

SPOTLIGHT

on Sustainable Development 2017



Reclaiming policies for the public

Privatization, partnerships, corporate capture, and their impact on sustainability and inequality – assessments and alternatives

Report by the Civil Society Reflection Group on the 2030 Agenda for Sustainable Development

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with contributions from



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Preface

The 2030 Agenda and its Sustainable Development Goals (SDGs) adopted unanimously by UN Member States in September 2015 comprehensively address major global problems, such as accelerating global warming, growing inequalities, poverty, gender-based discrimination, violence and conflict, and the structural flaws of the global economic and financial systems. The 2030 Agenda is universal. No country can deem itself to be sustainably developed and having already done its part to meet the SDGs.

CSOs and social movements, while continuing to advance transformative agendas far more ambitious than the 2030 Agenda, play a key role as independent watchdogs in holding governments, international organizations, International Financial Institutions, and Multilateral Development Banks as well as transnational corporations accountable for their contributions to the implementation of the 2030 Agenda. This is particularly relevant with regard to the rich and powerful actors in the global system, given their economic influence and political weight in international decision making.

Severe obstacles to the implementation of the 2030 Agenda have already been identified by these watchdogs. For too long, economic development has been shaped by a widespread acceptance of neoliberal policies pushed by the international financial institutions and corporate think tanks as the ‘only alternative’. Too often, inequitable trade, investment, and monetary rules and policies have exacerbated poverty and inequalities between and within countries. Economic policies oriented to growth at all costs provide the drive to exploit nature, rely on fossil fuels and deplete biodiversity. Countries compete in a race to the bottom, offering lower taxes and diluted labour rights to attract investment with no corresponding obligation to provide decent work. The power of investors and big corporations is continually strengthened through deregulation, trade and financial liberalization, tax cuts and exemptions, reduced labour standards, and the privatization of public goods. These policies have weakened the role of the State and its ability to fulfill its human rights and sustainable development commitments.

The Reflection Group on the 2030 Agenda for Sustainable Development (www.reflectiongroup.org), created in 2011 to offer independent analysis and suggestions to the international debate, decided in 2015 to regularly watch and assess the implementation of the new Agenda and the structural obstacles in its realization, and to present its findings in an annual “Spotlight Report”. The report is supported by a broad range of CSOs and trade unions, and based on the experiences and reports by national and regional groups and coalitions from all parts of the world.

After the successful launch of the pilot report 2016, this 2017 edition focuses on privatization, partnerships, corporate capture and their impact on sustainability and inequality. The articles and textboxes cover all sectors of the 2030 Agenda and the SDGs (and beyond), and reflect the rich geographic and cultural diversity of their authors. But what all contributions have in common is their plea to reclaim public policy space and use it to take bold measures to realize human rights, increase public finance, to regulate or reject PPPs, and to strengthen participatory and democratic governance structures at all levels. These are indispensable prerequisites to achieve the SDGs and to turn the vision of the transformation of our world, as proclaimed in the title of the 2030 Agenda, into reality.

BARBARA ADAMS AND JENS MARTENS, GLOBAL POLICY FORUM (GPF)

CHEE YOKE LING, THIRD WORLD NETWORK (TWN)

GITA SEN, DEVELOPMENT ALTERNATIVES WITH WOMEN FOR A NEW ERA (DAWN)

KATE DONALD, CENTER FOR ECONOMIC AND SOCIAL RIGHTS (CESR)

ROBERTO BISSIO, SOCIAL WATCH

SANDRA VERMUYTEN, PUBLIC SERVICES INTERNATIONAL (PSI)

STEFANO PRATO, SOCIETY FOR INTERNATIONAL DEVELOPMENT (SID)

ZIAD ABDEL SAMAD, ARAB NGO NETWORK FOR DEVELOPMENT (ANND)

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Overview

Reclaiming the public (policy) space for the SDGs

Privatization, partnerships, corporate capture and the implementation of the 2030 Agenda

BY JENS MARTENS, GLOBAL POLICY FORUM,
ON BEHALF OF THE REFLECTION GROUP ON THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

In the 2030 Agenda governments committed to a revitalized Global Partnership between States and declared that public finance has to play a vital role in achieving the SDGs. But in recent decades, the combination of neoliberal ideology, corporate lobbying, business-friendly fiscal policies, tax avoidance and tax evasion has led to a massive weakening of the public sector and its ability to provide essential goods and services. The same corporate strategies and fiscal and regulatory policies that led to this weakening have enabled an unprecedented accumulation of individual wealth and increasing market concentration. The proponents of privatization and public-private partnerships (PPPs) use these trends to present the private sector as the most efficient way to provide the necessary means for implementing the SDGs. But many studies and experiences by affected communities have shown that privatization and PPPs involve disproportionate risks and costs for the public sector and can even exacerbate inequalities, decrease equitable access to essential services and jeopardize the fulfilment of human rights. Therefore, it is high time to counter these trends, reclaim public policy space and take bold measures to strengthen public finance, rethink PPPs and weaken the grip of corporate power on people's lives.

Re-defining the global partnership agenda

When governments negotiated the 2030 Agenda in 2015 there were hard fights about the nature of a global partnership. While the G77 and its members from the global South emphasized the need for a revitalized global partnership among governments, the USA, the EU and their partners from the global North pushed for all kinds of partnerships between public and private actors to implement the Agenda and its goals. The latter followed the line of reasoning of the High-Level Panel of Eminent Persons on the post-2015 Development Agenda that stated in its final report in May 2013:

“We live in an age when global problems can best be solved by thousands, even millions, of people working together. These partnerships can guide the way to meeting targets and ensuring that programmes are effective on the ground. [...] These partnerships are powerful because each partner comes to the table with direct knowledge and strong evidence, based on thorough research. This enables them to innovate, to

advocate convincingly for good policies, and thus to secure funding.”¹

In the context of the 2030 Agenda, the difference between partnership and partnerships is not just semantic sophistry but reflects two fundamentally different views of the role of the State: on the one hand as duty-bearer, particularly with respect to human rights, and as central provider of public goods and services, on the other hand as moderator and facilitator of actions of various public and private ‘stakeholders’.

At the end of negotiations on the 2030 Agenda, governments agreed on a clearly graduated compromise: they fully committed to a revitalized Global Partnership at the governmental level and declared that public finance “will play a vital role in providing essential services and public goods and in catalysing

¹ High-Level Panel of Eminent Persons on the post-2015 Development Agenda (2013), p. 22.

other sources of finance.”² But they also acknowledged the role of the “diverse private sector, ranging from micro-enterprises to cooperatives to multinationals, and that of civil society organizations and philanthropic organizations in the implementation of the new Agenda.”³

In Sustainable Development Goal 17 on means of implementation, governments included two targets under the subheading “Multi-stakeholder partnerships”, but even there they first committed to enhance the Global Partnership for Sustainable Development, only “complemented by multi-stakeholder partnerships” (target 17.16) and qualified the relevance of public-private partnerships by embedding them between public and civil society partnerships (target 17.17).

The embrace of the private sector and public-private partnerships became more visible in the outcome document of the Third International Conference on Financing for Development from July 2015, the *Addis Ababa Action Agenda* (AAAA).⁴ This de facto funding programme for the SDGs devotes a separate chapter to the important role of private business and finance, and it contains 11 paragraphs that promote, welcome or encourage the use of multi-stakeholder or public-private partnerships.⁵

The trend towards partnerships with the private sector is based on a number of assumptions, not least the belief that global problems are too big and the public sector is too weak to solve them alone.

Weakening the State: A vicious circle

The trend towards privatization and the promotion of public-private partnerships (PPPs) of various kinds are not at all new. The world faced a first wave of deregulation and privatization in the 1980s and 1990s, promoted by neoliberal policies of Western governments, advanced by the transition from centrally

planned to market economies in Eastern Europe and the former Soviet Union, and imposed by Structural Adjustment Programmes of IMF and World Bank in highly indebted countries of the global South.

In the aftermath of the global financial crisis 2007-2008 the discourse around privatization and PPPs has gained new momentum, particularly shaped by corporate think tanks and international financial institutions (IFIs). At a time when governments seem unable and unwilling to resolve pressing challenges, private actors are positioning themselves as an alternative solution, more flexible, efficient and un-bureaucratic than governments. A telling example of this strategy is the report of the World Economic Forum (WEF) on the future of global governance, “Global Redesign”.⁶ The report postulates that a globalized world is best managed by a coalition of multinational corporations, governments (including through the UN system) and select civil society organizations (CSOs). It argues that governments no longer are “the overwhelmingly dominant actors on the world stage”⁷ and that “the time has come for a new stakeholder paradigm of international governance”.⁸ The World Economic Forum vision includes a “public-private” UN, in which certain specialized agencies would operate under joint State and non-State governance systems, such as the Food and Agriculture Organization (FAO) through a “Global Food, Agriculture and Nutrition Redesign Initiative”.⁹ This model also assumes that some issues would be taken off the agenda of the UN system to be addressed by “plurilateral, often multi-stakeholder, coalitions of the willing and able”.¹⁰

The IFIs, led by the World Bank, argued in a similar way in the discussions about the 2030 Agenda and the implementation of the SDGs. They called for a “paradigm shift on how development will be financed [...] to unlock the resources needed to achieve the SDGs.”¹¹

2 UN (2015b), para. 41.

3 Ibid.

4 UN (2015a).

5 Ibid., paras. 10, 42, 46, 48, 49, 76, 77, 115, 117, 120 and 123.

6 World Economic Forum (2010).

7 Ibid., p. 8.

8 Ibid., p. 9.

9 Ibid., p. 367.

10 Ibid., p. 8.

11 World Bank et al. (2015), p.2.

In their view, the global community needs to move the discussion from “billions” in ODA to “trillions” in investments of all kinds, to meet the investment needs of the SDGs. While they admit that the majority of development spending happens at the national level in the form of public resources, they stress that the largest potential for additional funds is from private sector business, finance and investment. “This is the trajectory from billions to trillions, which each country and the global community must support together to finance and achieve the transformative vision of the SDGs.”¹²

But why is it apparently a matter of fact that the public sector is too weak to meet the challenges of the 2030 Agenda? Why are public coffers empty? In fact, the lack of capacity and financial resources is not an inevitable phenomenon but has been caused by deliberate political decisions. To give just one example, over the past three decades corporate income tax rates have declined in both countries of the global North and South by 15 to 20 percent (see Chapter 10). Hundreds of billions of US dollars are lost every year through corporate tax incentives and various forms of tax avoidance. Through their business-friendly fiscal policies and the lack of effective global tax cooperation, governments have weakened their revenue base substantially. This has been driven not least by corporate lobbying. A recent analysis by Oxfam America estimates that between 2009 and 2015, the USA’s 50 largest companies spent approximately US\$ 2.5 billion on lobbying, with approximately US\$ 352 million lobbying on tax issues. In the same period, they received over US\$ 423 billion in tax breaks.¹³

Widespread tax evasion and avoidance by transnational corporations and wealthy individuals make things even worse. It further decreases public revenues and exacerbates inequalities, as tax evasion seems to rise sharply with wealth. According to recent estimates by researchers in Norway, Sweden and Denmark, on average about 3 percent of personal taxes are evaded in Scandinavia, but this figure rises to about 30 percent in the top 0.01 percent of the wealth

distribution, a group that includes households with more than US\$ 40 million in net wealth.¹⁴ The authors conclude: “Taking tax evasion into account increases the rise in inequality.”¹⁵

What we see is a vicious circle of weakening the State: the combination of neoliberal ideology, corporate lobbying, business-friendly fiscal policies, tax avoidance and tax evasion has led to the massive weakening of the public sector and its ability to provide essential goods and services, as described in the analyses on food security and sustainable agriculture (Chapter 2), health (Chapter 3), education (Chapter 4), water (Chapter 6), transport or housing (Chapter 11). These failures have been used by the proponents of privatization and PPPs to present the private sector as the better alternative and to demand its further strengthening. This in turn further weakened the public sector – and so on ...

In parallel, the same corporate strategies and fiscal and regulatory policies that led to the weakening of the public sector enabled an unprecedented accumulation of individual wealth and increasing market concentration, often at the expense of small and medium-sized enterprises.

Concentrated power

The globalization of the world economy and the waves of deregulation and privatization have facilitated the emergence and increased the power of large transnational corporations (TNCs) and financial conglomerates. Companies with activities in dozens of countries and billion-dollar turnovers have acquired both great influence on the global economic system and significant political clout.

According to various statistics of the largest national economies, transnational corporations, banks and asset management firms, among the 50 largest global economic entities are more private corporations than

12 Ibid., p.1.

13 Oxfam America (2017), p. 2.

14 Alstadsæter et al. (2017), p. 1.

15 Ibid.

countries.¹⁶ The assets under management by the world's largest asset management company BlackRock are US\$ 5.12 trillion (end of 2016),¹⁷ thus higher than the GDP of Japan or Germany.

Increasing market concentration has put greater power in the hands of a small number of corporations. An investigation of the relationships between 43,000 transnational corporations has identified a small group of companies, mainly in the financial industry, with disproportionate power over the global economy. According to the study by the Swiss Federal Institute of Technology in Zurich, "transnational corporations form a giant bow-tie structure and [...] a large portion of control flows to a small tightly-knit core of financial institutions."¹⁸ At the centre of the bow tie, a core of 147 companies control 40 percent of the network's wealth, while just 737 companies control 80 percent.

Large institutional investors such as pension funds, insurance funds and sovereign wealth funds are also the drivers of a new generation of PPPs in infrastructure, forcing governments to offer 'bankable' projects that meet the needs of these investors rather than the needs of the affected population (see Chapter 9).

Particularly alarming for the implementation of SDG 2 on food security and sustainable agriculture are the announced mega-mergers in the food and agriculture sector, especially the acquisition of Syngenta by China National Chemical Corporation (ChemChina), the merger of Dow Chemical and DuPont and the takeover of Monsanto by Bayer. If all of these mergers are allowed, the new corporate giants will together control at least 60 percent of global commercial seed sales and 71 percent of global pesticide sales (see Chapter 2).

The growth and concentration of corporate power also includes private military and security companies (PMSCs). A 2011 study estimated the number of

employees in this sector to be between 19.5 and 22.5 million, a number which exceeds the number of police officers worldwide (see Chapter 16). The growth of this sector directly affects the implementation of SDG 16, as it enables States to continue to initiate or perpetuate violent conflicts by outsourcing political, economic, and human costs and obscuring these from the public.

Devastating impacts

Privatization, PPPs and the rise of corporate power affect all areas and goals of the 2030 Agenda. One obvious example is the mushrooming of private, fee-charging, profit-making schools in Africa and Asia, with the particular case of Bridge International Academies, which operates 500 nursery and primary schools in Kenya, Uganda, Nigeria, Liberia and India (see Chapter 4).

Detrimental corporate influence occurs in the energy sector with the still dominant role of coal and fossil fuel industries, undermining effective measures against climate change and the transformation towards sustainable energy systems (see Chapters 7 and 13). The extractive industries play a similar role (see Chapter 12), particularly with the rush to mine in the deep sea representing its newest frontier and perhaps the biggest threat to the world's oceans (see Chapter 14). Biodiversity and terrestrial ecosystems are equally threatened by the commodification of the values and 'services' provided by these industries, and by market-based conservation mechanisms. They risk marginalizing the actors that play a central role in biodiversity conservation: indigenous peoples, local communities and women (see Chapter 15).

Studies by scholars, CSOs and trade unions like Public Services International (PSI) have shown that the privatization of public infrastructure and services and various forms of PPPs involve disproportionate risks for the affected people and costs for the public sector. They can even exacerbate inequalities, decrease equitable access to essential services, and thus jeopardize the fulfilment of human rights, particularly the rights of women (see Chapter 5).

16 www.willistowerswatson.com/en/insights/2016/10/The-worlds-500-largest-asset-managers-year-end-2015.

17 www.blackrock.com/de/privatanleger/uber-blackrock.

18 Vitali/Glattfelder/Battiston (2011).

Even evaluations done by the World Bank, the IMF and the European Investment Bank (EIB) – the organizations normally promoting PPPs – have found many cases where PPPs did not yield the expected outcomes.¹⁹ Some of the findings of various studies on the risks and costs of PPPs can be summarized as follows: only very few countries have sufficient capacity to implement infrastructure PPPs; the cost of financing is higher for PPPs than for public sector works, as governments usually borrow at a lower rate than the private sector; potential short-term fiscal profits from large-scale PPPs are not always sufficient to offset the long-term additional costs arising from contract renegotiations; government liabilities for PPPs appear ‘off-budget’, so governments have the illusion that they have more fiscal space than they actually do. Addressing the role of the G20 in a recent paper on infrastructure investment and PPPs, Nancy Alexander of the Heinrich Böll Foundation summarizes:

“The scale of the infrastructure and PPP initiative championed by the G20’s national and multilateral banks could privatize gains and socialize losses on a massive scale. The G20 should take steps to ensure that this scenario does not unfold.”²⁰

Counter-movements and breaking ranks

Responding to the experiences and testimonies from the ground about the devastating impacts of privatization and PPPs, counter-movements emerged in many parts of the world. Over the past 15 years there has been a significant rise in the number of communities that have taken privatized services back into public hands – a phenomenon called “remunicipalization” (see Chapter 6). Remunicipalization refers particularly to the return of water supply and sanitation services to public service delivery. Between March 2000 and March 2015 researchers documented 235 cases of water remunicipalization in 37 countries, affecting more than 100 million people.

Furthermore, some pioneering companies are already on the path towards – at least environmentally – sustainable development solutions, for instance in the area of renewable energies. The private sector is in no way a monolithic bloc. Firms in the social and solidarity economy, social impact investors and small and medium-sized businesses are already making a positive difference, challenging the proponents of global techno-fix solutions and the dinosaurs of the fossil fuel lobby (see Chapter 7).

Even the firm opposition to international corporate regulation in the field of business and human rights by those pretending to represent business interests is showing cracks. A survey by The Economist Intelligence Unit revealed that a significant proportion of business representatives are now in favour of an international legal instrument to regulate corporate activities. The report concludes that:

“[...] although the reaction by most businesses has been negative, questioning not only the desirability but the efficacy and feasibility of such an instrument, 20% of respondents to our survey said that a binding international treaty would help them with their responsibilities to respect human rights.”²¹

What has to be done?

To be sure, the business sector certainly has an important role to play in the implementation process of the 2030 Agenda, as sustainable development will require large-scale changes in business practices. However, acknowledging corporations’ role should not mean promoting the accumulation of wealth and economic power, giving them undue influence on policy-making and ignoring their responsibility in creating and exacerbating many of the problems that the 2030 Agenda is supposed to tackle.

Instead of further promoting the misleading discourse of ‘multi-stakeholderism’ and partnerships between inherently unequal partners a fundamental change of course is necessary. In order to achieve the SDGs and to turn the vision of the transformation of

¹⁹ See references e.g., in Jomo KS et al. (2016) and Alexander (2016).

²⁰ <https://us.boell.org/2016/12/15/infrastructure-investment-and-public-private-partnerships>.

²¹ The Economist Intelligence Unit (2015), p. 23.

our world, as proclaimed in the title of the 2030 Agenda, into reality, we have to reclaim the public (policy) space. This includes, inter alia, the following steps:

1. Strengthening public finance at all levels: Widening public policy space requires, among other things, the necessary adjustments in fiscal policies. In other words, governments have to formulate Sustainable Development Budgets in order to implement the Sustainable Development Goals. They can generally approach the issue from both the revenue (tax policy) and the expenditure (budget policy) angle. They can pursue proactive tax policies to achieve environmental and social policy goals and simultaneously fulfill their human rights obligations. This includes, for example, the taxation of the extraction and consumption of non-renewable resources, and forms of progressive taxation that are sensitive to the welfare of poor and low-income people (e.g., by taxing consumption of luxuries). Fiscal policy space can be further broadened by the elimination of corporate tax incentives (including tax holidays in export processing zones), and the phasing out of harmful subsidies. If the priorities are properly defined, fiscal policies can become a powerful instrument to reduce social inequalities, eliminate discrimination and promote the transition to sustainable production and consumption patterns.

The necessary reforms should not be limited to the national level. The strengthening of public finance is necessary at all levels, from the development of municipal fiscal systems and sufficient financial support for local authorities, to the provision of predictable and reliable funding to the UN system at a level sufficient to enable it to fulfill its mandates. In particular, governments should reverse the trend towards voluntary, non-core and earmarked contributions and the increasing reliance on philanthropic funding. A basic prerequisite for the strengthening of national fiscal systems is the strengthening of global tax cooperation to counter harmful tax competition and various schemes of tax avoidance and evasion.

2. Strengthening public policies instead of investors' rights: Corporate lobby groups have been advocating forcefully against 'overregulation', and for the continuation of exactly those trade, investment and

financial rules that have destabilized the global economy and exacerbated inequalities in both the global North and the global South. Furthermore, a new generation of free trade and investment agreements risks a further reduction in the policy space of governments to implement sound social, environmental and developmental policies. These agreements will add to the power of investors and big corporations and, by the same token, weaken the role of the State and its ability to promote human rights and sustainability. Governments should fundamentally rethink their approach towards trade and investment liberalization and take into account the demands of civil society organizations, trade unions, indigenous peoples, human rights experts and many others, to place human rights and the principles of sustainable development at the core of all trade and investment agreements. This includes the ability to implement active industrial policies to enable the rise of a strong domestic enterprise sector in countries of the global South.

3. Rejecting or reconsidering PPPs – searching for alternatives: Business actors and corporate think tanks like the WEF have been steadily promoting PPPs as the primary model to fill the global funding gap in infrastructure investment. Many governments have followed their advice. But as mentioned above, many studies, including those by mainstream think tanks, prove that PPPs can involve enormous risks and costs to the public sector, exacerbate inequalities and decrease equitable access to essential services. Governments should take these findings and concerns into account, rethink their approach towards private sector participation in infrastructure investment, and explore alternative means of public infrastructure financing. This may include revenues from property taxes, service charges and user fees, in compliance with human rights standards, funding by public banks, the issuance of public (including municipal) bonds, ways to cross-subsidize different public services, and, in certain cases, ODA funding.

4. Creating binding rules on business and human rights and UN-business interactions: Experience shows that corporate social responsibility (CSR) initiatives, such as the UN Global Compact, and voluntary guidelines,

such as the UN Guiding Principles on Business and Human Rights (UNGP) have failed to hold corporations accountable. Various governments, CSOs and human rights experts have concluded that there is a need for a legally binding instrument (or ‘treaty’) to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. The Human Rights Council took a milestone decision by establishing an intergovernmental working group to elaborate such an instrument. Governments and CSOs should take this ‘treaty process’ seriously and engage actively in it. This process offers the historic opportunity for governments to demonstrate that they put human rights over the interests of big business. This will be a critical prerequisite for implementing the 2030 Agenda, not least the goal to ensure sustainable consumption and production patterns.

Similarly, the UN should develop a regulatory framework for UN-business interactions (including the various forms of partnerships). This should set minimum standards for the participation of the UN in global partnerships and for the shape and composition of UN initiatives involving the private sector. These standards should prevent undue corporate influence on UN policies and prevent companies that violate internationally agreed environmental, social and human rights standards or otherwise violate UN principles (via corruption, breaking UN sanctions, lobbying against UN global agreements, evading taxes, etc.) from participation in UN events and from eligibility for UN procurement. Monitoring and impact assessments should be undertaken regularly by an impartial UN office, not by those initiatives established to promote partnerships, and the results should be reported to Member States and made publicly available.

One essential element of such a framework should be a mandatory conflict of interest and public disclosure policy for all interactions with non-State actors, with additional requirements specific to the respective UN funds, programmes and specialized agencies. Furthermore, such a regulatory framework should distinguish clearly between corporate actors and CSOs and refrain from treating fundamentally different actors as equals.

5. Dismantle corporate power and ‘too big to fail’

entities: The deregulation and privatization policies of the last decades have enabled increasing market concentration and the accumulation of wealth and economic power in the hands of a relatively small number of corporations and ultra-rich individuals. Existing competition and anti-trust laws have been obviously too weak to prevent mega-mergers, as recently have taken place in the agribusiness sector, and to curtail the massive growth of financial conglomerates with disproportionate influence on the global economy – and thereby directly or indirectly on the implementation of the SDGs.

In order to strengthen the role of the State and democratic decision-making processes on issues of common interest in societies, as well as ensure the provision of public services governments have to take effective measures to dismantle corporate power and prevent the further existence of corporate ‘too big to fail’ entities, particularly in the global shadow banking system. They should strengthen national and regional anti-trust laws, cartel offices and competition regulators. And they have to improve anti-trust policies, cooperation and legal frameworks at the global level under the auspices of the UN. This could include the development of a UN Convention on Competition, as proposed by the ETC Group.

6. Changing the mindset – reclaiming the public space:

The measures listed above are indispensable to counteract the growing, non-monitored influence of corporate interests in the implementation of the 2030 Agenda and beyond. But these measures are not ends in themselves. There is a need to reconsider the current mainstream approach based on voluntary governance and partnerships among diverse ‘stakeholders’. It is important to re-establish a clear distinction between those who should regulate and the party to be regulated and to reject any discourse that obfuscates the fact that corporations have a fundamentally different primary interest from that of governments, UN agencies, CSOs, and social movements: corporations’ primary interest – enshrined in their fiduciary duty – is to satisfy the interests of their owners, creditors and shareholders. The stakeholder discourse blurs this important distinction between the different actors.

Certainly, meaningful engagement with all sectors of society is a pre-requisite for democratic decision-making as well as providing invaluable and essential expertise in the identification of problems and solutions. Governments and the UN should continue to develop their commitments and capacities in this area without relying on a one-size-fits-all approach. They should develop models which will allow all actors in society to make contributions and to protect against the influence of vested interests. Rather than continuing to ‘innovate’ through ‘outsourcing’ tasks to piecemeal partnerships with undemocratic decision-making structures, it is time for civil society to reclaim the public space – and for governments to put in place the necessary regulatory and global governance framework.

In the preamble to the 2030 Agenda governments described the “enormous disparities of opportunity, wealth and power” as one of the immense challenges (i.e., obstacles) to sustainable development.²² The SDGs can only be achieved when governments take active political steps to overcome these disparities.

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Jens Martens is Executive Director of Global Policy Forum

22 UN (2015b), para. 14.

Stalled implementation at national level

BY ROBERTO BISSIO, SOCIAL WATCH¹

Social Watch member coalitions and civil society organizations around the world were asked to report in 2017 on the national implementation of the 2030 Agenda in its first year. Stalled, or slipping back, is the theme that appears in many of the contributions. Natural and un-natural disasters, some of them of catastrophic proportions, appear again and again not just as an obstacle to faster progress towards the agreed goals, but in fact setting the clock back. Part of the reason for lack of progress has to do with an over-reliance on public-private partnerships, urged by the World Bank as a way to finance implementation of the SDGs.

Struggling with the impact of the earthquake in Nepal

Nepal, still struggling with the impact of the huge earthquake of April 2015 that killed thousands of people, displaced one million and damaged human settlements, infrastructure and archaeological sites, has postponed its projected 'graduation' from one of the 'least developed countries' to 2030.

It is a known paradox that earthquakes and other catastrophes destroy assets but boost the economy and GDP as a result of reconstruction activities. Yet, Rural Reconstruction Nepal (RRN), one of the oldest and most respected NGOs in the country reports that "after the earthquake, the plight of the people living in Kathmandu's camps was further compounded by their low levels of education. Most of them are low-skilled workers who earn a living as housemaids or work in the construction sector, small hotels, sweat shops or carpet factories. Even a month after the earthquake, their earnings had not reached previous levels [...] while those who run their own small business or footpath shops were not getting enough customers to earn a decent income".

It took nine months to set up a body to coordinate the recovery effort between various government and non-government organizations, as well as foreign do-

nors. This inefficiency is obviously related to political instability, as government has changed 25 times since the restoration of democracy in 1990. RRN explains that privatization, which also started in 1990, as a way to increase productivity, improve efficiency, reduce administrative and financial expenses and improve service delivery, resulted instead in "policy inconsistencies of government [...] huge debts of state-owned enterprises, corruption and lack of transparency".

The privatization exercise was suspended in 2008 and only restarted in 2013. Now, the implementation of the 2030 Agenda is giving it a new push, as implementation committees for SDGs include private sector representatives in prominent positions as 'stakeholders'. At the end of 2015, the government introduced its public-private partnership (PPP) policy, based on the perceived need for private investment to finance public services.

But RRN's report observes that "with only a few projects completed and many under way, there are red flags that shouldn't go unnoticed". The Kathmandu Upatyaka Khanepani Limited (KUKL) partnership, which started in 2008, failed to comply with its promise to improve water delivery around Kathmandu Valley. The KUKL team lacks skilled technical staff, with about 70 percent working as accountants or administrators. This imbalance is seen to be due to heavy political influence, high-handed conduct and nepotism. High water tariffs, undersupply of water and large deficits also reveal the inefficiency of the board, chaired by the private sector representative.

¹ For the full text of the country reports quoted here as well as the complete identification of their authors and associated institutions, see www.2030spotlight.org and www.socialwatch.org.

Starting in September, 170 million litres of water are expected to flow from the Melamchi River in Sindhupalchok to Kathmandu Valley every day, with KUKL as the sole distributor. As work on the tunnel under the Himalayas bringing long-awaited water to millions of people nears completion (after a 10-year delay), RNN concludes that even when “PPPs have their share of advantages that might benefit a country with an underperforming public sector”, private companies “are too risky to be involved in the delivery of basic amenities for survival, like food, fuel or water” and “should be restricted to the areas where they can make a profit without endangering people’s lives”.

Un-natural disaster in Peru

In early 2017, massive floods in northern Peru destroyed 100 bridges (many poorly built by unscrupulous private contractors), isolating hundreds of towns, affecting one million people and damaging 200,000 homes. “People are told it is a natural disaster and they believe it”, the Social Watch report concludes, “when in fact it is organized crime by the real estate merchants.”

The effects of climate change (snow has disappeared from the Andean mountains) compound with unregulated urban growth that is deviating the rivers in the valleys. The deforestation of the slopes started under Spanish colonial rule, but it boomed in the last decades when the cooperatives farms dating from the agrarian reform of the mid-20th century were fragmented into a multitude of small individual properties. Peasants were encouraged by political agitators and land dealers to occupy land next to rivers and destroy the bamboo and carob trees that channeled the waters naturally.

The National Act for the Environment and Natural Resources of 1990 was rendered ineffective in 1991 by the Framework Law on the Growth of Private Investment that split environmental authority into several ministries. Since then Peru has lacked an independent agency or planning system able to define environmental policies, because those are seen as an obstacle to economic growth and corporate profits.

What will happen now? According to the Peru Social Watch report, “The reconstruction that will follow the big disaster of 2017 will give space to new big partnerships to rebuild highways, railroads and bridges that will fall again due to bad planning or bad quality of their materials, because no one controls the usual practice of private contractors that increase profits by lowering costs.”

The Thai agriculture initiative

As in Nepal, the SDGs have served as a pretext to include private sector representatives on high-level governmental bodies in Thailand. A Sustainable Development Committee, chaired by the Prime Minister, includes the Federation of Thai Industries, the Thai Chamber of Commerce, and three research institutes. Civil society participates in three working groups, but a representative of the Ministry of Social Development and Human Security commented that both the public sector and civil society played a minor role when compared with businesses.

A government-initiated Civil-State (Pracha-Rath) policy aims to promote the role of the private sector in investment, establish cooperation between private sector and community enterprises and develop new agricultural schemes. The Civil-State policy on agriculture stirred protests when an MOU was signed between the Ministry of Agriculture and Cooperatives and some private pesticide, seed and chemical fertilizer companies. Although this claims to help farmers by lowering the prices of these inputs, the Social Watch report notes that “the real intention is to boost the sales of these chemical agricultural materials”. The policy is “irrelevant to sustainable agricultural development” it claims, “because excessive usage of pesticides has always been a major problem for Thai farmers”.

