant partners, in particular the private sector*** stated:

"The overriding purpose of cooperation between the United Nations and non-state actors should be to enable the Organization to serve Member States and their peoples more effectively, while remaining true to the principles of the Charter. **Cooperation should be regularly assessed against those objectives.** As such, cooperation should be viewed as a means of achieving United Nations goals and enhancing performance, not as an end in itself."

In other words, the **yardstick** of any Global Work Plan and other policy compatibility in the field of health remain **WHO’s key constitutional principle** which states that:

“the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being...”

⁵⁰ This is just a thought, inspired by debates when WHO started promoting global health PPPs and tried to interpret the call for opening up to greater ‘private sector’ and ‘civil society’ participation. Clearer distinctions in the NGO category were suggested, the terms BINGO and PINGOs were proposed, a.o. to help Member States recognise what type of NGO they were talking to but also to discuss whether the NGO relations policy should only apply to PINGOs while a business could be captured in a separate collaboration policy. See Richter, J. (2004). Public-private partnerships and international health policy making: How can public interests be safeguarded? Helsinki, Ministry for Foreign Affairs of Finland, Development Policy Information Unit, pp. 48, 50-54 At the time, WHO’s Civil Society Initiative pointed out that boundaries were not always clear-cut and tried to classify what other actors can be found among WHO’s NGOs in Official Relations. Fifteen years later, these difficulties are even greater; new categories of actors include PP-hybrids such as GAIN and partnership-brokers; many public-interest actors may, by now, be conflicted actors.

and Article 1: “The objective of the World Health Organization shall be the attainment by all peoples of the highest possible level of health.”

Unfortunately we do not live in a harmonious ‘ecosystem’ of partners. As long as transnational corporations harm people and the environment through their practices, as long as powerful economic actors undermine state capacity to collect full taxes, as long as some UN Member States try to block efforts to work towards a binding Human Rights Treaty,⁵¹ policies building on harmonious allegories build on dangerous fairy-tales.

The interest of the ‘peoples’ are best served by approaches building on a more realistic world view. A first important step would consist in fast-tracking the **rectification of WHO’s current conflict of interest concept** & related policies.⁵² This would enable the Director-General to argue for undoing the long-standing freeze of Member States assessed contributions in order to protect WHO from undue influences. It would allow also WHO, and other public interest actors, to **recover arms-length distance** from powerful private sector actors.⁵³ It would free the way to asking whether the emerging GPW is centered on targets and impact to the detriment of broader interventions because this way WHO can best attract donor contributions. It would free roads to exploring alternative cost-effective, human rights based, interventions. Effective, legally-binding international regulation of harmful practices of food companies is one such intervention which does not seem to have made it onto the current draft Global Work Plan⁵⁴ despite the regulatory constitutional mandate of WHO.

Such reflections should be the guiding principle in elaborating WHO’s new General Programme of Work. It is hoped that WHO’s Member States and the new team will assist Dr. Tedros in detecting and neutralising other problematic discourses, and rectifying significant gaps, in order to formulate a General Programme of Work that renders WHO able to work effectively for peoples’ right to health.

Rather than just aligning WHO with sustainable development goals they might want, in a spirit of solidarity with the world’s most vulnerable people, ensure that the emerging General Work Programme will not dis-align WHO with its constitutional mandate and undermine its capacity to fulfil its constitutional main functions.

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⁵¹ https://www.tni.org/files/article-downloads/press_release_global_campaign_27_oct_oeigwg_0.pdf

⁵² As argued in e.g. http://www.babymilkaction.org/wp-content/uploads/2016/05/Whose-health_-article-Lhotska-Gupta.pdf

⁵³ As argued as result of research on PPPs, by Marks, J. H. (2013). Marks, J. H. (2014). "Toward a Systemic Ethics of Public–Private Partnerships Related to Food and Health." *Kennedy Institute of Ethics Journal* **24**

⁵⁴ WHO (2017). Draft thirteenth general programme of work 2019–2023. Promote health, keep the world safe, serve the vulnerable. Geneva, World Health Organization.

http://apps.who.int/gb/ebwha/pdf_files/EBSS4/EBSS4_2-en.pdf?ua=1

⁵⁵ <http://www.ibme.uzh.ch/de/ethik/team/affiliert/judithrichter.html>