Instead, the decline of agricultural produce prices, especially for maize, tapioca and rice is a result of government’s support for animal food industries and big agribusiness companies. More than one million farmer families are hard hit by this policy. Maize prices sharply dropped due to imports from neighbouring countries, with no restrictions on quantities or expiration dates. Moreover, millions of tonnes

of wheat are imported for animal food industries, without tax.

The promotion of maize and sugar cane for animal food products further benefits the conglomerates that are part of Civil State, who make their profit from sugar production, maize and sugar cane monocultural farming, animal food, chemical fertilizers and pesticides. Most recently the government proposed to reduce interest rates for large-scale farming to 0.01 percent while organic and other small farmers still have to pay 5 to 7 percent.

On the positive side, the Thai report registers that public opposition to genetically modified organisms (GMOs) led to the cancellation of an attempt to amend the 1999 law on plant variety protection to include provisions favourable to seed companies.

CSO participation in Jordan

While the SDGs provided an opportunity for business to sit in on government decision-making in Nepal and Thailand, CSOs in Jordan are hoping that the 2030 Agenda will open space to discuss with the new government and parliament ways to incorporate the SDGs into national policies as well as CSO participation in a monitoring mechanism.

The report contributed by the Phenix Center for Economic and Informatics Studies observes that “in addition to the business-friendly policies recommended by the lending IFIs, large businesses and corporations themselves, represented in the Chambers of Commerce and Industry, regularly exert their economic and political influence on policy-makers, to their benefit”. Conversely, micro, small and medium enterprises (MSMEs) are largely excluded from policy-making. The independent labour movement is also excluded from consultation and social dialogue processes, leaving big businesses almost the only representatives in these processes.

To illustrate the sway big businesses hold over the decision-making processes, the Phenix Center describes how in 2016, after continuous pressure from workers’ organizations, the government finally agreed to introduce a measure to increase the minimum

wage, which has stood at a meagre US\$ 268 a month since 2012. Following pressure from the Chambers of Commerce and Industry, the government dropped the measure.

The submission by Jordan of a Voluntary National Review to the High Level Political Forum of ECOSOC in July 2017 might provide the losers in the battle for an increased minimum wage another opportunity to be heard.

The right to water in Mexico

Water is also a key concern in Mexico, where 100 civil society organizations submitted a joint report to the UN documenting how “privatization policies benefit extractive industries and mega-projects instead of reducing inequalities in access to essential services”.² Users with difficulties in paying the increased tariffs are being denied their human right to water and the quality of the water distributed has deteriorated so much in many places that in Aguascalientes 95 percent of the water people drink is bottled. The report points out that water issues affect women disproportionately. “When there is a shortage, irregular delivery or bad quality water, women spend more time to bring water to their homes, boil it, filter it and deal with the authorities, frequently adding up to 30 hours a week to their domestic work.”

The Mexico Social Watch report emphasizes that “insufficient and ineffective regulations on environmental and social impact, have led to numerous cases of violation of fundamental rights due to business activities”. The government “has not accomplished its constitutional obligation to protect human rights, affected by the proliferation of large-scale projects by private or public-private investment without prior, free, informed and culturally adequate consultation”. Frequent protests have resulted in suppression, including imprisonment and physical assault. Lack of due diligence, access to justice and compliance with

2 “Informe sobre violaciones a los derechos humanos al agua potable y al saneamiento en México” (Informe DHAYs) (www.comda.org.mx/wp-content/uploads/2017/05/INFORMEDHAYs-para-paginas.pdf).

judicial decisions in cases of human rights violations involving companies are the norm in Mexico, the report concludes.

Fired for productivity in Morocco

In Morocco, the Social Watch team reports, the kingdom's supreme auditing body has reported a systematic lack of compliance with their contractual obligations by private providers of public services in water, electricity and sanitation: in the city of Tangier, the "Amandis" Group, affiliated to the French group "Veolia", carried out only 3,030 out of 10,000 such obligations during the first five years of its operations. In Casablanca, only 45,806 'social connections' (benefiting people in poverty) were carried out in 10 years (1997-2006) out of 90,000 promised by the French company Lédique of the Suez group.³

Labour productivity did improve under PPPs (locally known as 'authorized concessions') in the water and power distribution as well as the wastewater management sectors. However, the increase in productivity was mainly due to significant worker layoffs of about 20 percent of the workforce, reducing to half the number of employees per 1,000 connections. In contrast, independent agencies have been able to achieve greater improvement in labour productivity compared with companies under authorized concessions without resorting to layoffs, thus undermining the claim of the concessions greater effectiveness and efficiency.

Health for profit in Egypt

In Egypt the World Bank argues that the gains in mortality rates and life expectancy levels achieved since the beginning of the last century will not continue if the private sector is not involved, due to the government's failure to devote more resources to the health sector and a lower possibility of improving unhealthy daily habits of poor people.

The Social Watch report notes that while the government has announced the creation of PPPs in the Smouha Maternity University Hospital and Blood Bank and Al Mowasat Hospital, the PPP central unit has not made public the details of the projects, nor the nature of the investors' responsibilities. Nor has it announced the main investors in the projects or the improvements that they are expected to achieve. All that is known by civil society is that the PPPs will be implemented and partially managed by Bareeq Capital, DETAC Construction & Trading, Siemens Healthineers and G4S Company.

These projects are supervised by the International Finance Corporation (IFC) as financial advisor, Mott Macdonald as technical advisor, and Trowers & Hamblins as legal advisor. The three-year contract was signed in 2012, but the projects have not yet been completed. One reason could be the fact that the bank loan offered to the corporate alliance has been reduced to half of the previously agreed budget.

The Egyptian report explains that previous case studies have shown that the failure of the partnership is due in most cases to financial problems, related either to the ability of the service recipients to pay back the fees or to the government's inability to cover the costs of the project. With the private sector as provider, the role of the government will be transformed to one of protection of service recipients (especially the poor), to ensure equality and to offer an accountability mechanism that provides citizens with the right to complain and report cases whenever there is any medical neglect.

In the Egyptian case, the declaration of officials on privatizations and investment show that the proposed system is based on lack of insurance, poor health coverage and low wages for doctors, an approach that does not take into account notions of justice or social protection. Health experts around the world warn that privatization of the health sector will create disparities in the delivery of health care and will ultimately harm the poor.

³ The Redeployment of State Power in the Southern Mediterranean: Implications of Neoliberal Reforms for Local Governance, edited by Sylvia I. Bergh, 2016.

PPPs in India – gap between theory and practice

In India, PPPs are expected to mobilize about half of the US\$ 1 trillion target for infrastructure investment by the end of the 2012-2017 Five Year Plan. The government has been actively promoting PPPs in many sectors of the economy and the report by Social Watch India presents a mixed picture. Many of the highway/road construction projects like Golden Quadrilateral and seaports like the Jawaharlal Nehru Port Trust (JNPT) have been deemed a success.

The report observes, however, that “many times PPPs are good in theory, but in practice ... they have transmogrified into avenues for the realtors to become rich at the cost of the tax payers”. Some promoters who excelled at gold-plating projects ‘persuaded’ public sector banks to lend on questionable assumptions and collateral. These promoters took out their equity money in the construction phase and exited the project under various conditions. Given India’s rank in ‘enforcing contracts’ of 178 out of 189 countries, this should cause little surprise, since PPPs are essentially contracts. The biggest losers have been Indian citizens. Public sector banks now have a pile of stressed loans, which can now be remedied only by recapitalization from the tax payer.⁴

Inspirational goals for Armenia

In Armenia, a landlocked least developed country, an Inter-Agency Committee on Sustainable Development Goals (SDGs) was established in February 2017, which will function under the National Council on Sustainable Development chaired by the Prime Minister. The Committee will coordinate and implement the ‘nationalization’ process of SDGs, translating the international goals into national plans and objectives, with civil society participation.

The Armenian report informs that, contrary to the prevailing trend, the new government elected in 2016

decided to avoid direct involvement in joint projects with the private sector, limiting itself to the use of tax incentives to promote priority areas.

Blockaded by its neighbours Turkey and Azerbaijan, Armenia relies economically on Russia, where a majority of Armenian migrants live. Thus, it suffered both from the global financial crisis in 2008, as well as the economic sanctions against Russia and the consequent economic downturn in Russia – a major economic and trade partner. Having transitioned from authoritarian rule as part of the Soviet Union to democracy and a market economy and more recently to regional integration in the Eurasian Economic Union under the leadership of Russia, the new Armenia government regards the SDGs as a way to simultaneously liberalize socioeconomic and political activities, respect human rights and promote gender equality.

PPP scandals in Colombia

In Colombia, before Agenda 2030 was officially adopted, an “Inter-institutional High Level Commission for the Implementation of the Post-2015 Development Agenda,” was created in February 2015. It includes the ministries of Foreign Affairs, Finances and Environment, the office of the Presidency and the statistical and planning departments. One of its mandates is to “design schemes of public-private partnerships”.⁵ Accordingly, PPPs mushroomed and up to the last quarter of 2016, the national registry counted over 5,000.

The first PPP, signed in 2014, was designed to recover the Magdalena River for navigation. However, civil society opposed it because local communities were not consulted and it lacked sufficient environmental and social impact studies. Further, Sociedad de Objeto Único Navelena S.A.S., the private partner in the PPP, is 87 percent owned by Odebrecht, the Brazilian construction firm at the core of a huge corruption scandal. Senior executives of Odebrecht confessed

4 <http://economictimes.indiatimes.com/news/politics-and-nation/ppps-are-good-in-theory-but-in-india-they-are-a-failure-in-practice-shailesh-pathak-ed-bhartiya-group/articleshow/47940584.cms>.

5 <https://colaboracion.dnp.gov.co/CDT/Prensa/Publicaciones/05%20Objetivos%20de%20Desarrollo%20Sostenible%20para%20la%20web.pdf>.

having paid bribes in the negotiation of this partnership.

Similarly, the construction of a third lane on the Bogotá-Girardot highway is leading to accusations of corruption against the CEOs of Conalvías and Concreto, in this case for illegally fixing prices in the public bidding. Perimetral de Oriente, another infrastructure PPP, in charge of an alliance of the Israeli corporation Shikun & Binui and the Grodco holding is being challenged by people in the affected areas, which include the natural reserve of Páramo de Chingaza.

All of these projects were backed with millions of dollars by the World Bank, the InterAmerican Development Bank or both. The results, the Colombia Social Watch report concludes, “show enormous costs for public finances and privilege corporate interests over any social benefit” (see [Box, Chapter 17](#)).

A Brazilian governance disaster

In Brazil meanwhile, shortly after replacing impeached president Dilma Rousseff on budgetary management charges (completely unrelated to corruption or the ‘*lava jato*’ or ‘carwash’ operation), vice-president Michel Temer’s second decision as acting president was to create a Programme of Investment Partnerships (PPI) to promote massive privatizations and new PPPs.

The Brazilian economic recession, aggravated by the political uncertainty generated by the corruption scandal rooted in PPPs is used as an excuse for further privatizations (“we need to attract investors”) and a simultaneous dramatic cut in social security, cuts in government spending (to compensate for the increase in external debts payments) and a reform of the pension system that has no immediate economic effect but is supposed to please the money markets. According to the Brazilian Social Watch report “to create a ‘healthy business environment’ the government is dismantling any regulatory obstacle (social, environmental, cultural or labor-related) that could affect corporate profits.” The report explains further:

“Universal public policies on education and social security, guaranteed by the 1988 Constitution that restored democracy are dismantled not only to reduce public expenses but also to allow for corporations to capture the sizable markets of health and education. [...] In the name of fiscal discipline, the few public policies aimed at breaking historic inequalities in Brazil and to fight poverty are being cut, eliminated and downsized. Processes aimed at implementing rights are broken and the few institutions aimed at recognizing the rights of historically rejected groups are dismantled”.

The logical conclusion is that “In this context it is highly unlikely for Brazil to achieve proper implementation of the SDGs”.

Socializing risks and damages in Argentina

Since 2015, with the election of a new government, Argentina has seen a radical change of policies, from a development model based on strengthening local markets, trade protectionism, expansion of social rights and an active role of the State in redistributing the income from agricultural exports, to a model inspired by neoliberalism, free trade, competitiveness in global markets and tax exemptions.

According to the Argentinian Social Watch report, “this has led to a substantial redefinition of the role of the private sector in development policies”, of which the privatization of State-owned land is a striking example. Since 2015, the government has authorized the sale to private investors of 93 State-owned extensions, half of them in the city of Buenos Aires, where one-tenth of the population lives in overcrowded conditions and some 200,000 people live in slums. Publicly-owned properties that could have been used to address unsatisfied habitational demand passed to private hands, encouraging the speculation that feeds the habitational deficit, in direct contradiction with SDG 11 that call on governments to “Make cities inclusive, safe, resilient and sustainable”.

Moreover, a new law on PPP contracts sanctioned in November 2016, tries to encourage private agents to invest in public infrastructure by offering a variety of benefits. Investors are granted the right to sue the State at the International Centre for Settlement

of Investment Disputes (hosted by the World Bank in Washington) instead of using local courts, and in order to reduce investor risks, the State agreed to guarantee profits for several decades. Finally the State covers any contingency, completely exonerating corporate investors from responsibility in case of eventual environmental damages.

On top of this, in order to promote private investment in the production of natural gas through fracking, the government signed an agreement with the provincial government of Neuquén, the chamber of commerce and the trade unions of the oil sector that implies a reduction of workers benefits, salaries and future pensions to reduce labour-related costs.

Private plundering the public in Guatemala

In Guatemala, the asymmetry between private interest and the public are so big that “no proper partnership is possible”, reports the cooperative alliance Congocoop to Social Watch. The Palín-Escuintla highway in the South of the country, for example, was built by the State at a cost of US\$ 42 million and then turned over to a Mexican corporation. Between 2000 and 2014, according to official figures, this ‘partner’ has cashed in US\$ 114 million in tolls, paying back to the State a mere US\$ 1.1 million.

“Precedents like this lead the public to see PPPs as a tool for private capital to drain public finances,” concludes the report.

Future debt disasters

The Kenya Social Watch report registers “heavy and unprecedented investment in mega-infrastructure projects.” Instead of spurring equitable economic growth these initiatives are placing on the national economy an unbearable debt burden of some US\$ 50 billion.

The report states: “The growth-leading sectors have not only been broadly based but also have performed poorly, particularly in respect to poverty-reduction and equity-inducing policy dispensations and accompanying strategic instruments. Decreased activity in the agricultural and manufacturing sectors have

induced a jobless growth that has had the effect of a flood in the wake of which not all the boats could be lifted. Instead it has rendered Kenya one of the most unequal societies in the world.”

Meanwhile in Benin, the local Social Watch addressed in April 2017 an “open letter to the international community” to publicize how the new law on PPPs “makes it very difficult to distinguish the wealth of president [Patrice] Talon from the public assets”, as the businessman-president “in violation of the norms about public markets and PPPs is rebuilding his empire and generating enormous public debts.”

So far, the experience of implementation of the 2030 Agenda documented in national reports looks more like a path to new set-backs, and potentially new disasters, rather than an innovative formula to make the ambitious commitments of the 2030 Agenda a reality.

Roberto Bissio is Executive Director of the Instituto del Tercer Mundo (Third World Institute) and coordinator of the Social Watch network.

Implementing the 2030 Agenda requires acknowledging extraterritorial obligations

BY BARBARA ADAMS AND KAREN JUDD, GLOBAL POLICY FORUM

One year into the implementation of the 2030 Agenda, the most pressing question is whether the Agenda and its 17 Sustainable Development Goals (SDGs) will be implemented in ways that are universal and integrated, and that protect and even extend human rights – a potential contained in its scope and ambition – or whether its implementation will be reduced to a set of bankable projects and leased out to business and the corporate sector. Much depends on how progress is measured, particularly regarding policy coherence. Will it be measured against the yardsticks of rights and sustainability or against a pick-and-choose menu, celebrating success on some measures and ignoring the others?

Acknowledging the growing danger of the impact of inequalities (of income, resources and power) on the economic, social and environmental health of societies, the 2030 Agenda identifies reducing inequalities within and among countries as a standalone goal (SDG 10). It is significant that, unlike both previous development agendas and traditional human rights approaches, which focus primarily on problems within countries, the 2030 Agenda recognizes in its preamble that “rising inequalities within and among countries” and “enormous disparities of opportunity, wealth and power” are an “immense challenge to sustainable development”.

The implication of this recognition, which goes across all 17 goals, is the understanding that the actions taken by one or more countries have consequences for the ability of other countries to realize their own development goals. As spillover effects of policies and actions in or by one country impact on others and can constrain their ability to live up to their human rights and sustainable development commitments, attention is increasing on the need to address the “extraterritorial obligations” (ETOs) of Member States in protecting human rights and the environment and in designing economic and social policies.

To achieve the 2030 Agenda and reach the 17 SDGs, countries need to do a better job of articulating and implementing their extraterritorial obligations, including those related to transnational corporations.

Yet PPPs are advocated by many governments, businesses and business associations as a major means of implementation of the SDGs and feature strongly in the Addis Ababa Action Agenda.

Maastricht Principles on ETOs

The Maastricht Principles, adopted in 2011, represent the first effort to codify extraterritorial obligations. They represent an international expert opinion, issued by international law experts from all regions, and are intended not to establish new elements of human rights law, but rather, “to clarify extraterritorial obligations of States on the basis of standing international law”. The preamble states:

“The advent of economic globalization [...] has meant that States and other global actors exert considerable influence on the realization of economic, social and cultural rights across the world. Despite decades of growing global wealth, poverty remains pervasive and socio-economic and gender inequalities endure across the world. Moreover, individuals and communities face the continuing deprivation and denial of access to essential lands, resources, goods and services by State and non-State actors alike.”¹

Elaborating on these principles, the ETO Consortium,

1 www.fidh.org/IMG/pdf/maastricht-eto-principles-uk_web.pdf, p.5.

a network of over 140 human rights related CSOs and academics, pointed to “gaps in human rights protection” in the context of globalization, noting specifically the lack of human rights regulation and accountability of transnational corporations (TNCs), the absence of human rights accountability of international financial institutions (IFIs), and the “ineffective application of human rights law to investment and trade laws, policies and disputes”.²

The UN has been pressed to address the linkages of business and human rights standards, resulting in the adoption by the Human Rights Council of the UN Guiding Principles on Business and Human Rights in 2011. While the principles are voluntary and operationalizing them proceeds unevenly and very slowly, they show the beginnings of commitment to close the governance gap regarding large corporations – and show up the inadequacy of the business model of the UN Global Compact, which is based on gentle persuasion at best.³

The adoption of the UN Guiding Principles has also spurred more ambitious efforts to close the governance gap. A Human Rights Council working group is to elaborate an international legally binding instrument to regulate the activities of transnational corporations and other business enterprises.⁴ Well-established UN human rights instruments are issuing general comments and developing guidelines to address human rights and business, and in so doing recognize the extended reach of the instruments. The Committee on the Rights of the Child, for example, in General Comment 16 on the business sector’s impact on children’s rights states that: “Under the Convention, States have the obligation to respect and

ensure children’s rights within their jurisdiction. The Convention does not limit a State’s jurisdiction to ‘territory’”.⁵

In their Draft General Comment on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, the rapporteurs for the Committee on Economic, Social and Cultural Rights emphasized the “urgent need to prevent and address the adverse impacts of business activities on human rights”,⁶ reflected in the Guiding Principles on Business and Human Rights. The General Comment seeks to clarify the duties of States under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to “ensure that the activities of businesses contribute to and do not impede the realization of economic, social and cultural rights”, within and across borders. Under the Covenant, States are obligated to use the maximum level of resources in order to realize human rights, including the adoption of measures needed “to protect individuals from abuses of their economic, social and cultural rights by third parties, including business entities and to provide access to effective remedies”.

While focused primarily on the obligations of States, the Draft General Comment also extends to non-State actors in the business sector, stating that countries “must take measures to ensure that not only domestic laws and policies but also non-State entities do not discriminate against any group”. It defines business activities broadly, to include “such activities of any business entity, whether they operate transnationally or whether their activities are domestic [...]”

Also commented upon is the growing trend towards privatization, particularly related to “social protection, water, sanitation, health, education and cultural life”, which hampers States’ fulfillment of their responsibilities to comply with their obligations, all of which are included in the SDGs, particularly with regard to social protection policies, and “promote the social, economic and political inclusion of all”, as

2 www.etoconsortium.org/nc/en/main-navigation/library/documents/?tx_drblob_pi1%5BdownloadUid%5D=23.

3 For a critique of the UN Global Compact, see www.globalpolicy.org/images/pdfs/images/pdfs/Fit_for_whose_purpose_online.pdf.

4 UN Doc. A/HRC/RES/26/9.

5 CRC/C/GC/16, para 39.

6 UN Doc. E/C.12/60.R.1, para. 2.

mandated under SDG 10. This decision also impedes States' obligations to achieve gender equality, since a disproportionate burden of care among those unable to pay for services falls on women.

The Draft General Comment goes beyond State and business obligations at the national level to look at “the extraterritorial application of human rights obligations”, which it regards as particularly significant due to the increasing interdependence of States and economies. Addressing the dramatic increase in the influence of transnational corporations, investment and trade flows, it adds that “major development projects have increasingly involved private investments, often in the form of public-private partnerships between State agencies and foreign private investors”.⁷

This development, the draft notes, raises particular challenges in accessing remedy given the way businesses are organized. Further, it states:

*“[T]he cross-jurisdictional nature of certain business entities greatly complicates the process of accessing remedy, as seen in some mass tort cases involving pollution and industrial disasters. In addition to the difficulty of proving the damages or establishing the causal link between the conduct of the defendant corporation located in one jurisdiction and the resulting violation in another, transnational litigation is often prohibitively expensive and time-consuming”.*⁸

Nevertheless, PPPs are advocated by governments and business associations alike as a cost-effective approach to implementing the SDGs. Furthermore, many are advocating the use of official development assistance (ODA) to leverage private finance for sustainable development and provide government guarantees for PPPs.

UN expertise goes beyond borders

A number of UN experts are also addressing global systemic constraints to national efforts to protect

human rights and the environment. Their findings and recommendations are regularly reported to the Human Rights Council, and also to the UN General Assembly.

The Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, and the Independent Expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas have called attention to the international investor-State dispute arrangements (ISDAs), which enable corporations to challenge legislation and policies introduced by the State in an effort to protect public health or the environment on the grounds of lost – or future – profits as well as damage to reputation.⁹ They note the adverse human rights impacts of such arrangements, which have had “a ‘chilling effect’ with regard to the exercise of democratic governance” and have called for their abolition.¹⁰

The 2015 Report to the General Assembly of the UN Special Rapporteur on the rights of indigenous peoples, analysed not only the impact of domestic policies on the rights of indigenous peoples, but also the impact of international investment agreements and investment clauses of free trade regimes on these rights. Among the rights of indigenous peoples negatively impacted are self-determination, land, territories and resources, participation, and free, prior, and informed consent, poverty, and social rights.

ISDAs are available to investors only, not to governments, and allow investors to challenge States for alleged violations of their rights to profit within binding arbitration mechanisms, such as the International Centre for Settlement of Investment Disputes (ICSID). The analysis draws on the work of a number of UN human rights investigations, including the reports of: the Independent Expert on promotion of a democratic and equitable order on the adverse human rights impacts of international and bilateral trade and investment agreements; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the

7 Ibid., para. 30.

8 Ibid., para. 45.

9 UN Doc. A/HRC/33/42 and A/HRC/30/44.

10 UN Doc. A/HRC/30/44, para. 5.

highest attainable standard of physical and mental health.

The report on indigenous peoples addresses multiple effects of investment and free trade regimes, including the constriction of governments' policy and legislative space, costs of governments defending themselves within ISDAs, weakened rule of law, and the perpetuation of international power imbalances. It points out that some 78 percent of the known 608 investor-State dispute settlement claims brought against 101 countries have been against less developed countries, although a growing number are now being brought against developed countries as well. In 2014, for instance, 40 percent of new cases were against developed countries, brought mainly by investors in other economically advanced States, such as those in North America and the European Union. The overwhelming majority of these cases have to do with challenges to government measures to protect public health and the environment. How will these regimes and arrangements impact and constrain State policies and actions to implement the SDGs?

The indigenous peoples report emphasizes the lack of coherence of such treaties within international law, stating "International investment and free trade law regimes have been developed as a separate strand of international law from human and indigenous rights standards." It recommends, in the context of the 2030 Agenda for Sustainable Development, that Member States "reconsider development paradigms that do not lead to sustainable and inclusive development and poverty reduction amongst all groups".¹¹

The Committee of the Convention on the Rights of the Child General Comment 16 addresses how Convention obligations to act in the best interests of the child apply:

"States are obliged to integrate and apply this principle in all legislative, administrative and judicial proceedings concerning business activities and operations that directly or indirectly impact on children. For example, States must ensure that the best interests of the child

*are central to the development of legislation and policies that shape business activities and operations, such as those relating to employment, taxation, corruption, privatization, transport and other general economic, trade or financial issues."*¹²

Human rights treaties to lead policy coherence

In this regard it is important to note that human rights advocates are using the Convention on the Elimination of Discrimination against Women (CEDAW) to confront ways in which activities of rich countries and non-State actors – constrain the ability of other countries to achieve development goals and honor their human rights obligations. Several important submissions indicate new efforts to demand accountability from both State and non-State actors to extraterritorial obligations in such critical areas as arms exports, tax havens, the extractive industry and trade and investment agreements.

Swedish arms exports

In response to a submission from the Women's International League for Peace and Freedom (WILPF) regarding the impact of Sweden's arms exports on gender-based violence and the actions of Swedish corporations violating human rights abroad, in 2016 the CEDAW Committee recommended that Sweden "uphold its due diligence obligations to ensure that companies under its jurisdiction or control respect, protect and fulfill women's human rights when operating abroad".¹³ How will this be applied in connection with target 16.4 of the SDGs to reduce illicit arms flows and included into review and reporting processes of the High Level Political Forum and the Voluntary National Reviews?

Swiss tax havens

A CEDAW opinion with regard to Switzerland in 2016 made clear that countries' obligations regarding the activities of corporations abroad extends to tax

¹¹ UN Doc. A/70/301, para. 65 and para.78(c).

¹² UN Doc. CRC/C/GC/16, para. 15.

¹³ <http://wilpf.org/cedaw-committee-recognises-extraterritorial-obligations-towards-human-rights-for-sweden/>.

abuse, which restricts the ability of other countries to mobilize sufficient revenues to fulfill their human rights commitments. Although Switzerland has publicly condemned the impact on developing countries of illicit financial flows, and has pledged to join an international effort to eliminate the causes of such flows, a 2016 submission by CESR, Alliance Sud, NYU Law School Global Justice Clinic, Public Eye and the Tax Justice Network¹⁴ points out that Switzerland has failed to conduct an independent assessment of the ways in which its own policies encourage overseas tax abuse, including bank secrecy laws, corporate tax privileges, and weak reporting standards.

The Committee's Concluding Observations expressed concern that Swiss financial secrecy policies and rules on corporate reporting and taxation can negatively impact on the ability of other States, particularly those already short of revenue, to mobilize maximum available resources for the fulfillment of women's rights. The Committee urged Switzerland to honor its international human rights obligations by undertaking "independent, participatory, and periodic" impact assessments of the extraterritorial effects of its financial secrecy and corporate tax policies on women's rights, and public disclosure of its findings.¹⁵

Canadian overseas mining activities

Two submissions to CEDAW in 2016 addressed Canadian mining corporations: one, by a coalition of human rights groups (EarthRights International, Mining Watch Canada), found that "since 1999, Canadian mining companies were implicated in the largest part (34%) of 171 incidents alleging involvement of international mining companies in community conflict, human rights abuses, unlawful and unethical practices or environmental degradation in a developing country".¹⁶ The other, submitted

by WILPF and the International Platform Against Impunities highlighted the ongoing violation of women's human rights, particularly in indigenous communities, by Canadian mining countries in Latin America, where more than 80 percent of mining companies are Canadian. In addition to the failure of the Canadian government to address these violations it also cites its failure to establish "effective administrative and judicial mechanisms to ensure access to justice" for such violations. It cites a 2014 report from the Working Group on Mining and Human Rights in Latin America, that showed companies' "systematic practice of human rights violations of the community members", including the denial of consultation and "prior, free and informed consent".¹⁷

In response the CEDAW Committee recommended that Canada strengthen legislation governing the conduct of corporations in relation to their activities abroad, and require corporations to conduct human rights and gender impact assessments prior to making investment decisions. It further recommended that trade and investment agreements that Canada negotiates "recognize the primacy of its international human rights obligations over investors' interests, so that the introduction of investor-State dispute settlement procedures shall not create obstacles to full compliance with the Convention".¹⁸

CEDAW is not the only relevant convention with regard to the Canadian extractive industry. The submission from EarthRights International, Mining Watch Canada stated that as far back as 2002 the UN Special Rapporteur on Toxic Waste raised concerns over the lack of extraterritorial regulation of its corporations operating abroad. Since then, it added, four UN treaty bodies have expressed concerns about the impacts of Canada's extractive sector corporations operations abroad – the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child, the Human Rights Committee,

¹⁴ www.taxjustice.net/2016/12/01/un-criticises-switzerland-pressure-mounts-human-rights-impacts-tax-havens.

¹⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/99/PDF/N1640299.pdf?OpenElement>, para. 41(a).

¹⁶ www.earthrights.org/sites/default/files/documents/eri_hrc_mwc_cedaw_committee_report_october_3_2016.pdf.

¹⁷ http://wilpf.org/wp-content/uploads/2016/10/CEDAW-Canada-report_final.pdf.

¹⁸ www.etoconsortium.org/nc/en/main-navigation/library/documents/detail/?tx_drblob_pi1%5BdownloadUid%5D=194,para.18.

and the Committee on Economic, Social and Cultural Rights.

Trade and investment agreements are also commented upon by the UN Committee on the Rights of the Child in General Comment 16. As a Guide for States on Implementing General Comment 16 prepared by UNICEF and the International Commission of Jurists underlines – that “trade agreements may have profound impacts on human rights”. While they may bring opportunities for development it adds that “these changes do not guarantee equitable, sustainable and inclusive development, nor do they necessarily promote greater respect for human rights. States, whether acting bilaterally or through multilateral arrangements such as under the World Trade Organization, must take into account their children’s rights obligations and should specifically provide for these in trade agreements.”¹⁹

Accountability across borders and policy streams

The transformative potential of the 2030 Agenda has been recognized and embraced in many policy forums, from local authorities to the G20, and has also captured the energy and expertise of CSOs from all regions, constituency groups and policy tracks.

In addition to demanding a top-quality agreement, CSOs advocated for a robust accountability mechanism and remain disappointed with a High-level Political Forum that brings in all but mandates none.

Working with a range of UN thematic instruments to hold countries accountable for activities of their corporations abroad as well as at home, alliances between tax justice and feminist networks, human rights and development groups, peace advocates and environmentalists are steadily building a robust accountability architecture that crosses borders.

But this responsibility cannot rest solely with CSOs. The effectiveness and durability of the 2030 Agenda will depend on whether interlinked goals and targets

can be implemented outside silos, in a whole-of-UN accountability framework and across borders as well in the country context.

Barbara Adams is Chair of the Executive Board of Global Policy Forum and Karen Judd is a contributor to Social Watch and Global Policy Forum.

¹⁹ www.unicef.org/csr/files/CSR_GC_OBLIGATIONS_AND_ACTIONS_FINAL_AUGUST05.pdf, p.17.

2

Spotlights on the SDGs

SDG 1

Pro-poor or pro-corporations?

BY ROBERTO BISSIO, SOCIAL WATCH

With contradictory arguments, the World Bank defines a very low threshold that would make poverty eradication possible with relatively little effort and at the same time argues that it is necessary to “move from millions to trillions”. Accordingly, it has taken a “cascade approach” to investment decision-making to encourage partnerships with the private sector. The winners are the big financial intermediaries, who leverage these partnerships, while the poor might end up paying additional fees for essential services.

The two messages most frequently taken away from the 2030 Agenda and its SDGs are that poverty is the first priority, as summarized in the “leave no one behind” slogan, and that governments alone cannot meet the agreed goals and therefore ‘partnerships’ with the corporate sector are needed.

“Without the private sector, it is not going to happen, as we have budgetary constraints in every country,” explained Angel Gurría, Secretary-General of the Organisation for Economic Cooperation and Development (OECD) in an interview with Reuters.¹

This sounds intuitively right for many people in post-industrialized developed countries that perceive a lot of people living in poverty ‘out there’, perhaps even threatening to ‘get in’ to their countries and thus making the protection of walls and other barriers necessary. At the same time, they are told that the protracted economic slowdown since the 2008 financial debacle requires budget austerity measures, making it impossible to increase what they perceive as overseas ‘charity’.

Political discourses along those lines have emerged from the margins to the centre in too many countries, but what if the math doesn’t add up and the premises are not true? The World Bank currently sets the international poverty line at the local buying power equivalent of US\$ 1.90 a day, or some US\$ 700 a year. There are 700 million people living under that line, that is, roughly 10 percent of the world population, currently estimated at 7 billion. World Bank estimates the world’s average per capita income to be US\$ 10,000 in 2015. That figure is 14 times greater than the poverty line, which means that the problem is one of inequalities, not of scarcity. Measuring wealth and not income, Oxfam concluded that eight individuals own as much as does half of humanity.²

Brookings Institution economists Christine Zhang, Laurence Chandy and Lorenz Noe played further with the numbers.³ They found that since people living under the international poverty line still earn *something* (a mean estimated at US\$ 1.34 in 2012), the *poverty gap*, that is the total amount of money required to lift everybody up above the poverty line,

1 Goldsmith (2015).

2 www.oxfam.org/en/pressroom/pressreleases/2017-01-16/just-8-men-own-same-wealth-half-world.

3 Zhang et al. (2016).

is less than US\$ 80 billion. Later estimates put the gap at US\$ 66 billion in 2017.

This is a lot of money, and yet it is much less than the recent US\$ 100 billion arms deal agreed between the US and Saudi Arabia and also less than the money contributed as official development assistance (ODA) by the members of the OECD Gurría heads (US\$ 142.6 billion in 2016).⁴ In other words, with half of the money already available for that very purpose, extreme poverty would disappear today, if only that money was transferred friction free to those that need it.

This *reductio ad absurdum* proposition is based on two premises, one true, the other false. It is true that money can be transferred (almost) friction free to the poor. It is false that this would eradicate poverty.

Cash transfers and financial inclusion

In March 2017 India announced that 99 percent of its population had been enrolled in Aadhaar, a biometric ID system. That means that over 250 million Indians living under the international poverty line already have a unique identification number and a card that can easily become a banking card. The infrastructure still needs to be improved, but what remains to be done to allow every person living in poverty in India to withdraw cash from an ATM or otherwise receive money in her or his electronic wallet is minimal compared with the magnitude of what has already been done in the world's largest ID system. And the people living in extreme poverty in India comprise one third of the world's total.

The World Bank has been promoting cash transfer systems worldwide as the preferred anti-poverty instrument. As some sort of ID system is essential for targeting beneficiaries (and other kinds of controls), progress in biometric identification is also happening quickly around the world. Financial inclusion strategies are bringing together UN agencies, the World Bank, national and international banks and mobile phone service providers in many countries to enroll

people at an accelerated pace. Sierra Leone, one of the poorest countries in the world, is expected to move from 13 percent to 87 percent of its population having a bank account by 2020. During the Ebola epidemic in 2014, some 30,000 health workers were paid through electronic transfers.⁵

Cash transfers are possible and even effective for humanitarian purposes. They are 25-30 percent cheaper than in-kind aid (so more food per dollar) and more respectful, as people don't all want the same thing and cash respects their right to make decisions about their lives. According Owen Barder, from the Center for Global Development, the transfers stimulate the local economy, with a positive spill-over effect for the whole country, and ease social tensions locally. The beneficiaries, often members of a different ethnic group or country (refugees) are not seen as a burden but an advantage for local trade and industry.⁶

One of the means of implementation targets under SDG 10, to reduce inequalities within and between countries, is target 10.c, which calls for the reduction of transaction costs of migrant remittances by 2030 to less than 3 percent and elimination of remittance corridors with costs higher than 5 percent. Even allowing for a 10 percent cost in transferring money to the extreme poor, the total cost of the operation is well within existing means. But the World Bank, while producing all these figures has also been arguing (together with the IMF and the regional development banks) since 2015 that "to meet the investment needs of the Sustainable Development Goals, the global community needs to move the discussion from "billions to trillions" – that is from billions in ODA financing to trillions in investments of all kinds: public and private, national and global, in both capital and capacity.⁷

⁴ www.oecd.org/dac/development-aid-rises-again-in-2016-but-flows-to-poorest-countries-dip.htm.

⁵ www.sl.undp.org/content/sierraleone/en/home/presscenter/pressreleases/2016/12/16/financial-inclusion-strategy-for-inclusive-and-resilient-economic-growth-.html.

⁶ Presented in a power point available at www.dropbox.com/s/vdgsej5dr610fsd/2017-02-24%20LSE%20Humanitarian%20Cash%20Transfers.pdf?dl=0.

⁷ World Bank et al. (2015).

At a time when too many decision-makers among the Bank's main shareholders question the need for multilateral cooperation, this shift can be dangerously delegitimizing. After having originally been created to finance the reconstruction of Europe after World War II, the World Bank redefined itself as THE anti-poverty institution, conceptualizing what it labelled 'extreme poverty' in strictly monetary terms and defining this poverty line at a very low level.

A rights-based approach

Poverty is not just about money (or lack of it). The World Bank itself concluded, already in 2009, that "even the best-designed CCT [Conditional Cash Transfer] programme cannot meet all the needs of a social protection system. It is, after all, only one branch of a larger tree that includes workfare, employment and social pension programmes."⁸ Yet the World Bank has rejected some key recommendations from global poverty experts on the Commission on Global Poverty to introduce non-monetary measures (see Box) and is not willing either to have its estimates audited by a body "fully external to the World Bank", despite the fact that doing so would make its poverty line more respected.⁹ "The word 'audit' carries connotations of formal authority that we believe would be neither appropriate to a collaborative exercise, nor compatible with the intellectual independence of our own researchers" the Bank replied to the Commission on Global Poverty report.¹⁰

Meanwhile, civil society and the UN High Commissioner on Human Rights have been arguing that poverty should be understood as a symptom and a result of the violation of human rights.¹¹ The 2030

Agenda does not explicitly say that, but it addresses "poverty in all its dimensions" (target 1.2) and calls on States to ensure people have "equal rights to economic resources, as well as access to basic services" (target 1.4). This is much closer to the approach of Nobel prize-winner Amartya Sen who sees poverty as deprivation of choices available for individuals to live the lives they have reason to value and also the deprivation of the individual's abilities to exercise that choice.

From that perspective, it doesn't make much difference if a person crosses the poverty line and earns US\$ 1.95 a day instead of US\$ 1.85, but being respected within a community does. The International Labour Organization (ILO) is starting its own exercise in defining non-monetary indicators of poverty. In addressing the question of what are the "nationally appropriate social protection systems" requested by target 1.3, the ILO defines a universal social protection floor as including:¹²

- a universal child benefit of 20 percent of a country's national poverty line to all children 0-14 years old;
- a benefit of 100 percent of a country's national poverty line to all orphans;
- a universal pension of 100 percent of a country's national poverty line, excluding those that have contributory pensions;
- unemployment support of 100 percent of a country's poverty line to one person per vulnerable household for a period of 100 days;
- a benefit of 100 percent of a country's national poverty line to all persons with severe disabilities; and
- a maternity benefit for four months of 100 percent of a country's national poverty line to all mothers with newborns.

In this way, country decisions are respected, since it is up to each country to define national poverty lines according to its circumstances, but from then on the benefits (and the progress or regression) can be compared across countries.

8 Fiszbein (2017).

9 Commission on Global Poverty (2017).

10 World Bank (2016).

11 "Poverty is not only deprivation of economic or material resources but a violation of human dignity too. (...) Poverty erodes or nullifies economic and social rights such as the right to health, adequate housing, food and safe water, and the right to education. The same is true of civil and political rights, such as the right to a fair trial, political participation and security of the person". See: www.ohchr.org/EN/Issues/Poverty/DimensionOfPoverty/Pages/Index.aspx.

12 <http://workspace.unpan.org/sites/Internet/Documents/Social%20Protection%20Ortiz%20Dec%202016.ppt.pdf>.

Measuring extreme poverty: who decides what?

BY XAVIER GODINOT, INTERNATIONAL MOVEMENT ATD FOURTH WORLD

In the UN General Assembly resolution adopting the 2030 Agenda on 25 September 2015, SDG 1 reads: “End poverty in all its forms everywhere”, with target 1.1 stating: “By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than US\$ 1.25 a day.” Yet, in early October 2015, the World Bank stated that the international extreme poverty line needed to be updated in order to take inflation into account and decided on its own that it was now US\$ 1.90 a day (in 2011 Purchasing Power Parity). This raised protests from several countries, such as Brazil, who denied the right of a UN agency to change a decision endorsed after a deliberative process involving 193 Member States.

How was this International Poverty Line (IPL) designed? In 1990, three World Bank economists noted that six countries amongst the poorest were all within a poverty line of one US dollar per person. This similarity served as the basis of the original “US\$ 1.00 a day” global poverty line, without any in-depth international research on the relevance and meaning of it. World Bank directors found this poverty line a very convenient tool to rank countries and adopted it. This decision is related to the twofold nature of the Bank, which is a research body com-

prising a lot of high level economists and also a bank that has clients, economic interests, and distributes loans and grants. In the design of the IPL, its simplicity and convenience for bankers have prevailed over the relevance for all other stakeholders. The good side of this decision is that the measurement of global extreme income poverty has attracted considerable interest over the last two decades and has perhaps helped to keep poverty high on the global agenda. The bad side it that it has reinforced a very technocratic and one-dimensional approach to poverty, when a multidimensional approach involving all stakeholders is needed.

The reliability of the World Bank global measure has long been challenged. The 2017 Atkinson report “Monitoring Global Poverty”,¹ that was commissioned by the former chief economist of the World Bank, recognizes minor sampling errors in the underlying household surveys and enumerates not less than fourteen sources of non-sampling errors that may make this measure of poverty and extreme poverty deeply flawed and unreliable. It recommends that the Bank adopt a “total error” approach and present formal estimates of statistical confidence

of the numbers. World Bank representatives have recognized that this is one of the most important recommendations of the report. Yet they contend: “[...] we feel that we do not currently possess the in-house statistical capacity to correctly produce estimates of ‘total error’ arising from the multiplicity of possible sources of error listed above”.² This will not diminish the mistrust of people who scrutinize this approach.

Yet, besides these technical aspects, the IPL is subject to heavy criticism because of the very undemocratic way it has been defined. In ATD Fourth World’s long-lasting commitment to people trapped in extreme poverty all over the world, we never heard any of them define extreme poverty in their own words as living on less than US\$ 1.00 or US\$ 1.90 a day. Poverty and extreme poverty are hotly debated topics. Defining poverty without ever dialoguing with people who live in it would be comparable to writing about gender problems without ever talking to women.

This is why the International Movement ATD Fourth World and Oxford University have engaged in an international participatory research on the dimensions

1 World Bank (2017).

2 World Bank (2016).

of poverty and how to measure them. National research teams comprising academics, practitioners and people living in poverty have been set up in six countries: Bangladesh, Bolivia, France, Great Britain, Tanzania and the USA. They will implement the Merging of Knowledge approach that we have been refining for 20 years; it enables people living in poverty to work as co-researchers on an equal footing with other participants.³ A

complementary research initiative will be carried out in Ukraine. The outcomes of this innovative and challenging project are expected in late 2019.

World Bank (2016): Monitoring Global Poverty. A Cover Note to the Report of the Commission on Global Poverty, chaired by Prof. Sir Anthony B. Atkinson, October 18, 2016. Washington, D.C.
<http://pubdocs.worldbank.org/en/733161476724983858/MonitoringGlobalPovertyCoverNote.pdf>

Xavier Godinot is Research Director at the International Movement ATD Fourth World

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World Bank (2017): Monitoring Global Poverty: Report of the Commission on Global Poverty. Washington, DC.
<https://openknowledge.worldbank.org/bitstream/handle/10986/25141/9781464809613.pdf>

³ See www.atd-fourthworld.org/what-we-do/participation/merging-knowledge.

Adding administrative costs, the provision of such floors would cost from as little as 1 percent of GDP in Thailand, Brazil and Namibia, less than 3 percent of GDP in Egypt, South Africa, India and Morocco and between 7 and 8 percent of GDP in Uganda, Cambodia, Ghana, Benin, Nepal and Mali.¹³ Is universal social protection affordable in developing countries? “YES” is the categorical answer by Isabel Ortiz, director of social protection at the ILO, who compiled these estimates.

The eradication of extreme poverty was the priority in the Millennium Development Goals and is still the first goal in the 2030 Agenda. It is further mandated by the Lisbon Treaty in Europe.¹⁴ Since everybody agrees that better than giving fish to the hungry is teaching them how to fish, the best use of ODA is not to transfer it to the poor directly, but to use those monies to strengthen national mechanisms to mobi-

lize domestic resources and allow countries to fund their social protection floors themselves. Developing country governments need to be able to raise taxes and control illicit outflows so that they can provide the cash, the basic services and the social protection that will raise their people out of poverty and in a sustainable way.

But this is not the perspective that the World Bank defends. The Bank’s “Paying Taxes 2017” report advocates not only administrative efficiency, but also lower tax rates.¹⁵ Any country that reduces tax rates, raises the threshold for taxable income, or provides tax exemptions, gets approval. Development specialists Jomo Kwame Sundaram and Anis Chowdhury comment that “the report particularly commends countries that lower corporate tax rates (or increase threshold and exemptions) and negatively considers those that introduce new taxes, essentially encouraging tax competition among developing countries”.¹⁶

¹³ Ibid.

¹⁴ Article 208 of the Lisbon Treaty (2007) states: “[European] Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.”

¹⁵ PricewaterhouseCoopers/World Bank Group (2017).

¹⁶ www.ipsnews.net/2017/04/world-bank-must-stop-encouraging-harmful-tax-competition/.

The influential World Bank report is co-authored with Pricewaterhouse Coopers (PwC), one of the ‘Big Four’ international accounting and consultancy firms. PwC competes with KPMG, Ernst & Young and Deloitte for the lucrative business of helping clients minimize their tax liabilities. PwC assisted its clients in obtaining at least 548 tax rulings in Luxembourg between 2002 and 2010, enabling them to avoid corporate income tax in other jurisdictions.¹⁷

Further, the OECD member countries that hold a large majority of the weighted votes at the World Bank have so far vetoed proposals to set up an inclusive UN intergovernmental global tax body that civil society organizations as well as many developing countries are demanding.

De-risking private investment

Instead of sending funds to people in poverty or helping the countries where they live to raise taxes, avoid illicit outflows and thus fund their own social protection systems, the World Bank is increasingly using its money to ‘leverage private investment’, offering financial guarantees to big international corporations, mainly for infrastructure projects. In April 2017, speaking to the World Bank and IMF ministerial meeting, US Treasury Secretary Steven T. Mnuchin applauded “the World Bank’s emphasis on the private sector as the engine of growth and the launch of a bold strategy intended to unleash private investment in the world’s poorest countries” while warning that “we need to be extremely judicious in the use of public resources [...] when it comes to financing state-owned enterprises”.¹⁸

According to that logic, using public money to support private businesses is ok, but not so to support public policies. Mnuchin recognized that “private sector development that actually boosts growth and

improves livelihoods in the world’s poorest nations is a difficult task,” but this is nevertheless the path he directs countries to follow.

While avoiding references to climate change as one of the objectives, to please the new US administration, the World Bank president announced after the 2017 Spring meeting a “cascade” of investment using this funding modality to “help create markets and leverage more private financing”.¹⁹ This is the same ‘innovative approach’ to financing development that led the Bank to ‘reduce the risks’ of Odebrecht, the Brazilian construction company that undermined the democratization process of Brazil and other Latin American countries through a sophisticated continent-wide corruption system with World Bank guarantees for over US\$ 40 billion in investments (see **Box in Chapter 17**).²⁰

World Bank president Jim Yong Kim now argues that “there’s trillions of dollars sitting on the sidelines earning little interest or even negative interest and investors are looking for better returns”.²¹ The Bank’s policy will thus be to “work with our partners to de-risk project[s] or, if needed, de-risk entire countries or sectors”.²² That means using public money as a guarantee for corporate investment. If the project fails, the public in developed and developing countries will pay (or get into debt). If it succeeds, the profits go to the corporations.

Jürgen Kaiser, policy coordinator of the German organization *erlassjahr.de* (Jubilee) commented in a UN ministerial roundtable on financing for development in May 2017 that “the infrastructure needs of developing countries were there five years ago or

17 Ibid.

18 Statement by Secretary Steven T. Mnuchin to the 95th Meeting of the Development Committee, April 22, 2017, Washington, D.C. (<http://documents.worldbank.org/curated/en/665751493149273463/pdf/DCS2017-0022-UnitedStates-04222017.pdf>).

19 Alexander, Nancy, “Beware the Cascade”, blog entry available at <http://justgovernance.boellblog.org/2017/05/23/beware-the-cascade-world-bank-to-the-future/>.

20 World Bank database of PPPs <http://ppi.worldbank.org/snapshots/sponsor/odebrecht-sa-1503>.

21 World Bank Group Opening Press Conference by President Jim Yong Kim at the 2017 WBG/IMF Spring Meetings, Transcript available at www.worldbank.org/en/news/speech/2017/04/20/2017-wbgimf-spring-meetings-world-bank-group-opening-press-conference-by-president-jim-yong-kim.

22 Ibid.

ten years ago. This push is actually motivated by the needs of investment funds (including pension funds) in developed countries that face very low or even negative interest rates at home.”

In a speech at the London School of Economics in April 2017, World Bank president Jim Yong Kim said that “One of the things we’d like to do, for example, is to find a way for a pension fund in the United Kingdom to be able to invest in building roads in Dar es Salaam, get a reasonable return on that investment, and do a lot of good in the process.”²³

“In a nutshell, this is what financialization means,” comments Nancy Alexander, who directs the economic governance programme at the Heinrich Böll Stiftung North America, “a wave of long-term revenues from taxpayers and user fees in the global south”. Some say this is a “win-win” and Africans will win too, but the standard PPP contracts put the heaviest risks on the public sector and bind the hands of the state to regulate in the public interest. Construction companies and financial intermediaries are the real winners.

Conclusion

Just as illusionists use one hand to distract the audience’s attention from what the other is doing, the anti-poverty efforts by the World Bank and IFIs are not focused on reducing inequalities but concentrate on a relatively modest objective set by a very low poverty line. At the same time the SDGs, including SDG 1, are deemed so ambitious that billionaires and corporations are invited to ‘partner’ in the effort, because where else will the money come from if not from those that have it? Finally, since investors cannot be attracted unless their profits are guaranteed, the taxpayers’ money instead of going to the poor or to policies that directly benefit them is used to reduce the risks of foreign investors and bail out

their wrong investments, decisions often stimulated by corruption, while people in the poorest countries are expected to pay for essential services and for the profits of the investors.

As the lyrics of *Hood Robbin’* from famous rapper Ice Cube put it, “Ain’t that a bitch, when you got to steal from the poor, and give to the rich?”

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Roberto Bissio is Executive Director of the Instituto del Tercer Mundo (Third World Institute) and coordinator of the Social Watch network.

23 Speech by World Bank Group President Jim Yong Kim: Rethinking Development Finance, 11 April 2017. Available at: <http://www.worldbank.org/en/news/speech/2017/04/11/speech-by-world-bank-group-president-jim-yong-kim-rethinking-development-finance>.

SDG 2

Facilitating corporate capture or investing in small-scale sustainable agriculture and agroecology?

BY STEFANO PRATO, SOCIETY FOR INTERNATIONAL DEVELOPMENT¹

SDG 2: “End hunger, achieve food security and improved nutrition and promote sustainable agriculture”, articulates one of the highest aspirations of the 2030 Agenda. Alongside SDG 1 on ending poverty in all of its forms, it also provides for much of the pathos and ethos that drives implementation. At the cost of being reductive, failure to advance SDGs 1 and 2 would signal the impending doom of the entire agenda. However, while nobody can disagree with the noble objective embraced by SDG 2, its pursuit might be masking less benign forces at play. The implementation of SDG 2 takes place within the struggle between two alternative visions of food and nutrition: a model of large-scale industrial agriculture that aims to maximize short-term productivity based on technical solutions, and a vision of small-scale sustainable farming and agroecology based on the fundamental human right to adequate food and nutrition.

Tension between two extremes

The context in which SDG 2 is being implemented is the battlefield of two opposing worldviews on modernity and food and nutrition, which are supported by two equally distant production, marketing and distribution systems.

On one side, the corporate model that views food as commodity and aims to conquer consumers’ markets, where consumers are identified merely as individuals with purchasing power. It views production as a highly-specialized process that can be delocalized anywhere the resources to maximize narrowly-defined productivity can be found. It is based on the privatization of the commons, and increasingly on its financialization, as well as extensive use of biotechnologies, including genetically modified organisms

(GMOs). Its uniformed products are horizontally and vertically integrated in global value chains and its business model is based on minimizing the externalities it is obliged to cater to while seeking the lowest possible labour intensity by applying mechanization, robotics and information technologies. This homogenizing and hegemonic model is leading the capture of agriculture and nutrition by large-scale and intensive industrial production, vertically integrated with industrial food transformation, with large distribution channels that allow increasing penetration of global markets up until rural communities.

The main players in this model are huge transnational conglomerates undergoing an unprecedented process of corporate concentration. In December 2016, Monsanto shareholders voted in favour of the sale of the company to Bayer for US\$ 66 billion, making one of the largest-ever foreign corporate takeovers. The merged entity will be the world’s largest supplier by sales of both seeds and pesticides, controlling up to 30 percent of the world’s commercial seed markets and 24 percent of the world’s pesticide markets. As reported by the ETC Group ([see Box](#)), the Bayer-Monsanto

¹ This article draws and further builds on the author’s editorial, ‘Resisting Rural Appropriation: Embracing agroecology to transform globalization’, *SID Development Journal on ‘Rural Transformations’*, vol. 58: 2-3.

merger is just one of several mega-mergers taking place simultaneously in agricultural input supply: US chemical giants Dow Chemical and DuPont are set to merge, and China National Chemical Corporation (ChemChina) is to acquire Syngenta.

On the other end of the spectrum are local community responses based on small-scale production, unfortunately often trapped into subsistence farming, which view food as a fundamental human right and regard food consumers as fellow citizens and rights-holders.² As stated by the civil society declaration to the Second International Conference on Nutrition in November 2014:

“It is our common understanding that food is the expression of values, cultures, social relations and people’s self-determination, and that the act of feeding oneself and others embodies our sovereignty, ownership and empowerment. When nourishing oneself and eating with one’s family, friends, and community, we reaffirm our cultural identities, our ownership over our life course and our human dignity.”³

This approach views production as a highly-diversified process which is inherently localized and integrated with territorial needs, traditions and ecosystems. It is based on traditional and locally-adapted genetic resources, minimal external input and a holistic concept of productivity, which maximizes synergies among a wide variety of product lines, through crop rotation and mixed crop-livestock systems. It is inherently labour intensive and bio-centric, as minimizing externalities and enhancing biodiversity means preserving the ecosystem where communities are located and on which their future livelihood depends. It is also based on collective rights and access to the commons and is supported by a vast array of knowledge(s), including traditional and indigenous knowledge. In this respect, a growing number of small-scale food producers are engaging in agroecology and exploring short-chain and circular economies with their surrounding territories. The

main players here are small farmers, fishers, pastoralists and other small-scale food producers, which are increasingly connected into national, regional and global social movements, one notable example being La Via Campesina. As stated in La Via Campesina’s website:

“La Via Campesina is the international movement which brings together millions of peasants, small and medium-size farmers, landless people, women farmers, indigenous people, migrants and agricultural workers from around the world. It defends small-scale sustainable agriculture as a way to promote social justice and dignity. It strongly opposes corporate driven agriculture and transnational companies that are destroying people and nature. La Via Campesina comprises about 164 local and national organizations in 73 countries from Africa, Asia, Europe and the Americas. Altogether, it represents about 200 million farmers. It is an autonomous, pluralist and multicultural movement, independent from any political, economic or other type of affiliation.”⁴

It must also be noted that various attempts are currently underway to reduce agroecology to one production technique among many. These must be rejected. As stated in the 2015 Declaration of the International Forum for Agroecology,⁵ “agroecology is a way of life” that encompasses pervasive philosophies and concrete alternatives that encompass production practices based on ecological principles and the dynamic management of biodiversity as well as profound rethinking of social and governance relations within and between territories. It is therefore inherently political as it challenges and aims to transform power structures.

This dichotomy might appear unnecessarily simplistic, as there would seem to be much in between these two extremes. But, in reality, there is not. Many middle-sized companies are being increasingly squeezed by the current patterns within the sector. The

² Valente (2014).

³ www.fao.org/fileadmin/user_upload/faoweb/ICN2/documents/CSO_Vision_Statement_-_Final.pdf.

⁴ <https://viacampesina.org/en/index.php/organisation-mainmenu-44/what-is-la-via-campesina-mainmenu-45/1002-the-international-peasants-voice27>.

⁵ International Forum for Agroecology (2015).

middle-sized enterprise is increasingly becoming a missing middle, not only in Southern countries where it never existed but also in Europe, where some industries, such as the dairy industry, have been under dramatic stress over the past years.

Furthermore, any benign pretence that these two alternative visions of life, production and markets can cohabit is debunked daily by the evidence of the predatory nature of the industrial system, with its continued grabbing of land, water and genetic resources, and its profound impact on urban consumers and their dietary preferences.

The pursuit of SDG 2 should therefore be located within this ongoing struggle in order to assess the extent to which the 2030 Agenda promotes a bottom-up approach, which is fully consistent with its claimed human rights framing and the social, economic and environmental imperatives it embodies, or rather offers a narrative and political process that facilitates the corporate capture of agriculture and nutrition.

Four biased narratives

The tension between these opposing systems is proving to be an uneven battle, despite the powerful simplicity with which agroecology and small-scale food production can simultaneously provide for livelihoods, environmental sustainability and health diets. Indeed, four biased narratives are currently at play in the implementation of SDG 2 in an effort to subvert such linear simplicity.

First, the grand narrative of the crisis of feeding the planet and the need to boost production and productivity with significant investments in agribusiness, despite the reality that smallholders currently supply up to 70 percent of overall food production.⁶ Furthermore, according to the Save Food Initiative of the Food and Agriculture Organization (FAO), every year around the globe, 1.3 billion tonnes of food are lost or wasted – that is one third of all food produced

for human consumption.⁷ The countries of the global North waste almost as much food as the entire net food production of sub-Saharan Africa on annual basis and the amount of food lost and wasted every year is equal to more than half of the world's annual cereal harvest.

The second biased narrative is related to the climate challenge and the pressure for agriculture to adapt to it through technological, and often biotechnological, solutions. The July 2016 report of the High-Level Panel of Experts (HLPE) of the Committee on World Food Security (CFS) states that the livestock sector alone, as a driver of deforestation, demand for feed, and transportation and processing infrastructure, is directly and indirectly responsible for 14.5 percent of greenhouse gas (GHG) emissions.⁸ Together, permanent meadows, pastures and land dedicated to the production of feed thus represent 80 percent of total agricultural land. Against the evident need for de-intensification, the narrative uses, abuses and ultimately corrupts the concept of sustainability to justify the unjustifiable: the obvious conundrums of sustainable intensification and technology-driven climate smart-agricultures become the new Trojan horses to propose biotechnologies that allows the continued expansion of the industrial agriculture that is itself the origin of the biodiversity loss and the climate implications that these false solutions claim to address.

The third and most recent narrative concerns the push for nutrition-sensitive agriculture, which instrumentalizes old and emerging nutritional challenges to propose food fortification, including bio-fortification. Rather than promoting diversified diets based on agro-biodiversity, this narrative fails to recognize that nutritional deficits inevitably result from increasingly homogenous diets largely composed of industrial products based on large-scale agricultural production of very few crops. It is the reduction of biodiversity and nutritional food content that is inherently consequent to the industrial system that generates the nutritional deficiencies

6 Civil Society Mechanism for relations with the UN Committee on World Food Security (2016).

7 FAO (2016).

8 HLPE (2016).

Agribusiness mega-mergers expose need for UN Competition Convention

BY ETC GROUP

In April 2017, the University of Chicago convened a landmark conference during which the Chicago Boys quietly questioned their own long-held enthusiasm for concentrated markets. Since the 1970s, the Chicago School has opined – and policy-makers in the USA as well as regulators in many European countries have promulgated – the view that ‘bigger is better’ and that increased market concentration among global corporations should be judged not by market dominance but on the basis of efficiency and benefits to consumers. But, as spring winds blew through Chicago, even conservative economists were worried that mergers have got out of hand: in about 600 of the world’s 900 industrial sectors, market concentration has increased significantly in the last couple of decades while innovation in these sectors appears to be declining and successful start-ups are few and far between.¹

In October 2016 during the annual meeting of the UN Committee on World Food Security (CFS), peasant organizations and their civil society partners urged governments to hold an emergency debate on the

three mega-mergers facing the Agricultural Inputs Sector. The China National Chemical Corporation (ChemChina)’s offer to buy Syngenta (since approved) for US\$ 43 billion had been quickly followed by the proposed marriage of Dow Chemical and DuPont (US\$ 130 billion) and – just weeks before the CFS meeting – Monsanto agreed to be bought by Bayer for US\$ 66 billion. If all three are allowed, and if only minor divestitures are demanded, the surviving three entities will together control at least 60 percent of global commercial seed sales and 71 percent of global pesticide sales. If divestitures are ordered, the most likely available buyer with deep pockets is BASF Corporation – already a ranking member of the six Gene Giants that have held sway over the nearly US\$ 100 billion seed/pesticide market throughout this century. More recently, with Syngenta’s buyout pending, ChemChina announced that its merger with the Sinochem Group, another Chinese chemical giant producing agriculture inputs including fertilizers. This merger would create the world’s largest chemicals group with US\$ 100 billion in yearly revenues.²

However, not all of the concerns raised in the CFS meeting are in the first links of the food chain. As rumours of mergers got underway in the input sector, some of the world’s biggest food and beverage processors and retailers swung into action. In a rapid series of acquisitions, a Brazilian meat processor, JBS, took over competitors in Argentina, Australia, Canada, Mexico and the USA to become the world’s dominant meat packer; AB InBev arranged a US\$ 120 billion hook up with SABMiller making the new entity, by far, the largest beer company in the world with more than one third of the market; Kraft and Heinz got together in a US\$ 55 billion deal, making the new company the world’s fifth largest food processor; fast food giants Burger King and Tim Hortons tied the knot; and, most recently, the newly-married Kraft-Heinz proposed a US\$ 150 billion ménage à trois with Unilever – one of the world’s most iconic food processing and consumer goods companies. Although Unilever spurned the suitor, Kraft-Heinz may still carry a torch and the move stirred merger talks involving Mondelez, Kellogg and just about every other food processor worth its salt and sugar. The real story behind these five deals is that they were orchestrated by

1 The Economist (2017).

2 Weinland/Hornby (2017).

four people – three Brazilian wheeler-dealers known as 3G Capital in cahoots with the world's most famous investor, Warren Buffett of Berkshire Hathaway. Between them, if they have not yet won food's Super Bowl – they are at least hoisting the burgers, pizza and beer. Over the past three decades, 3G Capital has invested US\$ 250 billion backing mergers and acquisitions (M&A) in the global food and beverage market.³

The current boom in M&As is not limited to the global North. After all, for the first time, two of the world's top 10 protein providers are Brazilian – JBS and Marfrig while China's WH Group (following its purchase of Smithfield) is the world's Number One hog producer. After taking over companies in Singapore and the Netherlands, another Chinese company, COFCO has become the world's fourth largest grain trader; ChemChina is in line to be in the top three in seeds and pesticides; and following a series of M&As, Charoen Pokphand Group (CP) of Thailand has become a global food conglomerate. Meanwhile, India's Mahindra and Mahindra now ranks sixth in global farm machinery sales and is making acquisitions in Europe.

It is encouraging that UNCTAD has taken the lead in mapping out a Model Law on Competition and is sparking a renewed debate on

the threat of concentrated global markets. But the suspect M&A 'efficiency' theories from the 1970s are now being codified by the OECD. Over the past dozen years, the OECD has promoted guidelines on M&A regulatory procedures which are intended to streamline the approval (or occasional rejection) of cross-border takeovers. Interestingly, the OECD concedes that the regulatory trend line has been to approve ever-greater acquisitions and its guidelines urge countries that have not much evident 'skin in the game' to yield to the government's hosting corporate headquarters. At the same time, the OECD concedes that the full importance of a merger is often not understood until several years after consummation; that mergers today are heavily driven by the need for technology control; and, that the direction new technologies might take is also generally unknowable. Strong reasons, one would think, for any country touched by the merger or its technologies, to intervene in the M&A review process.

There is no better opportunity to act on competition policy in the agribusiness sector than now. Not only do the three mega-mergers among agricultural input monoliths present a clear and present danger to food security, they depend upon the acquiescence of emerging agricultural markets in developing countries. Together, for example, Argentina, Brazil, China and India represent one third of all global pesticide sales – and that's the third that

is growing. If even a handful of countries in Africa, Asia or Latin America block a merger – or impose significant barriers – shareholder value could plummet and the deals would be called off by the companies themselves. And, unless the OECD is allowed to have its way, individual governments clearly have the right to say no. As Jennifer Clapp at the University of Waterloo has shown recently, although 3G Capital and Warren Buffett may be behind the big food and beverage processors purchase, BlackRock, the world's largest asset manager, has anywhere from 5 to 7 percent of the shares in Syngenta, Bayer, DuPont and even BASF – the major actors in each mega-merger – and is looking to the future.⁴

But, it is less the mergers before us now than the mergers we are shortly to face that makes action urgent, as the arrival of Big Data genomics (so-called 'digital DNA') combines with the Big Data/robotics/artificial intelligence technologies being led by global farm machinery companies. This double strand of Big Data meets in the Cloud where only the biggest companies with the deepest pockets have the resources to bring together the current and historic market and climate data with the metre-by-metre data tabulating soils, seeds, fertilizers and pesticides – both the inputs and outputs. Already, John Deere, the world's biggest farm machinery

3 Daneshku/Fontanella-Khan/Whipp (2017).

4 Clapp (2017).

company by far, has joint ventures with each of the original six Gene Giants. John Deere, after all, has the ‘box’ in which farmers place their seeds, pesticides and fertilizers and it is also John Deere’s box that is back in the field at harvest time. If today’s mega-mergers are allowed, John Deere and the other three machinery companies that claim about half of the global farm machinery market will be free to make the ‘new technologies’/‘food security’ argument that will force regulators and policy-makers to accept absolute consolidation among all inputs from seeds to satellites.

Governments accordingly have three policy options: first, they can block one or all of the current mergers within their own borders; second, they can call upon the CFS to take action on this issue when it meets in October 2017; and, third, the CFS and UNCTAD could work together to develop a UN Convention on Competition. Is such a provocative treaty really possible? Just as possible as everything else that’s happened to trade deals and politics over the past 12 months.

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that are claimed to require food fortification. The industrial system claims to offer food fortification as the solution to a problem it has itself generated and, by doing so, it continues to squeeze and erode local food systems that rather offer deeply rooted solutions based on agro-biodiversity.

The fourth and last narrative is the mirage of structural transformation that calls for people to move out of agriculture and engage in better paid industrial and service-based employment. It is too bad that these jobs only exist in fiction. The pattern of structural transformation that characterized past experiences of industrialization does not seem to be replicable by today’s commodity trapped economies. Established productive capacities and increasingly mono-directional trade liberalization is generating new patterns of de-industrialization and premature tertiarization of developing economies, particularly within the African continent, that fall dramatically

short of the claimed employment expectations. To this, we also need to factor in the radically different extent of labour intensity that new productive technologies, including the extensive application of robotics, are fast tracking globally.

Implications for the rural agenda and the political economy of SDG 2 implementation

In many ways, the rural space is – many would say continues to be – the battlefield among these opposing views of modernity, spanning across ways of life, social and political relations, organization of production and relationship with our ecology.

The fact remains that rural areas are too often affected by unacceptable levels of human suffering and deprivation. However, the same can now be said for the peri-urban and even urban space. Hence, there is the need to overcome a stereotyped view of rural

backwardness versus urban modernity. Many urban/rural analyses are still based on comparing average statistics between these two spaces, constructing the false notion of an average urban citizen that does not exist in reality. There is also no doubt the impact of significant rural-urban migrations and the continued advancement of urbanization and most frequently ‘metropolization’. However, the pull and push factors of these massive movements should be better analysed before considering them as a de-facto reality. Nevertheless, urban poverty and marginalization are as rapidly on the rise as the expectations for better-paid, non-farm urban jobs are revealing their untenable foundations.

Demystifying stereotypes of rural backwardness is therefore the first conceptual step that allows for the emergence of new visions for the rural space which can lay the foundations for progress within SDGs 1 and 2. In this respect, one often has the impression that the ‘rural’ is considered as the primitive version of the ‘urban’ in an underdeveloped context, almost as development moves linearly from the rural to the urban reality. Indeed, the concept of rural modernity might be considered an oxymoron by many within global policy circles. But this is exactly where a significant part of the rural transformation narrative problem resides. This narrative is largely shaped away from the rural spaces themselves with limited, if any, participation by the primary subjects that would need to design and drive any local transformative process. In fact, the narrative often contrasts and contradicts the alternative visions that communities may have of their possible development trajectories.

In this context, the four biased narratives mentioned above influence to varying degrees the current conceptualizations of rural transformation processes within the 2030 Agenda, and SDGs 1 and 2 more particularly. Their net impact generated a concrete risk that the rural transformation agenda may be driven more by the hegemonic and homogenizing global food system than by rural communities, including smallholders, pastoralists and other peasants. Indeed, the combined effect of such agency fallacy with the biased narratives means that the paradigm of rural transformation may risk becoming

yet another instrument of rural appropriation, further advancing the tremendous and continuing rise in intensive industrial agriculture and its rapid consolidation globally, and augmenting the continued process of economic and political concentration in few hands. The result of this ongoing process is the dramatic shrinking of the space for small-scale food producers and the generation extensive disempowerment of both producers and workers. This is where the blindness of conventional poverty analyses to the dynamics of accumulation and concentration of wealth is instrumental to the capture of power by the ruling elites.⁹

It is therefore unsurprising that limited progress can be reported on each of the three SDG 2-specific targets on means of implementation. With regard to 2.a to increase investment in rural agriculture, the capacity to scale-up public investments, the only kind that can possibly strengthen small-scale sustainable agriculture, is significantly constrained by lack of tangible progress in addressing the bleeding of potential tax revenues caused by illicit financial flows and the concomitant stagnation of official development assistance (ODA). In terms of correcting and preventing trade restrictions, called for in target 2.b, the Doha Development Round it refers to is currently moribund, which reaffirms the fallacy of expecting the WTO, with its power imbalances, to address the trade and development question in any meaningful manner. And with regard to reforming food commodity markets, called for in target 2.c, no significant political efforts seem to be on the radar screen to seriously address the financial drivers of commodity price volatility within derivative markets. Interestingly, this was completely off the agenda of the recently held 2017 ECOSOC Forum on Financing for Development Follow-up, which is also mandated to monitor the progress with respect to the Means of Implementation of the 2030 Agenda.

9 Prato (2014).

Important role of the CFS

Rather than simple monitoring of progress, the nature of the tensions related to the pursuit of SDG 2 requires active policy convergence and coordination. Many challenge the notion that this can happen in the context of the High-Level Political Forum (HLPF) process alone. Following the principle of subsidiarity and given the active participation of small-scale food producers in its process, the Committee on World Food Security (CFS) offers the most suitable locus where these tensions could be addressed and possibly resolved in the context of the Global Strategic Framework for Food Security and Nutrition.

The CFS constitutes, according to its 2009 Reform Document “the foremost inclusive international and intergovernmental platform for a broad range of committed stakeholders to work together in a coordinated manner and in support of country-led processes towards the elimination of hunger and ensuring food security and nutrition for all human beings.”¹⁰ Indeed, its Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security,¹¹ adopted in 2012, and its Framework for Action for Food Security and Nutrition in Protracted Crisis,¹² agreed in 2015, are two valid examples of critical policy guidelines that can guide and assist national processes from a rights-based perspective.

Conclusion

The 2030 Agenda with its goal on food security is seen by some as a conceptual framework deployed to sideline the centrality of the right to adequate food and nutrition and the visions of agroecology and food sovereignty embraced by peasants and their social movements. Others, however, indulge in a more benign reading of the new development framework and hope that it will be helpful in advancing a positive rural agenda.

Alternative pathways to confront the current mix of complex challenges are clear. Present food systems are dysfunctional because they result in unhealthy diets, unsustainable footprints and impoverishments of small-scale producers. They are the outcome of a supply-driven and macroeconomic approach to commodified food. The alternatives are based on locally rooted and driven processes that promote agroecological diversification and food sovereignty. This calls for public investments and supporting policies for those that are already feeding the world in ways that can increasingly protect and enhance biodiversity, heal our planet, promote healthy and diversified diets based on traditional and resilient crops, and strengthen local territorial markets and circular economies. In this respect, the rural space can be seen as the last bastion of resistance against the hegemonic and hegemonizing global economy that is increasing de-materializing and de-humanizing the experience of life. But it is not only about resistance. It is also a dynamic space of re-invention of production and social relations and a vibrant laboratory for experimentation with new solutions that can transform our lives and redress our current challenges into precious opportunities to rediscover the knowledges, identities and traditions that have made our common humanity.

10 www.fao.org/cfs/workingspace/workstreams/oewggsf/onlinegsf/gsfsec1/en/.

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Stefano Prato is Managing Director of the Society for International Development (SID)

SDG 3

Corporate influence on the global health agenda

BY K M GOPAKUMAR, THIRD WORLD NETWORK (TWN)

A range of industries are attempting to influence the national and global health agenda, outlined in SDG 3 on health and well-being, in order to pursue their business interests. These include: (1) industries that are in the business of manufacturing or selling health products such as medicines, vaccines, medical devices and nutrition supplements; (2) industries whose products have direct adverse impacts on health such as tobacco, arms, alcohol, food and beverages, automobiles and chemicals; and (3) industries that benefit from the scaling up of health services, such as those dealing with insurance and information and communications technology. With regard to the first two, given their proactive interest in the increased sale of their products, their influence may result in technical fixes without tackling the social determinants of health and constraints on policies to address these. With regard to the second, their defensive interest lies in slowing down a comprehensive approach to healthcare, especially strategies of prevention, because any attempt to promote public health would result in regulating their business practices. Instead, they promote purportedly quick fixes with their products and services.

Global Partnerships facilitate corporate influence on public policy

The promotion of Global Partnerships as a vehicle to achieve the SDGs undermines the primary responsibility of the State to ensure human rights, including the right to health. Corporate sector participation in multi-stakeholder partnerships “on an equal footing” with government and CSOs, as promoted by the World Economic Forum,¹ provides the opportunity to unduly influence the public health agenda. Corporations can influence partnerships either through their participation in the governance of partnerships or their financial contributions or both.

SDG 3 sets nine targets on the following health issues: maternal and child health, reproductive health, communicable diseases, non-communicable diseases, substance abuse, universal health care, road accidents and chemical and air pollution. There are already multi-stakeholder partnerships in most of these areas with an active involvement of the private sector, especially multinational corporations.

Relying on multi-stakeholder partnerships to achieve the SDG 3 targets bear the risk of facilitating corporate profiteering. While not mentioned in SDG 3 targets specifically, multi-stakeholder partnerships are considered an important vehicle to achieve the SDGs, and are clearly stated under SDG 17 on means of implementation, specifically in targets 17.16 on multi-stakeholder partnerships and 17.17 on public, public-private and civil society partnerships. In addition, the UN Knowledge Platform on SDG 17, which deals with means of implementation, states:

¹ www3.weforum.org/docs/WEF_2NETmundialInitiativeFAQ.pdf.

*“Achieving the ambitious targets of the 2030 Agenda requires a revitalised and enhanced global partnership that brings together Governments, civil society, the private sector, the United Nations system and other actors and mobilises all available resources”.*²

The multi-stakeholder partnerships are designed not only to mobilize financial resources but also for sharing knowledge, expertise, technologies and financial resources to support the achievement of SDGs (target 17.16). However, the 2030 Agenda and the SDGs are silent on the risk of conflicts of interest emanating from the multi-stakeholder partnerships. In the absence of safeguards, the global health agenda set out under SDG 3 bears the risk of corporate influence.

In the area of maternal and child health, the most important initiative is the UN Secretary-General’s “Every Woman Every Child” (EWEC) initiative, a multi-stakeholder partnership covering various areas of health. EWEC describes itself as a global movement “which presents a roadmap to ending all preventable deaths of women, children and adolescents within a generation and ensuring their well-being” and is critical for the achievement of SDG 3.³ As a multi-stakeholder partnership with the representation of the private sector, philanthropic foundations and NGOs on its High-Level Steering Group, the initiative accepts financial resources from a range of private sector corporations, including pharmaceutical companies.

Similarly, in the area of tuberculosis (TB) and malaria, the World Health Organization hosted two partnerships with the participation of philanthropic foundations and the corporate sector, namely “Stop TB Partnership” which provides grants to “reach and treat” people with TB through the UN Foundation,⁴ and the “Roll Back Malaria” partnership launched by the WHO in 1998, but pretty much abandoned for lack of funding.

Most of these partnerships do not put any restrictions on the inclusion of industries on the basis of their commercial interest. In the case of the Partnership for Maternal, Newborn & Child Health (PMNCH) hosted by WHO, for example, it excludes entities related to tobacco, the arms industries or breast milk substitute industries from joining the partnerships, but despite efforts to change this policy, places no restrictions on the pharmaceutical or food and nutrition industries which may also have negative public health impacts.

Apart from this, the leading voice in the area of non-communicable diseases (NCDs) is the NCD Alliance,⁵ an NGO partnership that not only receives financial support from the private and philanthropic sector, especially the Gates Foundation, but also provides a role for that sector in its governance. Critics have raised the concern that the involvement of the pharmaceutical and medical devices industry restricts the advocacy around affordable medicines and medical devices.

Despite the need to avoid conflict of interest in WHO’s Action Plan for the Prevention and Control of NCDs, the WHO allowed the World Economic Forum to co-host a market place breakfast and networking dinner during the first global meeting of the national NCD programme managers and directors.⁶ Such practices allow the private sector to safeguard their core business interests by preventing comprehensive actions against NCDs, including the regulation of food and beverages industries.

In the area of road safety, mentioned in target 3.6 Jean Todt, the UN Secretary-General’s Special Envoy for Road Safety⁷ is the president of Fédération Internationale de l’Automobile (FIA – International Automobile Federation), and former CEO of Ferrari. FIA receives financial support from automobile manufacturers. WHO is partnering with FIA to manage the Road Safety Fund. The UN Road Safety Collaboration, a public-private partnership coordinated by

2 <https://sustainabledevelopment.un.org/sdg17>.

3 www.everywomaneverychild.org/about/#sect1.

4 www.unfoundation.org/what-we-do/partners/organizations/stop-tb-partnership.html.

5 <https://ncdalliance.org/who-we-are>.

6 www.who.int/nmh/events/2016/forum_breakfast_program.pdf?ua=1.

7 www.un.org/press/en/2015/sga1565.doc.htm.

WHO has representation from tyre manufacturers, a steel manufacturer and the International Motorcycle Manufacturers Association, as well as the FIA.

According to the Peoples' Health Movement, "From a public health point of view, there is considerable scope for linking the objectives of cutting greenhouse gas emissions, controlling NCDs and reducing road trauma".⁸ The involvement of industry may curtail the possibility of promoting such a comprehensive approach.

In terms of means of implementation for SDG 3, a central strategy is the research and development of vaccines, for "the communicable and non-communicable diseases that primarily affect developing countries" (target 3.b), a strategy also applied to tackling infant and child mortality (target 3.2). Gavi, the Vaccine Alliance (formerly known as Global Alliance for Vaccines and Immunisation) is a public-private partnership designed "to leverage not just financial resources but expertise too, to help make vaccines more affordable, more available and their provision more sustainable, by working towards a point where developing countries can pay for them themselves", in line with target 3.b.⁹

According to the Access Campaign of Médecins Sans Frontières, Gavi's advanced market commitment for pneumococcal conjugate vaccines¹⁰ provided "a late-stage public- and philanthropic-funded subsidy of US\$ 1.5 billion that to date has benefitted two multinational manufacturers (Pfizer and GlaxoSmith-Kline) that had already committed to producing a profitable vaccine."¹¹ The report raises serious con-

cern about the sustainability of the Gavi strategy and states: "Even at the lowest global prices, the introduction of the newest vaccines against pneumococcal and diarrhoeal diseases (pneumococcal conjugate and rotavirus vaccines, respectively), and against cervical cancer (human papillomavirus vaccine) has increased the cost of the full vaccines package 68-fold from 2001 to 2014."

Similarly, corporate interest continues to prevent the use of flexibilities contained in the Trade-related Aspects of Intellectual Property Rights Agreement (TRIPS) administered by the World Trade Organization. These flexibilities, which balance public interests (including public health) against the temporary exclusive rights conferred on a patent holder, are a crucial means of implementation to ensure access to affordable medical products. The pharmaceutical industry through the Pharmaceutical Research and Manufacturers' Association of America (PhRMA) is known to lobby the United States government to exert political pressure on developing countries to prevent the use of TRIPS flexibilities. In 2016 Novartis, a pharmaceutical corporate giant, lobbied its home government, Switzerland, which then openly pressured the Colombian government against issuing a compulsory license requirement on *imatinib mesylate*, a life-saving cancer medicine.¹²

Universal Health Coverage (UHC), agreed in target 3.8 is another area of exploitation for corporate health care providers and the insurance industry to advance their business interests. Instead of providing publicly funded comprehensive health care services, the original concept of Universal Health Care, the focus of the reductionist UHC is to eliminate financial risks to consumers while buying health care services. Further, UHC attempts to provide a minimum package of care instead of comprehensive care.

The fear that private sector health care providers and insurance firms would benefit most from the current UHC model was realized when the initial SDG indicator on UHC was finalized, which stated: "Number of people covered by health insurance or a public health

8 https://docs.google.com/document/d/1yaXbSISfuoJZL0_RcRAWwD8IUv2l-pUe0yppygd5w/edit.

9 www.gavi.org/about/mission/.

10 This vaccine gives protection against 13 types of pneumococcal bacteria that cause pneumococcal disease. There are over 90 different types of pneumococcal bacteria, and they cause a range of problems including ear infections and pneumonia. Pneumococcal disease can also cause life-threatening conditions such as meningitis and septicemia (blood poisoning). Vaccines have been produced to protect against the types that cause the most disease (<http://vk.ovg.ox.ac.uk/pcv>).

11 Médecins Sans Frontières (2015), p. 17.

12 Goldman/Balasubramaniam (2015).

Healthcare is not a commodity but a public good

BY SANDRA VERMUYTEN, PUBLIC SERVICES INTERNATIONAL (PSI)

We need social protection systems that are based on solidarity, sharing of risks, and built on collective bargaining and social dialogue, democratic structures and long-term strategies to combat poverty and address inequalities and inequity. Universal social protection is essential to achieve gender equality and there is a strong link between the provision of public services and the ability of women to enter the labour market, to address unpaid care work responsibilities and to ensure that children have access to health and social services.

The push for the individualization of social protection has had a major impact on the delivery of these services, including on the provision of health and social care, pensions and unemployment benefits, to which austerity programmes have added perverse effects that lead to social exclusion or risk exposure – instead of inclusion and protection. The individual defined contribution pension schemes that the World Bank has been pushing for in Chile and in Eastern Europe in the 1990s are now coming to maturity. Trade unions have warned many times against those schemes, and our concerns have become reality since these schemes fail to deliver decent levels of pensions.

Genuine support for universal social security and healthcare could make important contributions to the achievement of decent work and reduced inequality. However, the international financial institutions (IFIs) continue to promote social protection reforms that focus on targeting, which is less efficient and more costly, rather than broad coverage. Also, investments by the World Bank in for-profit private healthcare through its private-sector arm, International Finance Corporation (IFC), are inconsistent with the objective of prioritizing universal health care rather than services for those able to pay for them.

Surveys in 89 countries, both low and high income, covering 89 percent of the world's population, suggest that 150 million people globally suffer financial catastrophe annually because they have to pay for health services.¹ Individual countries that have recently introduced universal coverage show that government investment results in better health outcomes. It is not the absolute percentage of GDP that determines health outcomes; it is how the healthcare is provided. For this reason, we also call for avoiding the promotion of public-private partnerships (PPPs)

for the provision of health care, as, owing to the need to guarantee a profit to the private partner, they usually end up costing governments more and reducing levels of benefits.

Reforms promoted by the World Bank, IFC and Regional Development Banks, including marketization, decentralization and corporatization of the public sector, provide opportunities for multinational companies to enter the public health care sector. Globally, international companies have won at least a quarter of contracts in health services and their influence on public health and social care systems is increasing rapidly. This has led to changes in the mix of different forms of health care financing, with some countries recording higher rates of out-of-pocket payments and a decline in the contribution of public health care expenditure in relation to overall health care expenditure.

In addition, public health spending is coming under increasing scrutiny across the world, particularly since the 2008-2009 global financial and economic crisis. In some European countries, large-scale cuts in public spending as well as public sector reforms were imposed by the so-called 'Troika' – European

1 WHO (2013).

Commission (EC), European Central Bank (ECB) and International Monetary Fund (IMF) – as a condition for financial rescue packages, as for example in Greece, Ireland and Portugal.

Austerity measures are not limited to Europe. Research into national IMF programmes shows that many adjustment measures are observed in developing countries and some even conclude that the IMF-driven effort to restore balanced budgets through fiscal austerity represents an immediate threat to global health.² While in the short run spending may fall, in the longer term these measures will work against the provision of an effective, integrated health system. Cuts in health spending have had devastating outcomes in some cases.

² Ortiz et al. (2015).

Cuts to public sector funding often penalize health workers and lead to reduced services at a time when demand for such services is increasing, as the economic crisis impacts on the wider economy. The main policy tools in the orthodox approach to health sector financing risk being counter-productive. Efforts to reduce costs by increasing competition have created fragmented structures that work against the integration and coordination of healthcare. Bringing in the private sector is likely to accentuate this silo mentality in provision, in the name of commercial confidentiality and profit maximization. Healthcare is not a commodity but a public good, and we want to see a strong commitment of government and IFIs alike to the implementation of the SDGs instead of pushing policies that deepen inequality and inequity.

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Sandra Vermuyten is Head of Campaigns at Public Services International (PSI)

system per 1,000 population” (indicator 3.8.2). This indicator clearly ignored the limitation of insurance to eliminate the financial risks involved in delivering health care. This indicator was changed due to protests from CSOs and academia in October 2016. The new indicator reads “Proportion of population with large household expenditures on health as a share of total household expenditure or income”.¹³

¹³ <https://unstats.un.org/sdgs/indicators/indicators-list/>.

WHO and undue corporate influence

The WHO constitution mandates the organization to set norms and standards in the area of health and to provide technical assistance to Member States to implement those norms and standards. Therefore WHO has a major role in assisting its Member States to achieve SDG 3. However, WHO is suffering from certain structural constraints on its ability to insulate itself from undue influence, especially from the foundations and corporations and corporate interests backed by some Member States.

First, the financing of WHO, as with the entire UN system, has over time shifted from assessed contributions to specified voluntary contributions.

For the 2016-17 biennium approximately 80 percent of WHO's budget is financed through specified voluntary contributions.¹⁴ Unlike assessed contributions and core voluntary contributions, specified voluntary contributions have little flexibility for WHO to use the funds to address health priorities. The reliance on voluntary contributions thus leads WHO to become a donor-driven organization rather than a membership-driven organization.

Of total financial contributions for the biennium 2016-17 philanthropic foundations contributed 13.9 percent, NGOs 4.9 percent, partnerships 4.4 percent, and corporations 1 percent.¹⁵ The voluntary contribution of the Bill & Melinda Gates Foundation positioned it as WHO's largest voluntary donor in 2016-2017.

Even though on the surface the corporations contribute minimally, their influence on WHO is multiplied as a result of the political patronage from large donor countries such as the USA and the UK as well as from private donors including philanthropic foundations such as the Bill & Melinda Gates Foundation and various professional bodies that provide funding.

Second, WHO lacks the framework to comprehensively address undue influence especially with regard to conflict of interest. The organization does not have a comprehensive conflict of interest policy to address both individual and institutional conflict of interest. Even though WHO's Framework of Engagement with Non-State actors (FENSA) adopted in 2016 does mention conflict of interests, it does not provide any details with regard to avoidance and management of such conflict.¹⁶

Another area of conflict of interest is emanating from the participation of individual experts in various norm-setting activities. The guideline by which to assess the declaration of interest states that receiving a sum of US\$ 5,000 from a pharmaceutical company in a calendar year does not constitute a serious conflict. In other words, it means when an expert receives US\$ 5,000 each from several pharmaceutical companies, this does not result in serious conflict.

Third, there is undue corporate influence over WHO's norms and standards setting activities. WHO's participation in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), a standard-setting body on medicines whose Secretariat is at the Office of the International Federation of Pharmaceutical Manufacturing Associations (IFPMA) leads to the so-called 'higher' standards adversely affecting the generic industry.¹⁷ For example, the WHO standard on biosimilars is heavily drawn from the ICH standard that reduces competition in the biosimilar market and thus affects affordable access to bio-therapeutics.

Recently, the WHO Essential Medicines and Health Products Department has engaged organizations linked to the pharmaceutical industry to draft and consult on a guideline on Good Regulatory Practice (GRP) for national medical products regulatory authorities. It transpired that one of the drafters, Mr. Michael Gropp, is former Vice President of Global Regulatory Strategy in Medtronic, a multinational corporation. According to the Stanford Byer Centre for Biodesign, Stanford University, "Mr. Gropp retired from his corporate position in May 2013. He continues to chair the Global Advisory Council of Regulatory Affairs Professionals Society" (RAPS), a society whose entrepreneur membership includes global pharmaceutical giants such as Abbott, Gilead Sciences, Pfizer, Astra Zeneca, Novartis and Eli Lilly among others.¹⁸

Fourth, the collaborative work plans between the WHO Secretariat and NGOs, a requirement for offi-

14 <http://open.who.int/2016-17/contributors> (figures updated until Q1 2017).

15 <http://open.who.int/2016-17/budget-and-financing>.

16 www.who.int/about/collaborations/non-state-actors/en/.

17 Nagarajan (2014).

18 <http://twm.my/title2/health.info/2016/hi160507.htm>.

cial relations with WHO, often lead to the promotion of business interests. For instance, the joint work programme between the Global Medical Technology Alliance and WHO as part of the documentation for the consideration of the Standing Committee on NGOs states among its objectives:

“Promote the safe use of medical devices through compiling and distributing materials and training on the safe use and proper disposal of medical devices for healthcare professionals, through the Alliance member associations.”¹⁹

This implies that a trade association would work with the WHO to promote the use of medical devices through compiling and distributing materials, which would clearly result in economic benefits to the members of the association. It could also result in the unnecessary promotion of the use of medical devices without adequate evidence and put commercial interests above public health. Similarly, conflict of interests can be found in the collaborative work plan of Global Diagnostic Imaging, Healthcare IT and the Radiation Therapy Trade Association.²⁰

Fifth, discrepancies in the implementation of FENSA undermine the minimum safeguards against undue corporate influence over WHO during its engagement with non-State actors, largely because of the discretion it gives to the WHO Secretariat. Even though FENSA facilitates the engagement with non-State actors, it brings a greater degree of transparency with regard to the entities concerned. Further, FENSA prohibits staff secondment from the private sector. It also prohibits financial resources from the private sector for norms and standard setting activities.

However, there are concerns that the great degree of discretion given to the WHO Secretariat for the implementation of FENSA enables the Secretariat to use this discretion to implement FENSA in a manner that is not true to the spirit of the framework. For instance, the Secretariat in contravention of FENSA provisions did not provide to Member States details of

the collaborative work plans of some non-State actors that sought official relations with WHO. This prevented Member States from taking an informed decision with regard to the official relation status of the Bill & Melinda Gates Foundation.

According to FENSA an entity that cannot be shown to be “at arm’s length” from the private sector is considered as private sector irrespective of its legal status.²¹ Private sector entities are not eligible for official status. Approximately one-quarter of the Gates Foundation Trust assets are invested in Berkshire Hathaway Inc., a holding company that owns an approximately US\$ 18 billion share in the US-based Coca-Cola company and US\$ 30 billion interest in Kraft Heinz Inc., two of the world’s ten largest food and beverages companies (as of June 2017). Moreover, the 2015 tax returns of the Trust show it holds shares and corporate bonds in pharmaceutical companies such as Pfizer (US\$ 719,462 base market value), Novartis AG-REG (US\$ 6,920,761), Gilead Sciences (US\$ 2,920,011 base market value), GlaxoSmith-Kline (US\$ 1,589,576 base market value), BASF (US\$ 4,909,767), Abbott Laboratories (US\$ 507,483), Roche (US\$ 7,760,738), Novo Nordisk A/S B (US\$ 6,208,992), Merck (US\$ 782,994). Tax returns also reveal that the Trust has investments in major insurance companies.²² Since the Gates Foundation earns its revenue from the Trust, and both entities are managed by the same set of people, there is no arm’s length between the Trust and the Foundation which should not therefore have been granted official relations status.

Meanwhile, the World Health Assembly Resolution 69.10, which adopted FENSA, prohibits staff secondment from NGOs, academia and philanthropic foundations in the top management and sensitive posts. In a document tabled to Member States at the May 2017 World Health Assembly, the WHO Secretariat changed the words “sensitive posts” to “validation and approval of norms and standard setting”. If this is accepted, secondments would be possible even for the preparation of norms and standard settings.

19 http://apps.who.int/gb/NGO/pdf/B136_NGO_11-en.pdf.

20 http://apps.who.int/gb/NGO/pdf/B136_NGO_12-en.pdf.

21 WHO Doc. Resolution WHA69.10, p. 7.

22 www.gatesfoundation.org/Who-We-Are/General-Information/Financials.

Finally, there is also a conflict of interests with regard to the implementation of FENSA. The director in charge of FENSA implementation is at the same time in charge of resource mobilization and partnerships, in conflict with its gatekeeper role to regulate non-State actor engagement.

Conclusion

In light of the above discussion, it is clear that most partnerships freely allow the participation of the private sector, especially big corporations. In the absence of a clear framework to avoid undue influence, these partnerships could be used to pursue corporate interests while projecting themselves as initiatives for the achievement of SDGs. Since SDG 17 does not contain any safeguards against undue influence from the corporate sector in implementing the goals it is important to advocate for such a framework.

In addition, WHO, which is an important agency to provide assistance to Member States for the implementation of SDGs, suffers from structural problems that increase its vulnerability to corporate influence at the costs of public health and public interest. Even though FENSA places some restrictions on engagement with non-State actors, especially the private sector, there are landmines in the Secretariat's implementation of FENSA. Therefore explicit safeguards and constant vigilant monitoring and advocacy against corporate influence are necessary.

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K M Gopakumar is Legal Advisor and Senior Researcher with the Third World Network (TWN)

SDG 4

Cashing in on SDG 4

BY ANTONIA WULFF, EDUCATION INTERNATIONAL (EI)

SDG 4 on education and target 4.1 to ensure young people “complete free primary and secondary education” has so far been reflected mainly in the mobilization of teachers unions and civil society organizations against so-called ‘low-fee’ private schools – notably those run by Bridge International Academies and against the World Bank’s support for these profiteers in education. Yet, this is only one of the dimensions of privatization and commercialization that requires scrutiny within the realization of SDG 4.

SDG 4 could be summarized as more education of a better quality for all. The MDG on universal enrollment in primary education triggered a push to get as many children in school as soon as possible, leading in many cases to systems that could not keep up with the expansion, and to a diversification of provision. This, in combination with States’ failure to regulate and secure quality standards and decent working conditions for teachers, often led to education of poor quality.

Consequently, this time around, quality and equity are at the centre of the 2030 Agenda. The progress that is to be made at different levels of education is supported by specific commitments to safe learning environments and qualified teachers. Importantly, following the positive results of abolishing tuition fees to achieve MDG 2 on education, primary and secondary education is to be made free.

However, Member States stubbornly refused to learn the part of the lesson of MDG 2 that pointed to public provision and regulation of education as key to both equity and quality. Despite a significant civil society mobilization during the post-2015 negotiations, our efforts to secure an explicit commitment to public education failed, and so did efforts to protect public services from privatization and public-private partnerships (PPPs).

Making education pay

Indirectly, the 2030 Agenda encourages private sector participation in education: for instance, investment by the UK Department for International Development (DFID) in private, fee-paying profit-making education will be understood and treated as falling within the UK’s contribution to SDG implementation. At the same time, the SDGs in general and particularly in terms of means of implementation, represent a shift in the approach to financing where countries in sorting out their own financing are expected to open the door to new forms of private-sector engagement.

The mushrooming of private schools has been spearheaded by the emergence of so-called ‘low-fee’ private schools – or, as they should be categorized: fee-charging, profit-making schools. A striking example of this trend is Bridge International Academies, which operates over 500 nursery and primary schools with over 100,000 pupils in Kenya, Uganda, Nigeria, Liberia and India. Their business model is based on the use of unqualified teachers who rigidly following scripted and standardized, tablet-based lesson plans, leaving no room for the pedagogical processes that characterize a quality education.

Last year, the Ugandan government shut down 63 Bridge schools due to unfulfilled legal and educational requirements, including the use of unqualified teachers, and poor sanitation.¹

Saving costs through the use of cheaper teachers and technology is not uncommon; what is shocking here is the investment and support of actors such as the World Bank, DFID, the British multinational publishing and education company Pearson, the Bill and Melinda Gates Foundation, and Mark Zuckerberg.

On one side of this coin are the governments who are keen to cut costs. These cost-cutting efforts can be observed across the globe, whether it is the freezing of salaries of public sector workers and the closing of public schools, the introduction of education voucher schemes, or the privatization of schools as well as education support services – such as food services being outsourced to private companies who replace school canteens and staff with giant microwave ovens and pre-prepared frozen foods.

The implications of these actions for the realization of the right to education vary. In Kenya, sending three children to a so-called low-cost Bridge school has been shown to amount to between 44 and 138 percent of the household income of a poor family, forcing families to choose which child goes to school, and frequently reproducing structures of poverty and inequality.² While the outsourcing of provision may seem like a financially smart move in the short term, these measures undermine the equity and quality of national education systems.

On the other side of the coin is an evolving global education market, currently valued at US\$ 4.3 trillion and expected to grow significantly in the coming years.³ This is partially driven by venture capital and private investment firms, some of whom invest in companies such as Bridge International Academies,

for instance. But there are also local actors who have spotted a potentially lucrative domestic market; for instance, the Omega schools in Ghana charge approximately US\$ 0.65 a day in tuition, which amounts to 41 percent of the national minimum wage, and excludes the indirect costs of education, such as uniforms, school meals, materials, and transport.⁴

Interestingly, 42 percent of the non-state actors engaged in the education of Syrian refugees are businesses and private foundations, and 76 percent of them have their headquarters in the global North. While none of these actors support fee-charging education, some of them are profit-driven in their motivations and approach refugee education as a market.⁵ However, several of these private actors also frame their work as human-rights based, which raises interesting questions about the generalized use and misuse of a rights discourse.

Reducing education to test results

If there was one figure that came to shape the formulation of SDG 4, it was the 250 million children that UNESCO reported could neither read nor write after four years of schooling.⁶ A shocking figure, it questioned not only the cherished progress in education under the MDGs but also the whole point of education: what is the purpose of going to school if you do not learn anything?

While there were obvious structural reasons for this poor quality, as pointed out for example by feminists, who sought more attention to retention and completion of quality education, the subsequent push for ‘learning’ was not in fact constituency-based or grassroots-driven, but a direct consequence of private sector funding available to those advocating for a ‘learning goal’. This meant that a number of civil society organizations were funded to advocate for a goal along the lines of “all children are able to read and write by 2030.”

1 Statement by Permanent Secretary of Ugandan Ministry of Education on 9 November 2016 (<http://bit.ly/2fEm54Z>).

2 Education International/Kenya National Union of Teachers (2016), p. 50.

3 Robertson/Komljenovic (2016).

4 Table prepared by P. Srivastava in 2015: <http://bit.ly/2praAnx>.

5 Menashy/Zakharia (2017).

6 UNESCO (2012), pp. 124–126.

The primary education conundrum in Africa: between corporate capture and public challenges

BY AIDAN EYAKUZE, TWaweza East Africa

A colleague, with a long career in Tanzania's public education system as a teacher and school inspector under his belt, visited a school in a rural district to check on whether the teachers were present at school and teaching in the classroom. When he walked into a Standard Two class, he found about 50 eight-year olds sitting there, unsupervised and untaught. They did not know where their teacher was. He went to investigate and the head teacher could not explain the teacher's absence either.

A few minutes later, my colleague returned to the class, to find the children in fits of laughter. Their teacher, sporting shoeless, muddy feet and looking rather sheepish, had returned and was standing at the front of the classroom. "You were not here a few moments ago. How did you get in?" my colleague asked. "I will be honest," the teacher answered. "I was harvesting potatoes on my farm not far from here. When I was told that a 4WD vehicle had arrived, I thought it was some ministry officials. Fearing for my job, I ran back as fast as I could and climbed into the class through that window."

Hilarious as it was, the early, largely negative lesson in citizen-

ship that the class of eight-year old Tanzanians was receiving from their teacher was simply this: as a public servant, if you can avoid discovery and potential dismissal, it is fine to shirk your duty and to focus on your personal business. Would things be better if schools were run by the private sector?

The private provision of public education services, particularly those with no, or very low fees, tends to be viewed with deep suspicion by the global education rights movement. The Liberian government's invitation in January 2016 to eight private actors to run 93 of their public primary schools, fee-free to the users, attracted sharp criticism,¹ faulting it in part for "spending twice as much in the pilot program schools per student as they do public schools".

In November 2016, the High Court in Uganda ordered the closure of 63 low-cost Bridge International Academies for "having unsanitary teaching conditions and unqualified teachers", to the dismay of the private schools' pupils and

parents.² The firm's 405 schools in Kenya risked the same fate soon thereafter.³

While the debate rages on the effectiveness of low-cost primary schools to deliver learning, it seems settled in favour of high-cost private schools. The question arises whether less well-off Africans ought to have the same choices for where to send their children to school as do their wealthier compatriots, or whether they are at a disproportionately higher risk of corporate capture of their right to education, and are therefore deserving of well-meaning protection from capitalist rapaciousness.

Some recent facts from Tanzania on the performance of the public education system are sobering.⁴ Take access. Only 19 percent of children attend private primary school, and another 19 percent of Tanzania's children are not

1 The Global Initiative for Economic, Social and Cultural Rights (2017).

2 www.theguardian.com/global-development/2016/nov/04/judge-orders-closure-low-cost-bridge-international-academies-uganda and Green (2016).

3 www.standardmedia.co.ke/article/2000226207/government-promises-crackdown-as-teachers-push-for-ban-on-uk-backed-private-schools.

4 Uwezo (2017).

enrolled in an educational institution of any kind. On the issue of quality, the learning outcomes for those who are enrolled are abysmal – in 2015, just two in five nine-to-thirteen-year olds had basic reading (Kiswahili and English) and numeracy skills, a figure that has not budged in five years. Almost half of Tanzania’s 11-year olds are at least one academic year behind where they should be at their age, a sharp deterioration from 2011 when ‘just’ one in three were a year behind. Fee-free universal public primary schooling has brought with it such a plethora of quality-related challenges, that some parents near Dodoma, the country’s capital in central Tanzania, opted to take their children out of school altogether.

The jury is still out on whether the low-cost private provision of primary education is of higher pedagogical quality and achieves better outcomes. An evaluation commissioned by Bridge International Academies found that Bridge students in Kenya outperformed peers in neighbouring public schools in reading, listening comprehension, quantity discrimination and word problems.⁵ An independent impact evaluation of Bridge schools in Kenya is ongoing with results due after 2018.⁶

We are left with a conundrum.

The public provision of primary education results in large proportions of children failing to grasp basic literacy and numeracy skills. While it may be easy to champion it from a right-based perspective, its poor outcomes defy optimism.

However, low-cost private provision of primary education has yet to prove its ability to produce consistently and robustly superior learning outcomes. At the same time, advocates for higher-cost private provision must concede that the aspiration for an equitable society would evaporate as the intergenerational transmission of existing inequalities consolidates by replicating disparities in accessing quality education.

Advocating for overall system reform to address the conundrum is handicapped by the fact that we do not know how to change the system so that it produces better results for everyone. A large-scale research programme in several African and Asian countries is trying to answer this vital question: “How can education systems be reformed to deliver better learning for all?”⁷ Comprehensive results are at least half a decade away.

Clearly, system reform is unlikely to happen soon or quickly. Yet our children cannot wait. Public and private provision of basic education must continue to co-exist. But how can the two sets of players

work together to ensure that all children get a good quality education? How can they collaborate to nurture engaged and engaging citizens of the future? How can they revitalize the mission of pursuing a more equal society?

Perhaps the fundamental challenge is to vigorously assert that primary education is such an essential public good that it ought not to be privatized and commoditized. The argument is being made that as the increasing involvement of for-profit actors in education raises concerns about equity, the State has a role to play as “guarantor of last resort of education as a human right, i.e., non-discriminatory and equitable education be provided for free, at least at the primary level”.⁸

Ultimately, the bigger portion of the responsibility load must be borne by a State that represents the expression of citizens’ collective will. The public primary school is the first place that children encounter the organized State. The nature and quality of that encounter will leave a lasting impression on their young minds, and will inexorably shape their sense of citizenship.

A teacher who jumps into a classroom through a window with muddy feet may be momentarily hilarious. In the long run, it is not funny at all.

5 Kwauk/Robinson (2016).

6 www.povertyactionlab.org/evaluation/impact-evaluation-bridge-international-academies.

7 www.riseprogramme.org/.

8 Daviet (2016).

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Aidan Eyakuze is Executive Director of Twaweza East Africa. Twaweza means “we can make it happen” in Swahili.

This is of course a hard ambition to shoot down, but learning outcomes are not synonymous with quality education, nor is measurement in itself a solution to a lack of learning. On the contrary, a narrow focus on outcomes in literacy and numeracy has been proven to reduce the scope and depth of education provided, which threatens the very purpose of education. Without entering into semantics, I would also argue that there is a difference between learning and education; while the former is an integral part of the latter, it is the latter that implies a system and a society.

The push for learning is consistent with national policies introduced across the globe, through which the development of education systems is increasingly driven by processes of standardization and ‘datafication’. These reforms build on a number of assumptions: firstly, the assumption that education systems currently are both expensive and ineffective. Secondly, the assumption that all processes of teaching and learning can be standardized, measured and turned into data. And thirdly, the assumption that the data can be used to measure the efforts and performance of students as well as teachers, and, importantly, of systems as a whole, subjecting them to simplified cost-benefit analyses.

Both standardization and accountability can be tools for ensuring equity and quality across systems,

as many of us have also argued in relation to the implementation and monitoring of the 2030 Agenda. But the tools that are now being introduced are not designed to help hold governments to account for their investment or lack thereof in equitable, quality education systems.

On the contrary, the tools being put forward tend to be based on large-scale, standardized assessments, often designed and administered by edu-businesses. It is, for instance, Pearson, the largest education company and book publisher in the world, that is developing the frameworks for the OECD’s Programme for International Student Assessment (PISA), which means that they are working out how literacy, maths, science and ‘global competences’ are to be tested. The PISA test is taken by 15-year olds in more than 70 countries; the OECD is currently developing a PISA for Development, i.e. a similar assessment but for so-called developing countries.

Pearson, which describes itself as “the world’s learning company”, is a good example of a multinational company with business interests in assessments as well as in teaching and learning materials, online tools, and teacher training.⁷ This means that they

⁷ See www.pearson.com.

have several and intricately interlinked interests in what PISA measures.

Meanwhile, data-driven and performance-based systems are also facilitating the creation of an education market amongst schools, where different schools are competing in the race for excellence (as narrowly defined by these systems). Results of standardized tests are used to rank schools as well as teachers, and are increasingly informing both budget allocations and teacher pay, all under the broader discourse of the right to choose the best education.

What, then, are the classroom implications of such data-driven and performance-based systems? By putting both teachers and students to the test, teachers are left with diminishing professional autonomy and freedom, and are being pressured into teaching to the test rather than catering to the needs of the students. Among the more extreme examples are schools that have simply asked some of their students to stay at home on test days. Curricula have also been shown to be unduly narrowed as a consequence of a dogmatic focus on specific testing regimes, leaving little time – or money – for arts, culture, or physical education.⁸ The great paradox here is that this also marginalizes and deprioritizes the urgently needed education for sustainable development, human rights, and global citizenship.

The deficiency of current measures

These trends are reinforced by the global indicator framework for the SDGs. Member States explicitly favour outcome indicators – which, incidentally, favour rich countries as they have had a head start – and for the education goal, this of course translates into learning outcomes.

While the right to education lays down a number of standards to which Member States are obliged to adhere, several SDG targets refer to concepts within education for which there are no global standards. This despite the global indicator framework being based upon such standards. Target 4.1 – on comple-

tion of free quality primary and secondary education leading to relevant and effective learning outcomes – has, for example, a global indicator on proficiency in literacy and numeracy, which means that a standard will have to be developed for SDG 4 to be successfully realized.

This is symptomatic of the tendency to perceive problems through the narrow lens of the individual, ignoring structural concerns and the responsibilities of duty-bearers. The irony is that measuring proficiency at the global level makes little sense; a global metric cannot take contextual factors into account, making it difficult to interpret the results. Moreover, not being aligned to national policy and curricula, the metric cannot be used to evaluate or inform policy development, or support classroom interventions. What it is likely to do is pit countries and systems against each other, and push systems in a direction that may be far from a country's particular needs and priorities.

The need for rights-based monitoring

SDG 4 was celebrated in the education community for adhering to the *progressive realization* of free education beyond primary, as laid out within the right to education. But this historic commitment to free education at the intergovernmental level has, thus far, only been matched by an increase in privately provided, fee-charging education, particularly targeting those who are least able to pay. Paradoxically, the current SDG architecture does not allow for any scrutiny of such developments. The indicators are neither rights-based, nor in accordance with the full scope of the targets, and Member States are anyway free to choose what they report on.

What should be monitored under the 2030 Agenda is the enjoyment of the right by rights-holders as well as the degree of compliance with human rights obligations of States. Instead, in the case of education, governments can report on enrollment figures and learning outcomes, without disclosing the provider of education, or costs to households. This also applies in the case of donor-supported private education. The impoverishment of communities and the furthering of inequality caused by UK-funded private fee-charging education overseas will not be spotted in any of

⁸ Westheimer (2015), p. 14.

the current monitoring mechanisms. This is particularly ironic given that the result of this ‘contribution’ is likely to directly undermine the implementation of the goals on gender equality (SDG 5), decent work (SDG 8) and inequality (SDG 10), to mention but a few.

At the same time, the mobilization against the mushrooming of private schools has to be accompanied by efforts to interrogate the social and economic structures and forces that have made these developments possible. There is no question that sustained fiscal austerity has an impact on the quality of public services, but we have also to recognize that there is a growing demand for private alternatives, characterized by a consumerist attitude to education. To many, progress equals the ability to choose – or in the case of education, the ability to put your children in private school.

But what the example of Bridge International Academies so clearly shows is that ‘choice’ is not equal but is by default reproducing the very patterns of inequality that it claims to defeat. When States abdicate their duty to ensure quality education for all, the de facto choice offered to different segments of society is an education where the quality tends to match social and economic status, effectively further cementing and reproducing inequality.

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Antonia Wulff is a Coordinator at Education International (EI), the world federation of teachers’ unions.

SDG 5

Corporate power: a risky threat looming over the fulfilment of women's human rights

BY CORINA RODRÍGUEZ ENRÍQUEZ, DEVELOPMENT ALTERNATIVES WITH WOMEN FOR A NEW ERA (DAWN)

There are a number of reasons to believe that the 2030 Agenda and the Sustainable Development Goals (SDGs) are a step forward for the realization of women's human rights.¹ Not only are there several, interrelated targets under the stand-alone goal to achieve gender equality and empower all women and girls (SDG 5), there are also specific targets under 11 other goals that link women's rights to the three dimensions of sustainable development (social, economic and environmental). However, the SDGs do not explicitly recognize the links between women's human rights, gender equality, and needed structural reforms in global economic governance and policies. One of the dimensions of global economic dynamics that must be urgently addressed is the role of the private sector, and particularly the limits that need to be established to corporate power.

The role of the private sector in the global economy and finance is undeniable. Corporations provide the goods and services that people need and desire. To do so, they hire workers who find private employment to be the main avenue to access income and a level of social protection, however limited that may be. Enterprises also undertake investment to promote economic activities. They are expected to pay taxes that are the basis for funding public policies. However, the increasing concentration of capital and wealth, the race to the bottom in labour and tax standards driven by competitive pressures, as well as the corporate capture of public decision-making spaces, make this role a problematic one. As GPF colleagues Barbara Adams and Jens Martens point out, there is globally "a growing reliance on corporate-led solutions to global problems".² But in the context of financialized globalization and the promotion and dominance of self-regulation, it is fair to ask whether the private

sector contributes more to the problems than to their solutions.

Threats posed by corporate power to the realization of women's human rights

The SDGs, while recognizing the relevant role of the private sector as development actor, do not really tackle the challenge of corporate power and its implications for gender equality and women's empowerment. In fact, by failing to include either a stand-alone goal or specific targets in each of the goals on private sector regulation, they reinforce the assumption that there are automatic positive synergies between private sector activities and development.

However, the threat posed by corporate power to the realization of women's human rights has the following key dimensions, among many:

- the negative impact of the drive towards competitiveness and rising productivity on women's working conditions;

1 See DAWN (2016).

2 Adams/Martens (2015), p. 5.

- the impact of corporate lobbying and tax dodging in limiting public revenues as well as policy space;
- the spreading of the belief that corporations are (or may be) gender sensitive, and of the difficult discourse on corporate social responsibility.

Unless these issues are addressed, the goal of achieving gender equality and empowering all women and girls may remain a dream.

Negative impact of the drive towards competitiveness

Feminist economics literature has contributed empirical analysis that questions the mainstream assumption that liberalization of the economy, with its pressure for competitiveness and productivity, will produce a leveling of wages across the world and will reduce poverty and inequality.³ For example, in the 1980s, the development strategy implemented in many countries in Latin America (mostly Mexico and Central America) based on export-led manufacturing factories (known as ‘maquilas’), have proved to produce little improvement in employment, a limited contribution to economic growth and no gain in technology transfer to local productive systems. While the maquilas have opened economic opportunities for some women who otherwise would have none, these have been characterized by precarious working conditions and overall low wages. Besides, the strategy itself proved to be unsustainable, since much foreign investment migrated to other regions in the world (South Asia and China) once economic incentives (e.g., labour standards, labour force capacities, available infrastructure, tax breaks) were more attractive. In brief, women’s lower wages and poorer labor conditions worked as a major advantage for corporations.

While experiences and results vary among countries, economic structures, labour market characteristics and groups of women and men, the main conclusion is that the less negative experiences (or the most successful ones) were those where the regulation

of private sector investment was more robust and/or was accompanied by public policies in the area of social services, social infrastructure and income maintenance policies.

Impact of corporate lobbying and tax dodging

Corporate power is also expressed in the influence of corporations and corporate organizations, nationally and globally, in setting the development agenda and giving priority to certain development strategies. Currently, the paradigm of public-private partnership (PPPs) is being promoted not only at the national level but also by the UN development system as the best way to advance investment in areas of special relevance for women’s lives and human rights, as for example, social infrastructure and social services. PPPs are promoted on the assumption that governments are unable or unwilling to invest in expanding access to basic public goods. It is believed that the private sector can introduce technology and innovation to make public service delivery more efficient. A further argument is that PPPs can be a way of developing local private sector capabilities, by joint ventures between small local enterprises and multinational corporations. PPPs might also be a way to improve public sector institutional capacities, both by skill transfers as well as by public sector adopting business criteria of efficiency and effectiveness.⁴

This perspective is questionable from the point of view of the ability of PPPs to actually contribute to narrowing gender gaps and improving women’s lives. Most of the existing evaluations of PPPs are restricted to assessment of their efficiency and effectiveness in management, their capacity to transfer technology and knowledge, their contribution to financing the delivery of social services. The results of the assessments are not at all conclusive on these subjects.⁵ On the contrary, there is evidence of the negative effects of PPPs, especially in terms of the fiscal risks (overcharges and fiscal unsustainability) that should be taken into account when analysing the net effects.

3 For the case of Latin America, see Ciedur (2007), Giosa Zuazúa and Rodríguez Enríquez (2010), Seguino and Braustein (2012).

4 Rodríguez Enríquez (2017).

5 Serafini (forthcoming).

An emblematic case that summarizes this reality is the one of a PPP in the health sector in Lesotho, established to design, build, and provide hospital services. Three years after the hospital opened (in 2011), government expenses grew by 64 percent, and the budget for this hospital represented half of the entire public budget for the health sector.⁶ Moreover, many PPPs, using a private sector approach to service delivery, promote user fees for essential social services, which can result in the exclusion of poorer women.

The promotion of the private sector as a rescuer of the public sector's weak financing capacity hides the real root of the limitations of many governments in generating revenue. Corporations are in fact most responsible for the lack of fiscal space for national governments, due to their responsibility for tax evasion and avoidance. The failure of corporations to pay taxes in the countries where they operate is a major reason for governments' lack of fiscal space to implement policies that would protect and promote women's human rights.

Once again, the logic of the global economy promotes the race to the bottom in tax standards in developing countries. This is furthered by the double standard of countries in the global North that apply some tax measures in their own countries but promote little or none in the rest of the world. Multinational corporations and the network of lawyers and accountants that work for them, use all available legal loopholes to avoid paying taxes, on top of the simple evasion that many enterprises are used to in countries in the global South. In brief, the need of many governments to give favourable tax treatment to multinational companies as a way to attract foreign direct investment, together with corporate tax-dodging implies that considerable public revenue is forgone. When a State does not mobilize sufficient resources, and has repeated budget shortfalls, it can only provide insufficient and low-quality services (e.g., in education, health, sanitation, public transport, social infrastructure, care services). When fiscal space is limited in this way, evidence shows that gender inequalities are perpetuated or even exacerbated, which in turn

limits improvement in women's lives or the narrowing of gender gaps.⁷

The resistance of countries of the global North to accept the creation of an intergovernmental UN body on tax matters, with the participation of every country, is a clear indication of the lack of political will to tackle this issue. As an example of this resistance, Tax Justice Network highlights the case of Swiss tax havens judged by CEDAW to be a violation of women's human rights. This case, submitted to CEDAW by CESR, Alliance Sud, NYU Law School Global Justice Clinic, Public Eye and the Tax Justice Network argued that Switzerland, as a party to CEDAW, is obligated to prevent private sector activities that undermine women's human rights outside its territorial borders. While Switzerland has issued a report confirming the impact on developing countries of illicit financial flows, describing them as 'nefarious,' and has pledged to join an international effort to eliminate the causes of such flows, "astoundingly, the government has refused to conduct an independent assessment of the ways in which its own policies—in particular its bank secrecy laws, criminal prosecution of whistle blowers, weak reporting standards and overseas tax abuse—provide fertile ground for tax abuse overseas."⁸

Countries like Switzerland are reluctant to undertake independent, participatory and periodic impact assessments of the extraterritorial effects of their financial secrecy and tax policies, as well as of the spillover effects of their macroeconomic policies.

Misleading discourse on corporate social responsibility

Corporations have also developed their own understanding of the positive relationship between women's empowerment, gender equity and development. Their view can be seen at the least as a double standard, if not as simply hypocrisy. For one thing,

6 Oxfam (2014).

7 Grondona et al. (2016).

8 www.taxjustice.net/2016/12/01/un-criticises-switzerland-pressure-mounts-human-rights-impacts-tax-havens; see also Adams and Judd (2017).

‘corporate social responsibility’ initiatives designed to improve women’s lives are all too often rooted in the belief that women’s economic empowerment amounts essentially to women’s entrepreneurship. As AWID points out: “Investing in women and girls” is limited to promoting micro-credit and micro-entrepreneurships programmes, seen as “magic wands” that will empower women regardless of the power structures that are at the root of gender inequality.⁹ Concrete experiences are clear about the limits of the potential of these initiatives.¹⁰

On the other hand, corporate social responsibility initiatives are not held accountable for their unwillingness to tackle the roots of inequality. For example, the UN Global Compact outlined the initiatives undertaken by multinational corporations to addressing poverty, including moves to equalize opportunities for women.¹¹ However, many of the Global Compact signatories are often reluctant to pay a living wage to their employees or to eliminate tax evasion and tax avoidance practices.

In order for SDG 5 to be achieved, the time has come for private corporations and governments to stop using symbolic policies and practices with limited impacts as a substitute for the real political and economic commitment that is needed to overcome the structural barriers to women’s and girls’ empowerment, human rights and gender equality.

9 Awid (2014), p.4.

10 Kabeer (2001).

11 The UN Global Compact is a voluntary corporate responsibility initiative designed to ‘mainstream’ a set of ten principles related to human rights, labour, the environment and anti corruption in corporate activities. It also promotes the Women’s Empowerment Principles, a partnership initiative that provides “an established roadmap for business on how to empower women in the workplace, marketplace and community” (www.weprinciples.org/).

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Corina Rodríguez Enríquez is a member of the Executive Committee of Development Alternatives with Women for a New Era (DAWN) and is on DAWN's Political Economy of Globalization (PEG) team

SDG 6

Ensuring just and sustainable water infrastructure

BY MEERA KARUNANATHAN, BLUE PLANET PROJECT AND SUSAN SPONK, UNIVERSITY OF OTTAWA¹

Public services take care of our most essential needs, but around the world many communities continue to fight to fully enjoy their rights to these services. Globally, communities have fought against private, for-profit finance models for essential public services like water and sanitation. Experience has shown that strong quality water and sanitation services that address the needs of all without discrimination, are accountable to the people they serve, and are responsible towards watersheds, must be publicly owned, financed and operated.

Despite growing evidence that the privatization of water and sanitation services has failed communities, proponents of the model often cite the lack of public funding as a reason to bring in private investors. This chapter challenges the myths surrounding private financing and outlines some key considerations for community activists and decision-makers seeking to promote or protect fair public financing models for water and sanitation services. While it provides an overview of strategies for public financing that are working for local governments around the world, it makes clear that there is much work to be done globally in order to establish equitable tax regimes to allow for independent self-sustaining public financing models. Campaigns for public financing for water and sanitation must be combined with efforts to ensure global tax justice.

How has private financing failed?

The idea that private financing is desirable is a powerful myth. Starting in the 1990s, cash-strapped governments began turning to private investors, hoping they would build or renovate much-needed infrastructure to reach underserved populations, such as low-income users or scattered populations in rural areas. Often multilateral lenders, such as the World Bank, forced governments to privatize services in exchange for loans needed to stabilize their economies. In other cases, governments privatized services hoping to attract new sources of financing and benefit from private sector knowledge.

Today, much of the empirical research shows that private sector participation has not only fallen short of these goals, it has resulted in governments failing in their obligations to ensure safe drinking water and sanitation for all.² In 2006, the World Bank concluded that private participation in infrastructure “has disappointed – playing a far less significant role in

¹ This text was originally published as part of the Water Justice Toolkit in 2016 (<http://www.blueplanetproject.net/index.php/water-justice-toolkit/>). The authors thank David Boys, David Hall and Shiney Varghese for their contributions.

² Hall/Lobina (2012).

financing infrastructure in cities than was hoped for [...].”³

This conclusion has to do with simple economics. Water and sanitation infrastructure requires high up-front costs. In order to recover these costs and make a profit, the private sector must either charge rates that are unaffordable to large segments of the population, or cut corners over the long run, affecting the quality of services, environmental standards and labour rights. In the 1990s, private companies took over Jakarta’s water services with the promise of a 22 percent return on investment in return for increasing service coverage and reducing water losses. In 2015, a Jakarta district court annulled the private concessions, arguing that the human right to water and sanitation had been violated, pointing to the failure of the private sector to live up to its promises.

In France, the private sector resorted to accounting tricks, only partially disclosing profits within municipal financial reports in order to avoid reinvesting proceeds. In Africa, where the needs for investment are greatest, the private sector has proven unwilling and unable to meet the needs of populations in terms of infrastructure and services. The public sector remains the greatest source of finance.⁴

Private investors must be lured with policies that protect their profits, particularly in markets that are deemed risky, or that are in most need of new infrastructure. Such policies often end up violating the rights of poor people. For example, in the 1990s, full cost recovery tariff policies in South Africa led to the introduction of pre-paid water metres. When people could no longer afford to pay, they returned to using unsafe sources of water, resulting in a cholera epidemic that killed hundreds of people.

Private companies have also pushed governments to sign investment treaties that protect the corporate right to profit over social needs. In Argentina, a bilateral investment treaty (BIT) with France allowed French multinational water companies to sue the

government when it refused to raise water rates in the context of the country’s 2001–2002 financial crisis. Often, multinational corporations will create a shell company to benefit from an agreement when the country they are investing in does not have a BIT with its home base, as was the case with Suez company in Bolivia, which created a Dutch subsidiary in the absence of an agreement with its home base, France.

Finally, relying on private, external finance sources also exposes the government to currency risk. Multinational corporations usually insist on fixing water rates in US dollars, which can be extremely expensive in the event of currency devaluation, as noted in the Argentine case mentioned above. Corporations are simply less able to adapt to local needs and circumstances since they have one legal mandate – to return profits to their shareholders.

Public financing is possible

Water and sewage needs can be met through public financing. Public financing continues to be the main source of financing for water and sewage infrastructure in the world.

In high-income countries, universal water and sanitation infrastructure was built by the public sector. In the context of rapid urbanization and industrial development in 19th century Europe, water utilities were created or taken over by municipal governments in nearly all countries, including the UK. Even in France, where private operators have been present in the sector since the mid-19th century, it was municipal governments that financed the extension of the network. As a Public Services International Research Unit (PSIRU) report concludes, water systems around the world have been built and extended almost exclusively by the public sector.⁵

In middle-income countries in Africa, Asia, the Middle East and Latin America, the role of the State in investing in infrastructure is explicitly recognized as a central element in development and economic growth. In Africa, restoring the role of the State in fi-

3 Quoted in *ibid.*, p. 7.

4 *Ibid.*

5 *Ibid.*, p. 4.

Water in the MENA region: privatization amid scarcity

BY HOUSING AND LAND RIGHTS NETWORK – HABITAT INTERNATIONAL COALITION (CAIRO)

At the historic confluence of civilizations, peoples, religions and deeply intermingling cultures, the Middle East and North Africa (MENA) region also features majestic obstacles to achieving SDG 6. The characteristic scarcity of water and the dire consequences of climate change combine with human-made hazards of weak water governance, inequitable distribution, poor infrastructure, the world's highest rate of capital flight, mega projects altering major water courses, as well as creeping privatization of this vital resource.¹

While water may be a subject of potential conflict in all regions, only in Palestine is it the object of institutionalized material discrimination,² whereby the Israeli parastatal Mekorot is chartered to dispossess and administer the water resources of the indigenous Palestinian people and deny their equitable access to it, overtly privileging the foreign immigrant and settler population.³ Other warring parties in the region mimic such governance models, using food and water as weapons.

Mekorot's services marketed to complicit local governments in other countries⁴ distort target 6.a of the SDGs that calls for expanded international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes.

Rather than developing the human right to water approach, central and local governments increasingly devolve water and sanitation services to private interests. Although Lebanon's Decree No.144/1925 considers water resources as public domain, its government has no public policy and unified legislation regulating the management of water resources. Public institutions lack sufficient capacity to ensure everyone's water services, while 80 percent of public water supplies are polluted at the source or in distribution.⁵

The privatization of the water sector in Lebanon has ignored the human right to water and corresponding state obligations.⁶

Publicly marketed projects such as Lebanon's "Blue Gold" confers a public asset to profit-seeking local and off-shore business and private banks,⁷ while also threatening acquired water rights. Similar processes in Morocco and Mauritania have sparked mass protests.⁸

Meanwhile, other MENA countries with functioning public water-resource management are under domestic and external pressure to surrender this vital and scarce resource to private interests. Despite the recognition that Tunisia's local water-management associations (Groupements de Développement Agricole) have functioned "remarkably well," OECD is pursuing a strategy for small-scale enterprises incrementally to replace them toward the corporate capture of public water.⁹

In an otherwise challenging natural and political environment, the dominant trend militates against

1 Luhebe/al-Shamri (2015).

2 Report to the French National Assembly "La géopolitique de l'eau" (rapport No. 4070, 13 December 2011, www.assemblee-nationale.fr/13/rap-info/i4070.asp), p. 30.

3 Rabi (2014).

4 "Israel's Mekorot Targets World Water Market" (HIC-MENA News [by Reuters], 10 June 2012, www.hlrn.org/news.php?id=pWhnZw==#.WQYEZ2y1tuk).

5 HIC-HLRN (2008).

6 Arab NGO Network for Development et al. (2015).

7 Mosleh (2013) and EU Water Initiative/OECD (2011).

8 HIC-HLRN (2012).

9 "OECD Calls for Privatizing Tunisia's Water" (Land Times, Issue 11, November 2014, <http://landtimes.landpedia.org/newsdes.php?id=pWhp&catid=ow=&edition=o2k=>) and HIC-MENA News, 27 October 2014 (www.hlrn.org/news.php?id=pmlsag==#.WQYEMGy1tuk).

the achievement of SDG 6, particularly the means of implementation requiring greater participation of local communities in water and sanitation management (target 6.b). A glimpse at MENA water governance leaves little wonder why some local people perceive conspiracies impeding their democratic development, not least the achievement of SDG 6.¹⁰

10 "Egypt: Privatization Program Raises Fears of Neocolonialism" (HIC-MENA News [Daily Star], 26 July 2007, www.hlrn.org/news.php?id=o29rZA=#.WQyFOWy1tuk).

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Mosleh, Firas Abou (2013): Lebanon's Blue Gold Project: Vote to Privatize Your Water. In: alakhbar (18 December 2013). <http://english.al-akhbar.com/node/17947>

Rabi, Ayman (2014): Water apartheid in Palestine – A crime against humanity? In: The Ecologist (22 March 2014). www.theecologist.org/News/news_analysis/2329259/water_apartheid_in_palestine_a_crime_against_humanity.html

financing infrastructure is seen as a way to break from historically exploitative relationships with donors and private corporations.

Meeting the infrastructure deficit is less expensive than one might think. Research by the PSIRU showed that countries with the highest level of need for drinking water and sewage connections could deliver these services over a 10-year period with less than 1 percent of GDP per year.⁶

Why public financing is better

Before the neoliberal turn, water and sanitation infrastructure was long considered to be a 'public good' because the benefits of water and sanitation

infrastructure are realized at the level of the economy as a whole in terms of improved public health for the entire population over the long term. Saving lives and containing the spread of diseases by providing quality water and sanitation services translate into benefits for the economy as a whole.

Studies documenting experiences of women from around the world show that the consequences of privatization including higher tariffs, greater disconnection rates, declining water quality and lack of decision-making power have a disproportionate effect on poor women who are primarily responsible for managing household needs.⁷ Research from

6 Ibid., p. 13.

7 National Network on Environments and Women's Health (2009).

Dhaka, Bangladesh⁸ and Jakarta, Indonesia⁹ shows that privatization has increased the physical and emotional burden placed on women slum dwellers in those cities.

Finally, public financing is more financially viable than private financing. Ideally the State would finance construction directly from tax revenues. However, if it chooses to borrow, it can do so more cheaply than can the private sector. The public sector pays lower rates of interest on loans than the private sector due to the superior security of tax revenue. From the perspective of banks, private sector lending is actually riskier since the private sector may not be able to secure long-term returns on sunk investments. That is why, without exception, the large expenses associated with building new infrastructure – not just operation and maintenance of existing infrastructure – require financial support from government.

Methods of public financing

Taxes are the most important source of public financing. There are many different options when it comes to designing equitable tax policies. While the below methods are more readily accessible to local governments, it is important to note that central governments have a key role to play in ensuring that local governments have sufficient public revenues to provide quality water and sanitation services and to ensure consistency between poorer and richer neighbourhoods with varying tax bases. In addition, they are responsible for funneling money from international donors. As such, sustainable publicly financed water and sanitation systems rely heavily on strong commitments from central governments.

The main sources of municipal finance are property taxes, service charges/tariffs, fines, and equitable share transfers from central government. Since property taxes are one way to measure asset wealth, this method is one of the most equitable options for municipalities to finance water and sewage infrastructure.

In the UK, for example, the majority of households pay annual charges based on the value of their property rather than the metred consumption of water. Corporations often get away with paying very low property taxes, denying municipalities an important source of revenue. This is in part due to the drive to attract investments from corporations seeking out municipalities offering the lowest property tax rates.¹⁰

There are also creative ways to **cross-subsidize different public services**. In Ecuador, for example, a special tax was levied on telecommunications services, which was transferred to the public water company and used to improve water and sanitation.

Municipalities may use other innovative taxes including a hotel/tourist tax, a sin tax (alcohol, tobacco), a road tax or a carbon tax. The important consideration is that all of these be combined in such a way that all members of the community contribute according to their means, and that the corporate, institutional and wealthy are not able to avoid paying their fair share.

In addition to taxes, high- and middle-income countries have also used **bonds** to finance water and sewage infrastructure. Countries in the global South are also beginning to look at bonds as a source of funding for municipal infrastructure. In India, 25 municipal bonds have been issued since 1997 out of which 17 have financed water and sanitation projects.¹¹ Municipal bonds have also been issued in South Africa,¹² Senegal¹³ and Mexico.

Public banks also have an important role to play in financing infrastructure. As development specialist Thomas Marois argues, State-owned banks have funded public infrastructure projects in countries as diverse as Brazil, China, Costa Rica, India, South Africa, Turkey and Venezuela. He estimates that public banks control 22 percent of total banking assets in emerging countries and 8 percent in ad-

8 Sultana/Mohanty/Miraglia (2013).

9 Karunanathan (2015).

10 Hall/Lobina (2012).

11 Gupta (2013).

12 Brand (2014).

13 Swope/Kassé (2015).

vanced countries, representing a significant source of finance.¹⁴

A 2012 PSIRU study shows that very few countries are unable to publicly finance water and sanitation through national resources.¹⁵ In these cases, **external aid** may supplement public investments in infrastructure. Meeting the water and sewage needs will require better targeting by donor countries from the global North and South.

Water tariffs – better thought of as user fees for services – are not technically a source of public financing. Because they are more sustainable than financing from the private, for-profit sector, tariff strategies must be equitable and comply with human rights standards. For example, a base lifeline supply in South Africa provides households with 6,000 litres of water per month for free before user fees are charged for consumption that exceeds this amount. Given that often, even with such measures, tariffs disproportionately penalize low-income households – particularly those with many people living under one roof, or that have higher water needs due to a large number of children or ill family members – several safeguards need to be in place to ensure that the human right to water and sanitation is not violated, including public participation in decision-making regarding fee structures and measures to ensure that tariffs are affordable to all. They should also include measures that would enable higher-income households to cross-subsidize low-income households. And even with such measures in place, tariffs can only be a supplement for revenue generation through taxation.

In India, the Delhi state administration came to power on a promise of “free basic water” and demonstrated during its first year how quickly this goal could be made a reality. In 2015, Delhi began providing 20,000 litres of “free water” per month to each family, and charging steep tariffs for consumption above that fairly generous amount. This new policy generated greater revenues for the utility that year than previous years.

While the above methods are more readily accessible to local governments, it is important to note that central governments have a key role to play in ensuring that local governments have sufficient public revenues to provide quality water and sanitation services and to ensure consistency between poorer and richer neighbourhoods with varying tax bases. Central governments have much higher powers of taxation through income taxes, consumption taxes, corporate taxes and royalties. In addition they are responsible for funneling money from international donors. As such, sustainable publicly financed water and sanitation systems rely heavily on strong commitments from central governments.

Making public financing work for you

Eliminating the profit motive allows local governments to reinvest in the water and sanitation system and better serve the needs of communities and the environment. When Paris took its water and sanitation services back into public hands, it was able to save 35 million euros while reducing tariffs by 8 percent in the first year.¹⁶ The savings allowed the utility to invest in watershed protection measures and stronger processes for public participation.

The public sector isn’t always perfect – there are many poorly performing public utilities around the world. However, the private sector’s inherently undemocratic, profit-driven nature makes it ill-suited to the responsibility of providing equitable quality water and sanitation services. To reject private financing is to reject the continuous drive to protect or expand profit margins; it means services can become accountable to the communities they serve rather than to shareholders (often in a foreign country). It also ensures that services are not beholden to investment protection treaties that safeguard the markets and profit margins of foreign investors, but rather to national and local public policies, human rights standards and environmental regulations.

However, the battle does not end with eliminating private financing in the sector. Efforts must be made

¹⁴ Marois (2013).

¹⁵ Hall/Lobina (2012).

¹⁶ Pigeon (2012).

to ensure that public financing serves to build more democratic, participatory and accountable systems that serve the needs of communities. Community engagement is a vital component of this process and governments must ensure that mechanisms are set up to effectively involve water users in decision-making. For example, in Paris, a citizens' observatory allows community organizations, water users, researchers and other interested parties to participate in the governance of their water utility.¹⁷ In Venezuela, technical water committees (or mesas técnicas de agua) bring local residents together with representatives of the public water utility to monitor services and help plan state-financed infrastructure development.¹⁸ In both cases, public services were improved by making information more accessible and better engaging the communities served.

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Meera Karunanathan is international water campaigner for the Blue Planet Project, a global initiative of the Council of Canadians aimed at promoting water justice around the world.

Susan Spronk teaches in the School of International Development and Global Studies at the University of Ottawa. She is a research associate with Municipal Services Project and has published several articles on class formation and water politics in Bolivia.

¹⁷ L'eau de Paris (www.eaudeparis.fr/lentreprise-publique/gouvernance/#observatoire_eau).

¹⁸ McMillan/Spronk (2013).

Remunicipalization: putting water back into public hands

BY SATOKO KISHIMOTO¹

Over the past 15 years there has been a significant rise in the number of communities that have taken private water and sanitation services back into public hands – a phenomenon referred to as “remunicipalization”.

What is remunicipalization?

Remunicipalization refers to the return of privatized water supply and sanitation services to public service delivery. More precisely, remunicipalization is the passage of water services from privatization in any of its various forms – including private ownership of assets, outsourcing of services, and public-private partnerships (PPPs) to full public ownership, management and democratic control.

Most cases of remunicipalization around the world have led to the termination of private contracts before they were due to expire. In other cases, local governments have waited until the expiry date to end water privatization.

Between March 2000 and March 2015 researchers documented:

- 235 cases of water remunicipalization in 37 countries, affecting more than 100 million people.
- Locations include Accra (Ghana), Almaty (Kazakhstan), Antalya (Turkey), Bamako (Mali), Bogota (Colombia), Budapest (Hungary), Buenos Aires (Argentina), Conakry (Guinea), Dar es Salaam (Tanzania), Jakarta (Indonesia), Johannesburg (South Africa), Kampala (Uganda), Kuala Lumpur (Malaysia), La Paz (Bolivia), Maputo (Mozambique) and Rabat (Morocco).
- The number of remunicipalizations in high-income countries doubled between 2010 and 2015 (104 cases) compared to between 2005 and 2009 (55 cases).
- Public water operators are joining forces within countries and across borders to facilitate the remunicipalization process.

Why are cities remunicipalizing?

Remunicipalization is often a collective response to the failures of water privatization and PPPs, including lack of infrastructure investments, tariff hikes and environmental hazards. These failures have persuaded communities and policy-makers that the public sector is better placed to provide affordable, accessible, quality services to citizens. The research found that the factors leading to water remunicipalization are similar worldwide, such as:

- Poor performance (Accra, Dar es Salaam, Jakarta)
- Under-investment in infrastructure (Berlin, Germany; Buenos Aires; Latur, India)
- Poor water quality (Rennes, France; Cameron, Canada)
- Disputes over operational costs and price increases (Almaty; Maputo; Santa Fe, USA)
- Soaring water bills (Buenos Aires, Jakarta, La Paz, Kuala Lumpur)
- Environmental hazards (Hamilton, Canada)
- Monitoring difficulties (Atlanta, USA; Berlin; Paris; Arenys de Munt, Spain)

¹ This text is an excerpt from “Remunicipalization: A practical guide for communities and policy makers”, originally published as part of the Water Justice Toolkit in 2016 (www.blueplanetproject.net/index.php/water-justice-toolkit/). The guide contains a comprehensive list of sources and references.

- I Lack of financial transparency (Grenoble, France; Paris; Stuttgart, Germany)
- I Workforce cuts and poor service levels (Antalya, Atlanta)

What have been the results of remunicipalization?

While each case differs, there is strong evidence that remunicipalization brings immediate cost savings, operational effectiveness, increased investment in water systems, and higher levels of transparency. In many instances, remunicipalization has offered a chance to make public water services more accountable and participatory, and to build environmentally sustainable models.

More Resources

Remunicipalization: Putting Water Back into Public Hands. 5-minute video animation (English, Spanish, French, Italian, Portuguese, German, Turkish, Greek): www.youtube.com/watch?v=BISM1TPm_k8

Our Public Water Future: The global experience with remunicipalization (English, French, Catalan, Italian), April 2015: www.tni.org/en/publication/our-publicwater-future

Global list of remunicipalizations, March 2015: www.tni.org/files/download/ourpublicwaterfuture-02_global_list.pdf

Here to Stay: Remunicipalisation as a global trend (English, French, Japanese, Portuguese, Turkish, Chinese and German), November 2014: www.tni.org/en/publication/here-to-stay-waterremunicipalisation-as-a-global-trend www.municipalservicesproject.org/publication/remunicipalisation-putting-water-back-publichands.

Satoko Kishimoto is researcher at the Transnational Institute (TNI) and coordinates the Reclaiming Public Water network.

SDG 7

Peoples' power or how to ensure access to affordable, reliable, sustainable and modern energy for all

BY HANS JH VEROLME, CLIMATE ADVISERS NETWORK

Energy is one of humanity's most basic needs and is rightly recognized in the 2030 Agenda as central to human progress. The global hunger for power seems insatiable and many countries are pursuing power sector development at any cost. The cost will thus be borne by the next generation. The existing mindset to achieve SDG 7, also in relation to the other SDGs, is inadequate. SDG 7 targets

- to ensure universal access to affordable, reliable and modern energy services,
- to increase substantially the share of renewable energy in the global energy mix, and
- to double the global rate of improvement in energy efficiency

will require investment beyond business as usual by households, government at all levels, and businesses large and small. While the role of business is crucial and can be constructive, vested corporate interests are also working to undermine this goal.

Linkages to other SDGs

It is evident that sustainable economic development is not possible without energy provision. SDG 7 is directly relevant to SDG 1 (poverty eradication) and SDG 13 (climate action). But it is highly relevant also to SDGs 2, 8, 10 and 12: food security, economic growth, reducing inequalities and sustainable production and consumption. Indeed, energy is relevant to three quarters of the 169 SDG targets.

An energy revolution?

The limited experience we have shows that the required energy transformation, bringing affordable, clean power to all, can only be successful with a high degree of civil engagement, indeed co-ownership, by ordinary people, households and local communities. This reflects a significant break from the past. Until recently, highly centralized energy systems were super-imposed on national economies, regardless of

the local implications. The investments were large, be they led by the State or by commercial business, and the risks and profits were similarly high.

Today, we witness a paradigm shift with access to energy being a bottom-of-the pyramid business opportunity. Local communities, especially in Africa and Asia, realize they cannot afford to wait for the national grid to arrive. They establish small local energy services companies instead. Thanks to affordable clean technologies this dream becomes reality. For governments, the challenge in the coming decade will be to close the gap between local off-grid development and national grid-based systems in order to bring power to all people.

Globally, an energy transformation is underway which is as much about access to clean energy for all, as about peoples' power versus big business power. The energy transformation is intricately linked to alleviating poverty, by increasing productivity,

climate protection and food security. Gradually, the global energy mix is changing, moving away from biomass-based energy for the poor and fossil fuel-based energy for the rich towards cleaner renewable technologies and greatly improved efficiency. Rapid growth in renewable electricity capacity is not yet matched by a decline in investment in fossil fuel electricity and indeed in its share of the grid.

The State of Electricity Access Report (SEAR) 2017 summarizes well the international expert perspective on how countries can create “a conducive environment for a transformative electricity access roll out, how clean energy fits into the picture, and how emerging and innovative service delivery models can accelerate progress on meeting the SDG goals”.¹ The reference to energy services, as opposed to the ‘simple’ provision of energy is both an acknowledgment of the growing importance of technology, and of the need for energy efficiency and demand-side management in the provision of electricity. According to an analysis by Ernst and Young, today relatively little profit is made in the generation of electricity, the profits are found in energy services.² This reality is challenging energy industries, often State-owned, with several being forced to restructure or seek bankruptcy protection. As we will show below, they will not go without a fight.

What then is the role of business? The relationship of business to SDG 7 is not a simple good versus evil story, but one with many shades of grey. Before highlighting some of the more problematic dimensions of business in relation to SDG 7, it is important to acknowledge that a growing number of entrepreneurs are committed to providing access to clean energy and positively impacting on social development. These industry champions are a bellwether of the future energy system.

Energy poverty

An estimated 1 billion people do not have access to electricity, be it dirty or clean. Until recently, these people had two options: biomass, especially charcoal, or in the case of small business owners the use of polluting generators. Neither option is sustainable.

If one were to believe the world’s biggest (climate) polluters, the road to ending this energy ‘poverty’ is paved with coal. On behalf of US coal giant Peabody, public relations giant Burson-Marsteller designed and executed a massive public relations campaign championing coal as the saviour of the world’s poor. Timed to influence the Brisbane – Australia G20 Summit 2014 and (developing) country preparations for the Paris Climate Change Conference in 2015, the campaign “Advanced Energy for Life” was designed to deflect attention from coal as the single largest climate pollutant to the issue of energy poverty,³ the cure for which being cheap coal-generated electricity for those in the developing world presently without access to energy.

What Peabody did not say when launching the campaign is that it had a major interest in Australian coal and climate policy and was battling for survival. In 2015, it laid off staff and reduced production of metallurgical coal in Australia, its stock price fell by 90 percent. Once the world’s largest coal company, Peabody Energy had to file for Chapter 11 bankruptcy protection in April 2016.⁴ Investors are at the same time responding to a divestment campaign, akin to the one against the Apartheid regime in South Africa, to pull money out of conventional fossil resources.

Despite a recent push by the Trump Administration to remove pollution and other controls affecting the coal industry in the USA, most experts agree coal is

1 World Bank (2017), p. vii.

2 Ernst & Young (2014) and PWC (2014).

3 At the time of writing (May 2017), the campaign has closed, as has its website, but some information is still available on Facebook (www.facebook.com/advancedenergyforlife/).

4 Wall Street Journal, 14 April 2016 (www.wsj.com/articles/peabody-energy-files-for-chapter-11-protection-from-creditors-1460533760).

no longer competitive against fracked gas or renewable technologies. Game over? Not really.

The industry still goes to great length to talk up so-called ‘clean coal technology’, an oxymoron when one thinks of the billions of people in Asia suffering from air pollution due to coal-fueled ‘development’. Japan, for example, in what may be a final breath, is heavily promoting export of its coal technology to the rest of the world. At the same time, as old technology is being mothballed on both environmental and cost grounds, there is a risk that decommissioned (coal) power stations using outdated technology will be packed up and exported. Governments have a responsibility to stop such technology dumping.

The coal for development narrative has a strong advocate in Bjorn Lomborg, a corporate-funded contrarian political scientist at the Copenhagen Consensus Center. Lomborg flew to Brisbane for the G20 summit and spoke at a Peabody-sponsored event.⁵ The Center’s post-2015 project explicitly targeted the negotiations of both the SDGs and the Paris Agreement. Interestingly, this work was funded by the New Ventures Fund with the backing of the Bill & Melinda Gates Foundation and was widely publicized.⁶

Bill Gates personally promoted Lomborg’s flawed arguments on his widely read blog GatesNotes.⁷ At the same time, he along with some of the world’s richest (mostly) men have launched the Breakthrough Energy Coalition and an accompanying investment fund, the Breakthrough Energy Ventures (BEV).⁸ They are betting a fortune on the next big technology leap to bring sustainable energy to all and undo the damage done by coal.

5 www.desmogblog.com/2014/10/28/how-bill-gates-and-peabody-energy-share-vision-coal-powered-future-through-views-bjorn-lomborg.

6 www.copenhagenconsensus.com/post-2015-consensus.

7 See, e.g., www.gatesnotes.com/Energy/Two-Videos-Illuminate-Energy-Poverty-Bjorn-Lomborg.

8 See www.b-t.energy/. The group includes Mark Zuckerberg (Facebook, USA), Richard Branson (Virgin, UK), Jeff Bezos (Amazon, USA), Mukesh Ambani (Reliance, India), Aliko Dangote (Dangote, Nigeria), Jack Ma (Alibaba, China) and Hasso Plattner (SAP, Germany).

Bill Gates has opined he is keen to soon bless Africa with genetically modified organisms (GMOs), the world with more nuclear energy, and, if possible, the planet with solar radiation management technologies. Rather than dealing with the nitty gritty and political economy hurdles, such as democratic decision-making, to be overcome in bringing power to people, Gates and his friends bet on techno-fixes such as carbon capture and storage, geo-engineering, nuclear fusion, and the “tremendous opportunity to expand the use of nuclear power in the decades ahead by developing a new generation of advanced nuclear fission power technologies”.⁹

There are alternatives. Since 1980, research and innovation has greatly improved the efficiency of renewable technologies while sharply reducing the cost.¹⁰ Further innovation must be welcomed, but social and environmental criteria need to be applied and a wider societal debate is needed about the kind of new technologies people want. With the stakes so high, we should be wary of placing the power over the thermostat of our planet and the lives of billions of people into the hands of a small corporate elite.

Dinosaurs of the Anthropocene

Technology and innovation are essential components of a climate-centric narrative which places business at the heart of solving the development crisis. The argument goes that in order to prevent a full-blown climate crisis we simply have to accept radical technological solutions, including geo-engineering. This is incorrect and dangerous. Technological change of this magnitude is not possible without fundamental socioeconomic change. Business has an important role to play, and the renewables revolution is a visible example of its positive social and economic impact. However, science and technology cannot be treated in isolation. The question of who decides and who gains must be answered through a vibrant democratic societal debate. This will be difficult and can be messy,

9 www.b-t.energy/landscape/electricity/next-generation-nuclear-fission/.

10 Bloomberg New Energy Finance (2016).

but it is preferable over decision-making behind closed doors.

Fossil fuel subsidies

One example of undemocratic decision-making concerns the many governmental benefits that have been enjoyed by fossil fuel companies for decades. The energy sector has historically been the recipient of large subsidies and tax breaks. Levelling the playing field in support of clean technology by removing these subsidies is one example of a challenging debate, which largely takes place behind closed doors. Contrary to industry claims, and despite a G20 commitment from 2009 to phase out ‘inefficient’ fossil fuel subsidies, these subsidies persist.¹¹ The International Energy Agency (IEA) has demonstrated the positive impact of fossil-fuel subsidy removal for energy markets, climate change and government budgets. Its most recent estimates show fossil-fuel consumption subsidies worldwide amounted to US\$ 493 billion in 2014.¹² The International Monetary Fund believes the number to be even larger. Those subsidies were over four times the value of subsidies to renewable energy. The extent of production subsidies is far more difficult to assess. A study by the Overseas Development Institute (ODI) and Oil Change International estimated exploration subsidies by the G20 to be around US\$ 88 billion per year.¹³ For now, the G20 commitment to “rationalize and phase out over the medium term inefficient fossil fuel subsidies that encourage wasteful consumption” is clearly lacking in substance. Instead, the IEA attributes the recent decline in subsidies primarily to the sharp drop in the international market price for oil since 2014.¹⁴

The case of Power Africa – Gas as bridging fuel lobby

That the power sector is big business, especially in fast-growing emerging economies, is clear. Many North American and European companies look to their governments for support in doing business overseas. In the case of the USA the Export-Import Bank (ExIm) and the Overseas Private Investment Corporation (OPIC) are central in opening the door as they insure commercial deals and provide financing support. Other countries have similar bodies providing insurance and loan guarantees. This way governments see an opportunity to do good both at home and in the rest of the world. Whether this is a win-win situation needs to be carefully assessed on a case-by-case basis.

In 2013, then US President Barack Obama launched the Power Africa initiative, with the stated aim of doubling the number of people in sub-Saharan Africa with access to electricity by committing more than US\$ 7 billion in financial support and loan guarantees over a five-year period. It initially focused on six countries: Ethiopia, Ghana, Kenya, Liberia, Nigeria and Tanzania with a goal of adding 10,000 megawatts (MW) and 20 million new connections.¹⁵ From the start, Power Africa gave a prominent place to US corporations seeking to develop their business in Africa. It was, at least in part, a response to the rise of China as the new investor of choice. Corporate giants such as General Electric (GE) saw in it an opportunity to sell gas turbines and grid technology. They effectively lobbied the US government to sideline what was conceived as a programme to support off-grid and renewable technology.

Forbes magazine wrote after the launching of the initiative that “General Electric will be perhaps the

11 The 2009 G20 meeting in Pittsburgh, USA, agreed to “rationalize and phase out over the medium term inefficient fossil fuel subsidies that encourage wasteful consumption”; see Washington Post, 25 September 2009: www.washingtonpost.com/wp-dyn/content/article/2009/09/25/AR2009092502453.html.

12 IEA (2015).

13 Bast et al. (2014).

14 IEA (2015).

15 See White House Fact sheets on Power Africa 2014 at the Obama Administration archived website <https://obamawhitehouse.archives.gov/the-press-office/2014/08/05/fact-sheet-powering-africa-increasing-access-power-sub-saharan-africa> and <https://obamawhitehouse.archives.gov/the-press-office/2015/07/25/fact-sheet-power-africa>.

biggest beneficiary of that \$7billion”.¹⁶ The chair of the US Export-Import Bank allegedly tweeted in this regard: “\$7B plan to power up @General Electric”.¹⁷ Among others, General Electric is involved in building the world’s largest liquefied petroleum gas fired power plant in Ghana.¹⁸

Following a slow start, the goal of Power Africa was revised upwards to add more than 30,000 MW of “cleaner, more efficient” electricity generation capacity and 60 million new home and business connections across the continent.¹⁹ In the meantime, many other bilateral and multilateral donors and over 100 companies, large and small, have signed onto this initiative,²⁰ which today appears more like business as usual than like a sustainable and affordable energy access initiative that can help achieve SDG 7 without detrimental effects on the climate.

Conclusion

In many developing countries that are starved for energy we witness a bifurcated development. On the one hand a major investment push into electricity generation, where big is still beautiful, on the other hand the rise of a vibrant off-grid solar photo-voltaic market. This pits big business against small and medium-sized business, with government often siding with big business. One big, not so beautiful, investment option is in nuclear energy. However, the economics do not make sense. Hence the choice for nuclear energy is often more a statement of geopolitical prowess, with plenty of government subsidies. The technology providers are State-owned or sponsored and the projects are only viable with cheap loans from project proponent countries, in particular Russia and China, providing soft loans to

willing takers. The cost of waste management and decommissioning are not generally included in the price of electricity as these costs fall to future generations. Upon closer inspection these deals do not make sense, as for example South Africa’s highest court just decided.²¹

While the costs of clean energy is dropping rapidly, governments still struggle to source the needed investments. Cash-strapped developing country governments are trending towards giving business more control of the energy sector through public-private partnerships (PPPs) and privatization, thereby taking debt and assets off government books. The value to the country as whole is, however, unclear. Many PPP contracts do not provide taxpayers with value for money, as has been widely documented in the EU.

It also bears keeping in mind that securing SDG 7 requires tackling the challenges of SDG 13 on climate change. A particular challenge poses the so-called ‘stranded assets,’ that is, investments in fossil fuel energy that are incompatible with SDG 13 and the Paris Agreement. We already observe such assets being written off prematurely in Europe and North America. It is often governments that are on the hook for the resulting costs. Here the role of State-owned companies bears further investigation. Even following a recent wave of privatizations and energy market liberalization, governments continue to exercise great control over the sector beyond its regulation. Few State-owned utilities, for example, offer large consumers the choice of renewable energy. Interestingly, some of the world’s largest companies, such as Apple, Google and Microsoft, have responded by joining buyers’ clubs and have started directly investing in renewable electricity.²²

16 www.forbes.com/sites/christopherhelman/2013/07/01/with-power-africa-plan-obama-to-grease-billions-in-deals-for-g-e/.

17 Quoted in an open letter by 75 African groups to President Obama from 10 November 2013 demanding he stop pushing dirty energy through Power Africa, see www.foe.org/news/archives/2013-11-75-african-groups-demand-obama-stop-pushing-dirty-en#_ftn3.

18 www.bloomberg.com/news/articles/2016-10-25/ge-venture-to-build-world-s-largest-lpg-power-plant-in-ghana.

19 www.usaid.gov/powerafrica.

20 www.usaid.gov/powerafrica/partners.

21 BBC World Service, 26 April 2017 (www.bbc.com/news/world-africa-39717401).

22 In 2015, Renewable Choice estimated this at 3 GW (see www.renewablechoice.com/blog-corporate-energy-buyer/). See also WRI/WWF’s Corporate Renewables Buyers Principles (www.buyersprinciples.org/about-us/#Signatories) and REBA (www.rebuyers.org/).

As discussed around the world, low (fracked) natural gas prices and a sharp decline in the cost of renewable energy technologies have marginalized coal. Investors are leaving the coal sector in droves, confirming that these assets will be stranded. But what about the impact on workers and communities left behind after closure? It is the responsibility of businesses, unions, communities and national decision-makers to secure pension rights, facilitate a transition to new, decent jobs and in doing so make the energy transformation a managed, just transition.

The opportunities to deliver on SDG 7 are real and business has a large role to play. Social impact investors and small and medium-sized businesses are already making a positive difference, challenging the proponents of global techno-fix solutions, as well as the dinosaurs of the fossil fuel lobby.

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Hans JH Verolme is founder and Senior Strategic Adviser at Climate Advisers Network

SDG 8

Decent work requires decent public policies

BY SANDRA MASSIAH AND SANDRA VERMUYTEN, PUBLIC SERVICES INTERNATIONAL (PSI)

Inequality has split the world; 80 percent of the world's population lives on less than US\$ 10 per day. The wage share of national income has been steadily declining for decades, in parallel with the erosion of labour market institutions. Neoliberal policies, austerity measures introduced in response to the recent global economic crisis and public spending cuts in developed and developing countries alike have had a negative impact on low-income workers, especially women and girls who are generally the ones to fill in for loss of services. There has been an unprecedented rise in the share of work that is informal and precarious, in which women are over-represented. Poverty relief and women's empowerment should be linked to income growth and wages. Equal pay and a living minimum wage should be part of social and economic policy goals. In order to achieve SDG 8 on "inclusive and sustainable economic growth and full and productive employment and decent work for all" we need a bold shift from inaction to targeted investments and labour reforms aimed at building an inclusive labour market that secures women's equal access to paid and decent work, their representation in decision-making and their ability to access quality public services and quality education.

During most of the last half century people-centred public policies in both developed and developing countries have resulted in sustained wage-led growth. This growth resulted in the distribution of income, creating a vibrant middle-class. Through organizing and collective bargaining, workers and their families enjoyed higher standards of living than did their parents. This also had the effect of increasing wages and working conditions throughout society. Moreover, gains made in the public sector contributed to gains for workers in the private sector. The agreements reached in the public sector influenced the wage levels and standards of living and work for workers in manufacturing, distribution and retail, as well as in other service sectors. In fact, public policy set the stage for the development of many countries in both the developed and developing worlds.

Through government investments in health, education, infrastructure (roads, telecommunications and

other utilities), transport and other public services, the private sector was able to grow, attracting more investment partners. Governments in many countries, especially in the post-independence period, played the role of entrepreneur, providing the stimulus when the private sector did not want to take the risk. In addition, the increase and expansion of opportunities for women to work in the public sector contributed to the improved standards of living for women in many countries. Women's increased involvement in the labour market also ensured that entire families benefited and prospered.

Through genuine and effective social dialogue, workers and their families benefited from social protection measures, and the respect for human and trade union rights. Through trade unions and similar community-based organizations, people have had a voice in society. With the erosion of opportunities for decent work, societies worldwide are now charac-

terized by the widening gap between rich and poor and increased inequalities of all kinds. The sustained and well-orchestrated attacks on labour rights, along with social protection and income redistribution have created a class of ‘the working poor’.

The increase in part-time and precarious work has hit workers in all countries, particularly women, young people, and people with disabilities. In countries with aging populations, the lack of social protection also means that elderly people are especially vulnerable. The removal or reduction of social protection systems results in older people living lives without dignity and respect. They are then forced to seek employment in order to survive in their later years, very often this is precarious employment.

The move to public-private partnerships (PPPs) and various forms of privatization currently being promoted by donors, international financial institutions (IFIs) and increasingly the UN are often at odds with the goal of decent work and its targets. PPPs and privatization models focus on the need of investors to realize return on their investment, paying scant attention to the needs of the people. The evidence is mounting that PPPs are not the answer to the achievement of the SDGs. Recent revelations and discussions highlight disastrous results in the UK,¹ for example, as well as the importance of having a strong civil service when contemplating PPPs.²

Zooming in on the Caribbean, experiences with PPPs, especially in Jamaica, have increased costs to the users. There is a new highway, but Jamaicans who use it are paying high toll charges, which are subject to regular increases (now and in the future), resulting in more and more motorists using the old road.³ The institution of user fees for health services in Jamaica resulted in such poor health outcomes that they

have had to be reversed.⁴ After increased costs and little improvement in services to the public resulting from seeking private investment in telecommunications, the government in Belize passed constitutional changes to ensure that telecommunications remain in public hands.⁵ In those countries that are using PPPs in water and sanitation services, PPPs have contributed to the increased national debt situation. The challenges of finance and the vulnerabilities of the sub-region place it in an even more acute position. Suriname, Guyana, Trinidad & Tobago and Belize are commodity exporting countries; others are tourism-dependent. Weak growth and high debt obligations in the tourism-dependent countries means that fiscal positions are under severe strain. And the commodity exporting countries, because of weak global demand are also feeling financing pressures.

The future of work

In many developing countries, there is the urgent call to ‘transform the public sector’ in order to make it more ‘modern’. The structural adjustment programmes initiated in the 1980s and 1990s sought to do this, but the results were disastrous. Among other things, they created fear, a lack of trust between the employer and employees and, as a result, workers in many ways felt targeted and their jobs threatened. Current concerns on the ‘future of work’,⁶ discussed in the ILO’s seven Centenary Initiatives,⁷ are highlighting fear and uncertainty in many spheres, owing to their projections that current inability of countries to generate sufficient jobs for its working population will only intensify in the future. The (sub)regional and global discussions to date have not given enough focus on the public sector. In many instances, the future of the public sector and public services seems to be left hanging.

1 Benjamin Jones (2017) and www.world-psi.org/en/report-slams-uks-disastrous-reliance-ppps.

2 www.world-psi.org/en/imf-official-highlights-need-strong-civil-service-and-dangerous-risks-associated-ppps.

3 <http://jamaica-star.com/article/news/20160615/high-rates-drive-motorists-toll-roads>.

4 See e.g., www.jamaicaobserver.com/columns/Abolition-of-user-fees--impact-on-access--care-provided--lessons-learnt_46701.

5 www.theguardian.com/politics/2009/aug/28/michael-ashcroft-belize-telemedia-barrow.

6 See e.g. ILO (2017).

7 www.ilo.org/global/about-the-ilo/history/centenary/lang--en/index.htm.

In a number of developing countries, the public sector is the largest single employer. In tackling questions and concerns of high debt and weak growth, the IFIs as well as development partners are targeting the public sector – seeking to reduce its size and scope. However, at the same time they are suggesting that the public sector plays a key role in the realization of the SDGs. The calls for increased productivity in the public sector are not matched by efforts to measure outcomes of such measures. There is no corresponding pressure on the private sector.

Undoubtedly public services cannot be unchanging. They need to deal effectively with a constantly and rapidly changing environment. Public employees and contractual workers are both users and providers of public services. They are the first to point out the inefficiencies and are usually able to provide solutions and alternatives to improve the provision of public services. Public workers/employees recognize the need for change, they also recognize that change must be effectively managed. The implementation of the SDGs has already resulted in changes in public services, and will continue to do so, promoting a collaboration across ministries and departments that has been largely absent.

There are also those changes in the public sector that result from changing politics: reduced financial resources; the current financial crises and policies of global institutions that impose their will on regional institutions and local governments. Some changes are also the result of internal problems: some services may be ineffective or badly managed; there may be instances of corruption; or too much political interference in regulatory functions. To be sure, we all have a vision in which our country is prosperous. And that vision must speak to the development and maintenance of equitable societies, the improvement and expansion of quality public services and the further promotion of sound democratic traditions.

So, what will public service provision for the 21st century look like? We tend to extrapolate from what we know rather than predict the discontinuities that send us in new directions. As a report by the United States National Intelligence Council titled *Global Trends 2030: Alternative Worlds* states:

“We are at a critical juncture in human history, which could lead to widely contrasting futures. It is our contention that the future is not set in stone, but is malleable, the result of interplay among megatrends, game-changers and, above all, human agency. Our effort is to encourage decision makers - whether in government or outside - to think and plan for the long term so that negative futures do not occur and positive ones have a better chance of unfolding.”⁸

We must think of possibilities and exercise choice about matters that will affect our future for the greater good. Public service unions have a role to play in helping governments think about how best to position countries in the light of likely possible futures. That requires people in all countries to understand what we want as a society, and what our values are. Informed by the views and needs of workers, especially in the public service/sector and the wider community, governments will then be better able to make the choices that determine the role, functions and general character of public services. That decision-making must be based on an informed, people-focused agenda.

In addition to responding to contemporary or current challenges, the public services of the future must also be able to provide strategic thinking and policy advice to governments. The pace of change within the public services must also respond to the changes that occur in the countries and communities served. This is especially true as countries work on the implementation of the SDGs.

Competing and increasing demands for services where budgets are dwindling necessitates careful thinking, especially when the aim is to promote higher living standards through increased national productivity. Public servants as policy advisers are able to add substantial value to public policy decision-making – providing they are operating in public services that value their work and ensure that they have the best available tools and resources to do their jobs. Quality begets quality.

8 United States National Intelligence Council (2012), preface.

The advances in technology and science and the possible value-added to people and societies require careful analysis of the public policy questions that need to be answered and solved. No matter the future of work, what it looks like or who delivers it – there will always be a need for informed public policy and quality public services to ensure that no one is left behind.

The quality of essential public services and public service worker conditions go hand in hand. When digitalization is used to cut budgets, outsource jobs and de-skill workers, services to the public inevitably suffer. This approach contains risks for privacy when citizens' data is handed over to private companies and can isolate those citizens who do not have access to the required technology to access services online. Too often, the narrative that accompanies the push for digitalization is based on a presumption that the public sector cannot bring about necessary reforms or provide services more 'efficiently' and is often in effect a cover for privatization, outsourcing and job losses. The introduction of digital technologies in the public sector must be accompanied by adequate training, investment, worker and user participation and consultation and must be grounded in collective bargaining.

Financing implementation

Member States recognize and accept that the SDGs are highly ambitious. They have also agreed to focus on achieving the goals, and that the targets should be tailored and adapted to the circumstances in the respective countries. In order to achieve the ambitious outcomes that focus on decent work, social and public services, needed infrastructure and a more sustainable environment, countries need at least the following elements:

- Sound domestic policies, the rule of law and an effective regulatory framework;
- A responsible and strong private sector that creates decent jobs;
- Efficient and effective public investments in public goods (education, health care and infrastructure); and

- Responsible and appropriate international support in the form of equitable international policy frameworks and international co-financing.

These complementary elements constitute a national platform on which countries can best achieve the objectives that are embodied in the SDGs. All national and local stakeholders must be fully involved in determining what is needed and to identify and decide the best mix of public and private investment required, while ensuring that sound policies are in place. International human rights and labour standards provide a sound platform on which to build these policies.

Estimates to achieve the SDGs suggest that financing is a major challenge. But is it really impossible to find the needed money? The evidence is mounting that profitable multinationals are using the loopholes in existing financial systems as well as tax havens to avoid paying their fair share of taxes. A taxation system based on fairness and ability to pay is an important first step for governments to generate the finance needed to make as well as make the public investments that are key to realizing the SDGs. Through effective and progressive tax systems, governments can mobilize substantial finance to create the enabling environment for public and private investment.

Some leaders have suggested that meeting the SDGs is also a moral challenge. Having embraced the 2030 Agenda, will governments, corporations and other social actors pursue partnerships at all levels in a genuine attempt to build strong, sustainable societies for all people? Or will they continue to promote the survival of the fittest? A large part of official development assistance must focus not only on strengthening countries' tax collection systems, but also on ending international tax evasion, money laundering and the use of tax havens. These are leakages that impact negatively on economic and social development in all countries, affecting the lives and livelihoods of millions of people. To achieve the SDGs, the emphasis must shift from PPPs and privatization to the creation of decent work, sustained public spending and tax justice.

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Sandra Massiah is Sub-regional Secretary for the Caribbean and Sandra Vermuyten is Head of Campaigns at Public Services International (PSI)

SDG 9

Industrialization, inequality and sustainability: what kind of industry policy do we need?

BY MANUEL F. MONTES, SOUTH CENTRE

The 2030 Agenda includes as Sustainable Development Goal 9 (SDG 9) the commitment to “build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation”. The entry of this goal into the 2030 Agenda is an achievement for developing countries which vary considerably in terms of population sizes, per capital incomes, economic sizes and structures, political systems, cultures but share the common feature of an underdeveloped industrial sector. Therefore, in order to implement SDG 9, pro-active industry policies are needed that take into account aspects of inequality and sustainability.

There are still many obstacles to the implementation of SDG 9, and it is still an open question whether this new commitment can be pursued in actual policies both at the national and global level. Will the privileging of privatization and partnerships and the dilution of safeguards against corporate capture collide with the policies needed to achieve SDG 9? As will be argued below, SDG 9 will require reviving State leadership over key economic actions, instead reserving for private parties unfettered scope for action. Controls of portfolio investment flows, for example, are critical for keeping the domestic cost of borrowing from being unduly high and thus being a hindrance to raising the real investment rate; however, these controls are generally considered shackles on private decisions on where and how capital should be deployed. Moreover, in developing countries, privatization as a policy instrument *de facto* means favouring the international private sector over the domestic private sector. Under trade and investment treaties, for example, developing countries are required to treat foreign investors at least as well as, if not better than, domestic enterprises, as was the case during colonial times. Imperial preferences and proscriptions rigidified social inequities in all societies in that era.

In a deeper sense, SDG 9 represents a rediscovery of the principal challenge of the post-colonization effort undertaken in the developing world with technical assistance from the United Nations in the immediate post World War II era. Structural change in domestic economies and in economic relations among nations was seen as necessary to close the gap in labour productivity and incomes between newly independent nations and the advanced countries. This would only be possible if all former colonies succeeded in carrying out industrial development.

It can be argued, however, that, at present, the global policy environment is much more hostile to industrial development than it was in the 1950s. By the 2000s, the UN development agenda had evolved into a highly stylized framework which overlooked the primacy of structural change. It associated failures to industrialize mainly to national policies and governance failures in developing countries. Under the MDGs, the UN development agenda for governments and donors focused on alleviating poverty and social distress.

The (re-)introduction of the industrialization goal in the UN development agenda can be attributed to the determined advocacy of developing countries, particularly African countries. In anticipation of

the ramping up of post-2015 negotiations on a new UN development agenda, African countries agreed in January 2014 on a Common African Position on the post-2015 Development Agenda.¹ This position incorporated the African Union's Agenda 2063 which called for "structurally transformed" economies 100 years after the formation of the Organisation of African Unity in 1963.²

What kind of industrial policy is needed?

The historical record and the experience of the less than a handful of countries that have achieved some level of industrialization since the 1940s indicate the kind of industrial policies that are needed to achieve SDG 9.

The main propositions are the following:

1. Industrial policy must create the economic space and provide the means for new economic activities and livelihoods

Industrialization requires the permanent and steady movement of the population from working in low productivity sectors to higher productivity sectors. It is a process of building new skills and capabilities on the part of the labour force both individually and as individuals working together. This requires the introduction and adaptation of technology in commercial activities – whether the technology is invented domestically or accessed from abroad.

Since the 1980s, international development agencies have placed great emphasis on export-driven growth in developing countries. Former colonies have always been fierce exporters of commodities. Commodity exports provide foreign exchange earnings if commodity prices are adequate but even when commodity prices are very high success in exporting commodities will not engineer an increase in domestic productivity without policies to invest in new economic activities. Because markets, both international and domestic, can mostly confirm the prevailing struc-

ture of productivity and domestic capabilities, States have had to play a large role in channelling investment in new, untried activities. These have included protection from foreign imports, subsidies to the private sector, and the use of State-owned enterprises where necessary.

Export-led growth would have been a good bet if it allowed developing countries to reduce their dependence on commodities. China when it was growing rapidly (since the 1990s) was able to do this. However, the disturbing trend is that since 1996, developing countries have increased their dependence on commodity exports. Alan Roe and Samantha Dodd find that this trend of increased commodity export dependence applies to all strata of developing countries but most strongly to the poorest countries.³ Moreover, by quickly comparing this trend between 1996 and 2012 and 1996 and 2014, they find that the sharp fall in commodity prices since 2012 has not reduced developing countries' export dependence on commodities.

In recent years, there has been a lot of discussion about global value chains (GVCs) and how it is important for developing countries to participate in these chains. A country can participate by producing a part of a global product and does not have to produce the whole product. GVCs are as old as colonialism and the struggle is over where the value added will be created and which country can capture the bulk of the value created. In many global products, design and branding capture the bulk of value chain, and developing countries can be deluded in hoping that they can capture a good part of the chain by liberalizing trade and giving foreign investors tax incentives. According to Rashmi Banga, the distribution of value added in GVCs is heavily skewed towards OECD countries (67% of global value added accrue to OECD countries, 9% to China, 5% to other BRICs, 8% to all LDCs).⁴ To overcome these disadvantages, the very effort of joining a GVC will require industrial policies that can lead to permanent improvements in national technology and skills and the diversification of the economic activities of the host country.

1 African Union (2014).

2 African Union (2013), p. 3.

3 Roe/Dodd (2017).

4 Banga (2013).

2. Industrialization is not only about manufacturing and the rise of 'industries'. It is also about the rise of productivity in agriculture and in service sectors.

Historically manufacturing has indeed provided the most dramatic locus of increases in productivity and in incomes. However, improved agricultural productivity and supporting services have also been needed in most countries to free labour to move to manufacturing. The rise of manufacturing, including in the chemical industries, has also provided the means for mechanization and improved yields in agriculture. Each economy starts with an inherited structure and must find the fastest and at the same time least-cost path to achieving rising productivity in the different sectors. Industrial policy, to be successful, must therefore pay great attention to investing in productivity upgrading in agriculture and in services, not just in manufacturing.

Climate change is an urgent problem for all countries. So far, industrialization has been heavily reliant on the availability of fossil fuels. To reduce dependence on fossil fuels, all societies must shift their modern technologies to those less dependent on fossil fuels. Reducing depletion of water and other resources, and reducing waste from production and consumption will also be required. That all countries, including the poorest, must undertake this transition can be seen to be equivalent to the imperative of a new industrial revolution occurring globally to address climate change.⁵

Innovation and technological upgrading is an integral part of the movement from low productivity to high productivity in economic activities and for the movement away from fossil fuel dependence and the waste of natural resources. A disturbing trend is that the ability to invent domestically and to adapt ideas and technology to improve productivity has either been blocked or become prohibitively expensive under the trade related intellectual property (TRIPS) regime in the WTO and free trade agreements. This regime exposes countries that do not meet the

obligation to protect the registered patents of private parties to trade sanctions.

Industrial policy will require that developing country authorities take advantage of flexibilities available under the existing international regime. Developing countries should avoid acceding to free trade agreements which reduce their access to innovation activities and to foreign technology. Developing countries should also seek to identify the intellectual-property obstacles in their industrial development and take concerted action, including through the Financing for Development (FFD) technology mechanism, to obtain access to critical technologies.

3 Industrial policy must address questions and undertake policies on the choice of technology and the most efficient scale of production and service provision.

Exploiting economies of scale have been a critical element in the rise of productivity in industrialization. The provision of infrastructure creates larger markets, lowers cost of inputs, and facilitates the exploitation of economies of scale.

However, there are also cases, especially applicable to parts of agriculture and services, where small-scale operations can be equally efficient but also more environmentally responsible and produce more equal economic outcomes. The example is small-scale farming which allows for greater labour inputs and reduction in the use of chemicals and pesticides.

Industrial policy requires that States establish and support national innovation systems of which the starting point is universities and research institutes doing basic research and the ending point is the achievement of commercial viability for new products and services.⁶

⁵ United Nations (2011).

⁶ Ibid.

4. Industrial policy must enable the rise of a strong domestic enterprise sector

New jobs and improved products and services are mainly created in enterprises, and not only in the public sector.⁷ Industrial policy must enable the emergence of manufacturing activities through infant industry protection, support for technological upgrading, government procurement and coordination across the sector to prevent ruinous competition among private companies.

An indigenous enterprise sector will not arise unless it has access to adequate, even large capital surpluses, in order to finance further investment and capacity building. Every developing country has an array of small private sectors. The question of development involves enlarging their scale through investment and upgrading their capability and productivity to global levels. Historically, greatly driven by domestic politics, government intervention has been necessary to develop an indigenous private sector. The inability of participants from developing countries to earn sufficient and predictable surpluses from their participation in global value chains could be an important hindrance to building an indigenous private sector.

In many developing countries, farmers and herders constitute the largest private sector, in terms of number of people employed and contribution to the economy. In many parts of the world, this is also the sector where a lot of women's livelihoods are found. The liberalization of food imports has often devastated the domestic food and agricultural sector. Private investment in agriculture in developing countries is stymied by the threat of subsidized agricultural exports from the USA and the EU.

It has also become fashionable in free trade agreements to include a competition chapter, which requires that States provide entry to domestic markets to foreign enterprises. In the Western world, this approach of protecting free entry was important to protect consumers from monopolies and combines. Imposed in many developing countries, this approach

could quickly lead to the monopolization of local markets by transnational companies with enormous advantages in finance, administration, international networks and technology.

Two other policy tools of industrial policy critical to building an indigenous enterprise sector are also increasingly subject to international disciplines. The first is government procurement, which often requires that foreign bidders be allowed to compete for contracts above a certain level. Government procurement has historically been an important part of industrial policy so that domestic enterprises could cover the fixed costs of their start-ups. A second tool concerns State-owned enterprises (SOEs), which have been important industrial policy tools to provide intermediate inputs and other basic inputs, such as steel, if the domestic private sector is unable to build up a sufficiently large pool of capital to put up these basic industries.

An industrial policy must also include a component on the role of foreign investment. There are three ways in which foreign investment enters: (1) 'greenfield' investment leading to the establishment of new plants and facilities; (2) reinvestment or additional investment/capacity in existing foreign investment; and (3) cross-border mergers and acquisitions. Of these, only greenfield investments have a firm and consistent connection with capital formation; by contrast, whether or not reinvestments and mergers and acquisitions change the scale of operations is highly contingent on subsequent decisions by investors.

In addition, national authorities must presume that eventually the investment by the non-residents will be repatriated back. Economist Yilmaz Akyuz finds that from 2000 to 2013, outflows of repatriations among the five main ASEAN countries, especially among Malaysia, Thailand and Singapore largely exceeded the inflow of new foreign investments.⁸

Since the 1990s, foreign investment in the form of portfolio flows have caused heightened macroeconomic and financial instability and created the condi-

⁷ Memis/Montes (2008).

⁸ Akyuz (2015).

The new generation of PPPs in infrastructure – meeting the needs of institutional investors

BY DAVID BOYS, PUBLIC SERVICE INTERNATIONAL

Public-private partnerships (PPPs) in infrastructure are not much different from PPPs in general, in that they suffer from the same problems: contracts are complicated, legalistic and rigid; costs of borrowing for the private sector are almost always higher than for the government; in a quasi-monopoly situation, there are many opportunities to ‘game the system’ to increase profits; getting the private sector to assume risks always costs extra; private investors hardly ever commit their money to the poorest countries; there are hidden costs in PPPs (estimated to be 10% of the overall value) to pay for consultants, bankers, lawyers, and so on; there is no inherent efficiency in the private sector; contracts with the private sector always bring the potential for corruption; the private sector prefers to protect its commercial advantage through secrecy; overseeing PPPs over the life of the contract is extremely complex – the list goes on.

The next generation of PPPs in infrastructure will add another complication: they are designed to meet the needs of large institutional investors, and will become subject to their needs and machinations (as opposed to meeting the needs of the most vulnerable). Since the financial crisis of 2008, banks have had to increase

their liquidity to enable them to survive future shocks. Hence they have been unable to lend to long-term infrastructure projects. When you couple this with the current austerity paradigm, you have blocked the two main actors in infrastructure: banks and governments.

In step the large institutional investors, composed mainly of capitalized pension funds, insurance funds and sovereign wealth funds, who are flush with cash and need safe investment vehicles. These funds typically do not invest in specific PPP projects, as these are either too small, too illiquid or too risky. Hence, they prefer to invest in financial products whose values are based on the underlying assets (i.e., infrastructure). And they will want to be able to conduct financial engineering with the products that they buy: to extract funds from the cash flow, to leverage their investments, to hedge their risks, to restructure the debt and sell on portions, et cetera.

This current approach contains some of the traditional mantra, including the assumption of ‘public bad, private good’, that an ‘enabling environment’ can be provided by governments to protect investors, that risks will be appropriately allocated, and so

on. But there are new elements, including ‘project bankability’, blending public and private finance, creating pools of PPP projects, conducting value for money analysis, buying down risk, and other novelties.

As if these are not problematic enough, there is no evidence to indicate that investors will place their money in the countries that need it the most, or target infrastructure services that are designed to meet the needs of the poorest. In fact, according to a recent analysis by Kate Bayliss and Elisa Van Waeyenberge of the School for Oriental and African Studies at the University of London,¹ these investors are likely to invest in countries that have the highest existing public investment.

Further, we are witnessing an amazing group-think at some of the peak international institutions, whether at the UN (in the 2030 Agenda including Financing for Development), the World Bank Group, the OECD, the European Union, in regional development banks, and bilateral donors. To this group we can add the G20 and the World Economic Forum. They all give lip service to the complex-

¹ Bayliss/Van Waeyenberge (2017).

ities of PPPs in their rush to tap the funds held by institutional investors. Many of the individuals are fully aware that strong public institutions are needed to avoid distortions by bringing in the private sector, but they all seem to agree on the new mantra.

It appears as if we are about to repeat the 'irrational exuberance' that characterized the first round of privatizations, under World Bank guidance. To avoid this, we must heighten and increase our awareness-raising and mobilizations, to counter the growing strength and power of the finance lobby.

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David Boys is Deputy General Secretary of Public Service International (PSI)

tions for financial crisis like the 1997 Asian financial crisis. In any given period, portfolio flows unceasing netting 'game' especially for countries that do not regulate capital flows. Because portfolio positions are driven by the portfolio motives of non-residents, they can be subject to 'mood swings', the most spectacular recent event of which was the so-called 'taper tantrum' of April-May 2013.⁹

For these reasons, industrial policy must weigh the benefits from foreign investment against the costs to the host economy. The best role of foreign investment is to help fill in gaps in the chosen industrial development path. There could be other purposes. In order to meet these objectives, host countries historically had imposed performance requirements on foreign investors. However, international disciplines in the WTO under trade-related investment measures (TRIMS), in international investment agreements and bilateral investment treaties severely restrict the use of performance measures on foreign investors.¹⁰ For example, these disciplines prevent authorities from requiring foreign investors to balance their use of foreign exchange on imports with their export earnings or to hire local managers or workers. Many of these disciplines actually privilege foreign investors more than domestic investors, running contrary to the view that the emergence of an indigenous enterprise sector is indispensable to development success. Industrial policy must find ways to skirt around these policy restrictions or at least make sure the indigenous investors have a level playing field.

⁹ 'Taper tantrum' is the term used to refer to the 2013 increase in US Treasury yields that resulted from the US Federal Reserve's use of tapering to gradually reduce the amount of money it was feeding into the economy. The tantrum ensued when financial investors panicked in reaction to news of this tapering and drew their money rapidly out of the bond market.

¹⁰ Mohamadieh (2015).

5. Industrial policy must make efforts to coordinate different policy areas and will require long-term planning.

Trade policy is critical to the industrialization effort. It has become the fashion to view low tariffs as a ‘best practice’. It is a best practice for countries that are already industrialized – they have competitive industrial sectors – because it gives their consumers wider and lower-cost choices but it is not a best practice for developing countries. A more flexible pattern would be appropriate for industrial development in all countries. Tariffs could be set mainly on goods to support the learning and technology upgrading process of industrial development. For other goods, tariffs could be low or zero as long as these do not drain foreign exchange needed for essential imports. When an industry has attained international competitiveness, the tariffs can be reduced drastically and other sectors can then be given tariff advantages. In fact, developed countries themselves follow this strategy. Recent trade disputes over the requirement of domestic content as conditions for public subsidies in solar panel production is a typical example.

Making available long-term finance at reasonable interest rates is another key policy element of industrial policy. Countries with open capital accounts have a hard time providing these facilities because their banks have to provide their lenders with an interest rate high enough to compensate for possible foreign exchange value losses when foreign investors experience ‘mood change’. As part of industrial policy, it is timely for developing countries to re-establish their development banks which they had shut down in many structural adjustment programmes. Development banks are able to provide long-term finance, while raising long-term resources themselves. Authorities will need to avoid governance weaknesses in the operation of these banks.

Capital controls are an indispensable ingredient of industrial policy. They are important in order to keep domestic borrowing rates low and exchange rates as reliable signals of costs and future profits. National authorities must resist the temptation of and lean against the over-expansion of external debt during episodes of abundant international liquidity and

high commodity prices. These episodes always end in tears and, over the long-term, it is preferable to protect the path of industrial and social development because the scale of collapses in the busts exceeds the temporary growth surges in the booms.

Conclusion

The rediscovery of industrialization as an ingredient of achieving sustainable development — and its inclusion in the 2030 Agenda — reintroduces the debate over industrial policy. Developing countries must seize this opening to restart experimenting with policies to introduce new economic activities and diversify their economies.

Developing countries certainly will be facing obstacles, both material and ideological, in applying industrial policy. As discussed above, international rules and disciplines impose severe constraints on industrial policy; developing countries should take concerted action to relax these constraints by making these rules more conducive to national industrial policy. Upgrading the capability of the State to design and implement industrial development will require a broad political consensus to sustain an effort that is by nature long term.

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Manuel F. Montes is Senior Advisor on Finance and Development at the South Centre.

SDG 10

Squeezing the State: corporate influence over tax policy and the repercussions for national and global inequality

BY KATE DONALD, CENTER FOR ECONOMIC AND SOCIAL RIGHTS

Reducing inequality is one of the central pledges of the SDGs, appearing as a stand-alone goal (SDG 10) and as a cross-cutting commitment to “leave no one behind”. Reducing inequality requires resources; both *(re) distributing* currently available resources more fairly, and raising more resources to invest in goods and services which tackle inequality. Taxation is an essential tool for governments to achieve both of these objectives; hence the inclusion of fiscal policy in target 10.4 (“Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality”). But so far, corporate tax abuse closes off both these essential channels for reducing inequality.

The SDGs do not explicitly mention the need for redistribution, but fiscal policy can only really reduce inequality if it is redistributive, with progressive taxes (whereby high-income earners pay higher rates of tax) and pro-poor social spending. Certainly, it is clear that the current way that resources are distributed (skewing increasingly and obscenely to the very richest) is a major factor in the global inequality crisis which the SDGs seek to tackle.¹ On the other hand, the SDGs do recognize the need for raising more resources – SDG 17 (and indeed the Addis Ababa Action Agenda) is largely focused on how to find the money to finance the SDGs, and places a particular emphasis on domestic resource mobilization. At the same time, we have increasing evidence to show how government investment is a crucial determinant of inequality; public services reduce inequality and provide ‘virtual income’,² whereas recent austerity

measures which have slashed investment in public services have increased economic inequality in those countries.³

Corporate tax avoidance and evasion (or tax ‘abuse’ collectively) close off both these essential channels for reducing inequality. They both perpetuate the mal-distribution of resources upwards – to multinational corporations, chief executives and major shareholders – and deprives countries of revenue they could use to progress towards greater equality. This type of corporate behaviour also affects inequality between countries (which SDG 10 also pledges to reduce), disproportionately draining developing countries of potential revenue, and perpetuating the unequal status quo in global economic power and governance.

1 The role of fiscal policy as a determinant of inequality is explored in more depth in CESR (2016), alongside a range of other crucial policy areas. This chapter focuses specifically on tax policy as a case study of corporate influence over a critical area of policy affecting the achievement of SDG 10.

2 Oxfam (2014).

3 Oxfam (2013). The OECD has also cautioned against the impacts of austerity on income inequality, see www.oecd.org/forum/government-balances-growth-and-income-inequality.htm.

Role of corporate power

Corporate tax abuses do not happen in a political vacuum, and the legal loopholes corporations use to evade taxes do not spring up independently. The largest corporations have a huge amount of political power, and they therefore play a major role in pushing for tax loopholes, tax incentives, financial secrecy regimes and other tax-related policies which benefit them.

There is a striking lack of transparency in most countries with regards to corporate lobbying and influence over policy decisions. By its nature, corporate influence is usually denied or concealed. However, there are certain contexts where corporate power over tax policy has been studied and/or quantified. Recent findings from Oxfam America show that from 2009 to 2015, the USA's 50 largest companies spent approximately US\$ 2.5 billion on lobbying, with approximately US\$ 352 million spent lobbying on tax issues. Meanwhile, they received over US\$ 423 billion in tax breaks; US\$ 1,200 for every US\$ 1 they spent lobbying on tax issues.⁴ Also in the US, researchers have found that increasing registered lobbying expenditures by 1 percent appears to lower effective tax rates by up to 1.6 percent in the following year for the average firm.⁵ Taking the long view, since 1952 corporate profits as a share of the U.S. economy have risen from 5.5 to 8.5 percent, while corporate tax revenues as a share of the economy have plummeted from 5.9 to 1.9 percent.⁶

The Instituto Centroamericano de Estudios Fiscales (ICEFI) has shown how elites in many Central American countries (including from corporate sectors like finance, agribusiness, coffee and other export-oriented sectors) have used their influence to fight for favourable fiscal policies, block tax reforms and preserve loopholes and offshore arrangements.⁷ Oxfam Peru has demonstrated how the mining sector there effectively 'captured the State', using its power

to prevent reforms which would crack down on tax evasion, force mining companies to pay back unpaid tax debts, or impose new taxes in the midst of soaring metal prices.⁸

Beyond tax-specific lobbying, the detrimental political and economic effects of corporate lobbying have been starkly shown in several other cases. For example, a working paper by IMF staff found that lobbying by the financial industry could have contributed to the global financial crisis 2007/2008, as it was associated ex ante with more risk-taking and ex-post with worse performance.⁹

Domestic effects on economic inequality

The prevalent policies and practices which allow corporations to avoid paying their fair share of tax include low effective rates of corporate taxation, tax incentives such as tax breaks and subsidies, lack of transparency in corporate ownership and reporting, financial secrecy policies, and loopholes in tax policy which allow huge write-offs or profit shifting/minimization.

These methods have resulted in vast sums of potential revenue lost to government coffers:

- Corporate income **tax rates** have declined in both developed and developing countries by around 15–20 percent over the past three decades.¹⁰
- It is estimated that US\$ 138 billion in revenue is lost annually in developing countries through corporate **tax incentives**.¹¹

4 Oxfam America (2017).

5 Richter et al. (2008).

6 Blair (2016).

7 ICEFI (2015).

8 Mendoza/de Echave (2016) and Durand (2016).

9 Igan et al. (2009).

10 Crivelli et al. (2015).

11 ActionAid (2013).

- Corporate tax abuses facilitated by loopholes, lack of transparency and tax havens deplete revenues of developing countries yet further:
- US\$ 100 billion annually through tax avoidance by multinational enterprises, according to UNCTAD;¹²
- US\$ 212 billion per year through corporate base erosion and profit shifting (tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax jurisdictions) according to IMF economists.¹³

These figures in many cases represent more than developing country governments receive in Official Development Assistance (ODA), and compare to significant portions of their GDP, especially of their public services budgets. For example, in Zambia, combined losses from profit-shifting in the mining sector may equal as much as US\$ 326 million annually, equivalent to about 60 percent of the 2015 health budget.¹⁴

The result of such corporate maneuvers is less government revenue to redistribute towards those who badly need it, and to pay for goods and services which help to equalize upwards (for example, public services and social protection). These policies and practices therefore stymie efforts towards greater equality and are in direct conflict with several SDG targets – in particular targets 10.1 (“By 2030, progressively achieve and sustain income growth of the bottom 40 percent of the population at a rate higher than the national average”) and 10.4 – and undermine or hinder the achievement of many others (e.g., those that relate to public services or social protection and even gender equality and poverty reduction).

As described above, this situation also creates a kind of inequality trap, whereby growing economic inequality heightens political inequality, which then increases the ability of corporations and rich elites to manipulate policy-making to protect their wealth

and privilege, while the power of labour unions, for example, is increasingly eroded).¹⁵ A badly-resourced government also has less capacity to regulate corporate behaviour, to collect and audit taxes, and to shape the market in positive, human-rights compliant ways.

International effects

In addition to the myriad effects on domestic inequality, corporate capture over fiscal policy in one country can have profound effects internationally. This has been the case, for example, when corporations have lobbied for corporate tax ‘incentives’ as a precondition for investment – creating a ‘race to the bottom’ in terms of corporate tax rates and incentives from countries competing for investment. Low-income countries which rely more heavily on revenue from corporate tax (but also desperate for foreign investment) are particularly badly affected.

Countries’ tax and finance policies have huge ‘spill-over’ effects, especially those of rich countries with the greatest say over global economic governance. For example, when countries such as Switzerland, the UK, or the USA preside over financial secrecy jurisdictions (tax havens) where corporations can easily move their money to avoid or minimize taxable income in the countries where they operate, the effects are felt around the world. The tax abuses enabled by such jurisdictions and policy regimes represent a huge drain on developing countries, constraining their spending power, policy space, economic space, and furthermore their ability to reduce inequality. The impact is felt by real people in these countries; in particular, the poorest and most disadvantaged people bear the brunt, through lack of investment in poverty reduction, public and social services, and environmental protection. Often, progress towards greater gender and economic equality is threatened as a result, and violations of people’s rights (for example to education, health, water and sanitation) may be worsened or perpetuated.

12 UNCTAD (2015).

13 Crivelli et al. (2015).

14 Alliance Sud et al. (2016).

15 Jaumotte/Osorio Buitron (2015).

As well as reinforcing or exacerbating inequalities within countries, cross-border corporate tax abuse undermines another stated aim of SDG 10 – to reduce inequality between countries. It operates like a magnified, international version of the vicious circle of economic and political inequality described above. By draining poorer countries of resources, it constrains the economic and political power of these countries, hindering their ability to push for meaningful changes in the international tax system or global economic governance. So, for example, developing countries’ demand for an intergovernmental tax body has been resisted by rich countries, who insist that global tax rules should continue to be set within the Organisation for Economic Cooperation and Development (OECD) where they have effective control.¹⁶

Target 10.b of the SDGs pledges to “Encourage official development assistance and financial flows, including foreign direct investment, to States where the need is greatest”. Currently, due to policies and practices which enable multinational corporations to avoid paying taxes where they make profits or extract resources, the opposite is happening. Finance is flowing out of the States where need is greatest, often to tax refuges in very wealthy States.

Bringing human rights to bear in countering corporate capture of tax policy

In recent years, corporate CEOs gathered in Davos for the World Economic Forum have bemoaned rising economic inequality, while at the same time, many of these same corporations go to great lengths to evade or minimize their tax responsibilities. Many multinational corporations are rushing to join multi-stakeholder partnerships for the SDGs, encouraged by many governments’ uncritical embrace of the idea of the private sector as the benevolent engine of SDG implementation. Tellingly, only a small fraction of these partnerships are devoted to SDG 10 – the least out of any of the 17 goals, by a significant margin – while by far the largest number of partnerships have been registered for SDG 8 on

economic growth where business entities naturally have a vested interest.¹⁷

The amount of taxes corporations pay, and where they pay, has profound effects on human rights and inequalities. How can the status quo of rampant corporate tax evasion and avoidance be remedied? This is not just a ‘corporate social responsibility’ issue (although it would be a step in the right direction for more large companies to recognize that paying a fairer share of taxes is an indispensable part of being a ‘good corporate citizen’). It is ultimately the role and indeed obligation of governments to prevent tax abuse and to regulate corporate behavior.

In this area, human rights obligations – including extraterritorial obligations – can be of real strategic and moral value. There are many initiatives in the human rights field to address and rein in corporate behaviour that is infringing on human rights enjoyment. The UN Guiding Principles on Business and Human Rights were endorsed by the Human Rights Council in 2011. Unfortunately, they do not mention corporate tax practices, but this deficiency could potentially be remedied in the national action plans being developed for their implementation. In the meantime, there are ongoing efforts to negotiate a binding human rights treaty on transnational corporations and other business enterprises (with significant resistance from several UN Member States, notably the USA and the EU). The Committee on Economic, Social and Cultural Rights (CESCR) is in the process of drafting a new General Comment on business activities,¹⁸ which would provide an authoritative interpretation of what States are obligated to do under the International Covenant on Economic, Social and Cultural Rights to regulate corporate behavior, including to tackle tax abuses.

Meanwhile, human rights monitoring bodies are beginning to tackle tax policy and tax abuses as a serious human rights issue. For example, the Committee on the Elimination of all forms of Discrimination Against Women recently challenged Switzerland on

¹⁶ Chonghaile (2016).

¹⁷ See <https://sustainabledevelopment.un.org/partnerships/>.

¹⁸ www.ohchr.org/EN/HRBodies/CESCR/Pages/Discussion2017.aspx.

Consolidating misery or catalyzing opportunity? The political economy of inequalities in East Africa

BY ARTHUR MULIRO WAPAKALA, DEPUTY MANAGING DIRECTOR, SOCIETY FOR INTERNATIONAL DEVELOPMENT

The past few years have seen the economies of the East African Community (EAC) Member States grow by leaps and bounds, with the region averaging some 6 percent annual GDP growth since 2011. These growth rates have been heralded as the proof that the region has finally made a structural shift in its economies, and this is now held out as a harbinger of greater things to come. Furthermore, the potential emerging from the recent hydrocarbon discoveries and the extractive industries in general as well as the long-awaited renewal of dilapidated rail, road and port infrastructure has also served to boost optimism. Indeed, the ‘mix’ of the region’s economies suggests that there is a deeper and perhaps subtler set of changes taking place.

But this economic expansion has been accompanied by a growth in inequality in virtually all countries of the EAC. Put bluntly, not all citizens of East Africa have seen or felt the benefits of these stellar GDP growth figures. If anything, for a growing number of them, life has become a much harsher and unpleasant enterprise. The economic boom has not generated the jobs it was expected

to generate and there is a growing frustration, perhaps a realization that these jobs will never materialize. For all the progress made in recent years, the levels of poverty, hunger and malnutrition in the region are still staggeringly high and serve to underline the adage, ‘You cannot eat GDP’.

If any progress is to be made in closing the inequality gap in East Africa, it cannot be done without addressing the close linkages in the relationship between politics (domestic and regional) and inequality. In this regard, it is time to begin to ask hard questions of the leadership of the region. For instance: To what extent are the region’s political institutions linked to the persistence of poverty? What political factors affect the evolution of inequality and what are the effects of inequality on political choices and outcomes? Is there a relationship between the various ethnic or national identity formations present today and how public goods are provided?

What is clear is that in the absence of committed efforts to dismantle and recreate the insti-

tutions that distribute power and the networks that have emerged to extract benefits from them, it is unlikely that the inequalities seen to date will simply vanish. If anything, they will become more glaring and eventually possibly even overwhelm the societies hosting them. Thus, the imperative that the leadership of the region – at all levels – needs to be committed to is one of institutional transformation to ensure that they are less amenable to capture and that their benefits are widely distributed within the population.

The Society for International Development (SID) 2016 *State of East Africa Report* considered the political economy of inequalities in East Africa and what role the regionalization process could play in helping to narrow the present inequality gaps.¹ The conclusion of the authors was that everything was dependent on the choices that the leaders are willing to make; whether they are willing to take bold steps to reconfigure the institutional and power architecture to ensure that all citizens of the region benefit from integration as opposed to only a (small) segment.

¹ Society for International Development (2016).

The report analyses nine sectors divided across three pillars: an economic pillar, a social pillar and a political pillar. In each of these sectors, the report asks questions that straddle an additional three domains:

- I The **fiscal domain**: Where are resources obtained from and how are they spent?
- I The **normative domain**: What policy decisions are made (or not) and who benefits?
- I The **ethical domain**: Whose narrative prevails and what instruments are used to weaken the moral core of society?

This report sets out a number of key messages for its readers to consider. Whilst the emphasis of the messages focuses on changes that need to take place at the national level, it is impossible to divorce the needed changes from the regional integration question as each country comes into the regional space with its individual strengths and weaknesses and this has an impact and influence on the character and pace of regionalization.

As such – and as the report points out – the biggest task facing the state in East Africa today is not so much that of pursuing economic growth at any cost, but that of creating the foundations for lasting human development in the region.

For instance, the massive spending on ‘key’ infrastructure projects should factor in the broader public good at the outset and not as an afterthought. By reinforcing the livelihoods of each individual citizen, the potential for national and regional growth will be multiplied several times over.

When considering the levels of inequality present in the region today, it is evident that the implicit social contract that has accompanied East African States since their formation and independence needs to be rethought and renegotiated with a view to ensuring that the majority of the citizens get a fair return out of this bargain. It is highly likely that if inequalities continue to deepen, future generations of East Africans will live worse lives than the current generation of East Africans. In any case, a ‘catastrophic convergence’ of politics, economy and environment does not bode well for the region. Any magnification of systemic challenges could overwhelm its response and resilience mechanisms.

Thus, the challenge for East Africa today remains that of unmasking and tackling the political economies that are drivers of inequalities at the national level. Anything less will not deliver a regional integration process that is truly people centered and sustainable, one that is transformative for the lives and choices of East Africans. Anything less will be simply an effort in consolidating misery.

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Arthur Muliro Wapakala is Deputy Managing Director of the Society for International Development (SID), based in Nairobi, Kenya

the detrimental impact its financial secrecy policies have on women's rights and sustainable development in poorer countries.¹⁹ The CESCR similarly expressed alarm²⁰ about several aspects of tax policy in the UK, recommending that the country take strict measures to tackle corporate tax abuse.²¹ Pursuing accountability through human rights bodies is therefore one way forward with increasing potential.

In terms of targets for advocacy, domestic tax reforms are badly needed in many contexts, to make the tax system fairer and to crack down on tax abuse, but collective action at the global level is also indispensable. In a situation where capital is highly mobile and multinational corporations sprawl across borders, no country can tackle these issues in a vacuum. All countries have a role to play, but rich countries who effectively set the rules of the global marketplace and serve as home State to many of the most powerful multinational corporations have particular responsibility. Those countries that preside over tax havens are even more culpable.

Target 10.6 pledges to “Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions”. A more democratic, egalitarian decision-making system with regard to tax is badly needed to remedy many of the problems outlined above and facilitate progress towards SDG 10. An intergovernmental UN tax body, for example, in which all countries have an equal seat at the table (unlike the OECD) should be empowered to rewrite the rules of the broken international tax regime – in particular to redistribute the right to tax capital in a fairer way. Human rights arguments are increasingly being

brought to bear in efforts by G77 countries and civil society groups to push for more equitable tax policy governance at the international level.²²

In order to tackle outside corporate influence over tax policy, stricter transparency requirements will be essential. This includes more stringent disclosure and reporting laws regarding corporate lobbying, political donations and access to policy-makers and policy processes, at the national and international level (for example at the OECD, UN or G20). But it will also require broader, more sweeping reforms regarding corporate financial transparency – for example compulsory registries of beneficial ownership, country-by-country reporting, and automatic exchange of tax information. Implementation of such measures is an essential step towards meeting the equality, governance and international cooperation goals of the 2030 Agenda, and so could usefully be included as SDG indicators. Unfortunately similar proposals²³ have been resisted so far at the level of the global indicators in favour of a set which is very weak on issues of corporate accountability and transparency, and international tax system reform. However, they could still potentially be included in national and regional indicator sets for SDG 10, SDG 16 to promote peaceful and inclusive societies, access to justice and inclusive institutions, and SDG 17 on means of implementation.

Conclusion

Currently, domestic and international tax systems benefit big corporations at the expense of people, exacerbating inequality and undermining human rights. Corporate tax abuses and prevailing trends with regard to under-taxation of multi-national enterprises are a major obstacle to achieving SDG 10. Indeed, by depriving countries of badly-needed revenue to spend on public services, environmental protection and poverty alleviation, they potentially threaten achievement of the whole 2030 Agenda. SDG 10 however is particularly vulnerable, because the issue of inequality is so directly related to who controls

19 www.cesr.org/switzerland-held-account-cost-tax-abuse-women%E2%80%99s-rights.

20 UN Doc. E/C.12/GBR/CO/6.

21 Both these decisions came about following submissions by human rights and tax justice advocates, including the Center for Economic and Social Rights and the Tax Justice Network. On Switzerland see Alliance Sud et al. (2016), and on the UK see CESR et al. (2016).

22 CESR (2017).

23 CESR/Christian Aid (2015).

resources, how much tax different groups pay, and who has access to power and influence over policy. The goal of reducing inequality within and between countries simply cannot be solved by market-based solutions or attention-grabbing private sector initiatives; it requires serious efforts to transform power relations and resource distribution to stand any chance of success.

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Kate Donald is Director of the Human Rights in Development Program at the Center for Economic and Social Rights (CESR)

SDG 11

Commodification over community: financialization of the housing sector and its threat to SDG 11 and the right to housing

BY LEILANI FARHA, CANADA WITHOUT POVERTY, AND BRUCE PORTER, SOCIAL RIGHTS ADVOCACY CENTRE¹

SDG 11, “Make cities and human settlements inclusive, safe, resilient and sustainable” has the right to adequate housing at its core. Target 11.1 commits governments, by 2030, “to ensure access for all to adequate, safe and affordable housing and basic services [...]” All of the other targets under SDG 11 flow from this: upgrading informal settlements, ensuring access to transportation that connects homes to places of work and social services, ensuring participation in the planning and management of human settlements, and ensuring protection from the effects of natural disasters. All of these commitments have long been recognized as central obligations of States with respect to the progressive realization of the right to adequate housing. The greatest challenge to the realization of this right by 2030 is posed by the unprecedented dominance of financial corporations in the housing sector.

What is unique and of historic significance about SDG 11 and its targets is that it commits States to a firm timeline for realizing the right to housing. Until now, States have hidden behind misinterpretations of the “progressive realization” language of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to justify their prevarications and inactions, with disastrous consequences for the lives of those affected. They can no longer adopt a ‘maybe later’ approach. They have made firm commitments to meeting goals and timelines for the realization of the right to housing. They must act and achieve results in a 15-year period.

Recognizing SDG 11 as a human rights obligation provides a transformative framework through which a political commitment lacking a detailed framework for implementation can be transformed into something more practical and realizable.

Attaching human rights to SDG 11 provides a way of governing, a system of norms and values to inform decision-making, policy, planning and development, and a way to empower residents to hold States and other actors accountable.

Dominance of financial corporations in the housing sector

Across the globe, the greatest challenge to the realization of the right to housing by 2030 is posed by the unprecedented dominance of financial corporations in the housing sector. What is sometimes referred to as “corporate capture” in other spheres has occurred in a singularly far-reaching and systemic manner in the housing sector in the last quarter century. Historic, structural changes in housing and financial markets and global investment have occurred in recent years. Rather than being valued as a place to live in a community, housing has become a commodity to be bought and sold for profit, valued as security for financial instruments that are traded in global markets and treated as a means to accumulate massive wealth for a few while rending housing

¹ This article is based on the 2017 report of the Special Rapporteur on Adequate Housing to the Human Rights Council, see UN Human Rights Council (2017).

unaffordable for others. These global challenges to the human right to housing are generally referred to as the “financialization of housing”. The term refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live, to the way housing and financial markets are oblivious to the role housing plays in the well-being of people and communities. In short, the financialization of housing stands in direct opposition to the idea that housing, as a human right, is linked to personal dignity, security and the ability to thrive in communities.

The pace and extent to which financial corporations and funds are taking over the housing sector is staggering. Global residential real estate is now valued at US\$ 163 trillion, more than half of the value of all global assets and more than twice the world’s total GDP.² Banks, pension and hedge funds, private equity firms and other kinds of financial intermediaries seek out housing in ‘hedge cities’ as a safe haven to park excess capital, often benefiting from tax shelters. Housing prices are no longer commensurate with household income levels, and instead are driven by demand for housing assets among global investors – rising in many cities by more than 50 percent in a five-year period.³

Fluctuations in markets driven by the dynamics of global capital rather than by the need for housing have become the dominant force in the housing sector. When housing prices skyrocket, low and sometimes even middle-income residents are forced out of their communities by high rent or mortgage costs. When housing prices plummet, residents face mortgage foreclosure and homelessness. The devastation of lives and the scale of evictions and displacement by inadequately regulated corporate financial markets is unprecedented. In the USA, in the five years following the financial crisis, over 13 million foreclosures resulted in more than 9 million households being evicted.⁴ In Spain, more than

half a million foreclosures resulted in over 300,000 evictions.⁵ Evictions of this scale should give rise to international outrage about violations of the right to housing. Yet the ravages of corporate finance and global financial markets have largely escaped human rights accountability.

Rather than responding to these crises by ensuring that governments and financial corporations are held accountable to the right to housing, the prevalent pattern has been for governments to be made accountable to private equity markets and credit rating agencies. Housing crises have prompted governments to relinquish control of housing assets and financing to private equity firms, selling off vast amounts of housing and real estate assets at bargain prices to corporate actors. Austerity measures have been designed more to meet the demands of private equity lenders than the needs of those without housing, imposing further privatization and deregulation and creating even greater long-term vulnerability to market forces.

In developing economies, even informal settlements have become subject to speculative investment. Residents are displaced and often rendered homeless to make way for luxury housing that often stands vacant. And even when informal settlements are upgraded, while meeting a critical need (as envisaged in target 11.1), this has usually been initiated within a framework of public-private partnerships (PPPs) that serve in the long term to reinforce privatization. Rather than supporting and building upon community based social production of housing on land treated as a common good, ‘slum upgrading’ usually enlists corporate actors both in the production of housing and in the provision of credit; imposing individualized property titles, private ownership and reliance on global financial markets. In both the global North and the global South, models of housing and land as social goods have been subverted in favour of housing as a commodity for the accumulation of wealth.

2 Savills World Research (2016), p. 4.

3 Sassen (2016).

4 Sassen (2014), pp. 5 – 6 (based on data from RealtyTrac 2007, 2008, 2009, 2010).

5 Observatori DESC/Plataforma de los Afectados por la Hipoteca (2013), p. 12.

Reclaiming OUR public transport

BY ALANA DAVE, INTERNATIONAL TRANSPORT FEDERATION (ITF)

Urban transport is a sector where the industrial and the political are very closely linked. Public transport is an essential service relied upon by millions of people globally. Public authorities are lead industry players in both their role as employers and political decision-makers. The sector has massive strategic importance in the economic and social life of cities. So for labour, the struggle for power is not only in workplaces with employers (private and/or public) but also in the public sphere where decision-making about the ownership, control, organization and financing of public services takes place. For many years, ITF affiliates have opposed the neoliberal model of privatization and deregulation, supporting public ownership and investment in infrastructure and operations, as well as democratic accountability in how public money is spent. It is recognized that this shift is now much more urgent given the climate crisis.

Urban transport unions occupy an important strategic position in cities. But their ability to win in industrial disputes has been seriously weakened and undermined by a massive offensive against unions and workers, including the ability to take strike action. The ITF is focusing on rebuilding industrial muscle in targeted cities and different transport modes, and at the same time positioning ourselves

politically to fight for a public transport system that meets the needs of the majority of people as well as the environment. We are reclaiming the meaning of the ‘public’ in the interests of social and environmental justice, rather than markets and private profit.

OUR public transport should ensure:

- The needs and rights of millions of **workers** who rely on public transport for their jobs and keep public transport moving.
- The rights of public transport **unions** around the world who have built and improved the sector by negotiating better terms and conditions of employment for workers.
- The needs and rights of millions of **informal workers** who rely on providing public transport for their livelihoods.
- The needs and rights of millions of **ordinary people** who rely on public transport to move around cities.
- The needs and rights of millions of **ordinary people** who still do not have adequate access to public transport.
- The needs and rights of **discriminated or marginalized groups**

such as women, elderly people, young people and people with disabilities.

What are our goals? We aim to build union strength across integrated public transport systems, and strengthen organizational and employment rights for workers and unions. In the long term, we aim to win alternative models of public transport based on decent work and democratic public ownership. Not everyone has a say in how public transport is run, and for whose benefit. Too often public transport planning does not include the views of the real experts – workers and passengers. Through organizing passengers and building strategic alliances, we will raise the visibility of workers and passengers’ stories, experiences and needs.

As Francisco Mora, President of the ITF affiliate SNTT in Columbia says:

“I believe we are not just transport workers - above all we are all transport users – and so are our families and friends. We need to make sure that transport in big cities becomes more humane and that profit is not put before the needs of people.”

Alana Dave is “Our Public Transport” programme leader at the International Transport Federation (ITF).

The dominance of corporate financial actors in decision-making about housing and real estate and the loss of models of independent governance through which financial actors and markets can be adequately regulated has been gradual and often invisible. The trend has now become quite stark, with the unprecedented, visible role of real estate billionaires in government and policy-making in the USA and elsewhere. The corporate capture of democratic governance affects all sectors, but it is particularly all-encompassing and systematic in the sphere of housing and real estate.

The financialization of housing is a three-fold assault on human rights. First, financialization undermines democratic governance and community accountability. When the housing sector is dominated by corporate financial actors, governments tend to be held accountable and responsive to international financial institutions and creditors rather than to human rights and housing needs of communities. Decisions about housing — its use, its cost, where it will be built or whether it will be demolished — made from remote board rooms are fundamentally disconnected from rights holders. This undermines effective human rights accountability and is contrary to target 11.3, which calls for participatory, integrated and sustainable human settlement planning in all countries. Second, financialization of housing exacerbates inequality and social exclusion, making it difficult to achieve SDG 10 on reducing inequalities and SDG 16 on peaceful, just and inclusive societies. It creates more wealth for the wealthy and deprives the poor of housing and communities. And third, financialization detaches housing from the human rights values of living within a community, in equal dignity and security – the values that ought to define housing. When housing is bought and sold as a speculative commodity rather than valued as a place to live, it becomes dehumanized. Investors' rights to expected profits, protected in trade and investment agreements are protected by courts and tribunals while residents whose rights to housing are being systematically violated are denied access to justice.

The shift to a human rights paradigm for the realization of SDG 11

Financialized global markets are too often seen as external forces beyond the control of States. However, financialization is in fact a product of State action and inaction - sustained by and supported by States. It relies on the judicial enforcement of agreements between lenders and borrowers, on laws governing property rights, zoning and land use laws and policies. It relies on an increasingly complex system of international and regional treaties negotiated by States governing the terms and conditions of investments and government actions that may impact on profitability. States and governments are perfectly capable of redesigning laws and policies governing housing and financial markets to recognize the centrality of the right to adequate housing-providing they are allowed to implement them. The ability of States to perform this task is central to the realization of SDG 11. It will require a significant transformation of current systems of law and accountability and new avenues of access to justice, at the local, national and international level. Tall asks that are nevertheless not out of reach.

The reclaiming of human rights within the housing sector from the dominance of corporate finance will mean asserting both the role of rights claimants and at the same time, demanding that government at every level, from the local to the national, fulfil its obligations to respect, protect and fulfil the right to adequate housing. These obligations must be understood not only in the context of government programmes to provide housing but also in the context of governments' role in regulating private actors and financial markets.

The obligations of States in relation to the financial sector have often been ignored or interpreted too narrowly. The default position, bolstered by the ideology of neoliberalism, is that States should simply allow markets to work according to their own rules, subject only to the requirement that private actors “do no harm” – however they understand it – and avoid explicit violations of human rights. What is often missing from the discussion is an understanding that corporate actors must comply with domestic

laws and regulations and that these must be designed by States in a manner that is consistent with the right to housing. This means, for example, that while there may not be an obligation under international human rights law requiring private corporations to provide affordable housing to those in need, governments may in many circumstances have an obligation to impose that requirement on prospective developers. It will be important, in the realization of SDG 11, to draw on the immense amount of capital available for investment in housing. But it is up to States to ensure that investments in housing are consistent with the realization of the right to housing. States cannot simply rely on private actors, through due diligence, to design housing policy capable of realizing SDG 11. They must actively develop and implement new approaches to investment to ensure that result.

A human rights approach will build on innovative models of housing production and growing resistance to the financialization of housing emerging in communities around the world. Residents are demanding that vast amounts of vacant housing controlled by speculators be made available to those in need, that developers be required to build housing that is affordable and designed for and by the community, and that courts protect the right to housing. Residents of informal settlements are demanding new models of upgrading based on community practice and social production. Communities are demanding a significant change in the governance of housing and land, rejecting the commodification of housing in order to retrieve what housing means in terms of human dignity and security, as a lived experience, as a human right. Some local governments are pleading for recognition of the central role they can play in facilitating and supporting these types of community responses to financialization, as well as advocating with other levels of government for the necessary legislative, policy and fiscal changes.

A number of States have instituted restrictions on foreign purchasers of residential real estate and others have imposed taxes on vacant or luxury homes. Some jurisdictions have introduced a property speculation tax and others have been successful at requiring developers to change plans for luxury housing into inclusive development that meets the needs of resi-

dents. Other governments such as the autonomous regions of Andalusia and Catalonia in Spain, have introduced legislation that explicitly affirms the social function of housing and facilitates temporary expropriation of vacant housing.⁶ Domestic courts have increasingly recognized their critical role in applying domestic law consistently with the right to housing, by, for example, refusing to enforce foreclosures or evictions that would result in homelessness.⁷

While these measures are important beginnings and can mitigate the effects of the financialization of housing, a more fundamental shift is also required. SDG 11 and the New Urban Agenda (adopted at the Habitat III Conference in Quito, Ecuador in October 2016) provide an important opportunity to replace the commodification of housing as a vehicle for the accumulation of wealth with the human right to housing, for dignity, security and sustainable communities. Central to making that shift will be a more robust engagement by States with financial markets, regulatory bodies and private equity firms to ensure that housing investment and development initiatives are consistent with States' obligations to realize the right to housing by 2030. Courts must begin to interpret and apply all domestic laws in manner which takes seriously the obligation to realize the human right to housing within a reasonable period of time, by all appropriate means, as binding obligations on all levels of government. The commitments made under SDG 11 can be referenced to that human rights obligation. National human rights institutions must monitor the effect of investment on the right to housing and SDG progress and hold governments and private actors accountable for violations and lack of progress. Trade and investment treaties must ensure that States are fully empowered to regulate and direct private investment so as to ensure the realization of the right to housing. Emerging work in the area of business and human rights should be more

6 Comunidad Autónoma de Cataluña, BOE-A-2015-9725. Junta de Andalucía, BOJA nº 69, Decreto-Ley 6/2013: Art. 2,3,4.

7 Committee on Economic, Social and Cultural Rights, General comment No. 7; Wilson (2009); City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another (CCT 37/11) (www.saflii.org/za/cases/ZACC/2011/33.html).

rigorously applied to the largest sphere of global business – the sphere of housing and real estate. Financial institutions and housing investors should be encouraged to adopt guidelines that recognize the important role that they must play in the realization of the right to housing.

The implementation of the 2030 Agenda is the right time to insist that human rights obligations be recalibrated to address the immense challenges of the financialization of housing and redirect the vast resources available toward the realization of the right to adequate housing.

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Leilani Farha is Executive Director of Canada Without Poverty. In 2014, she was appointed by the UN Human Rights Council to the position of UN Special Rapporteur on Adequate Housing.

Bruce Porter is Director of the Social Rights Advocacy Centre in Ottawa, Canada and the Chief Advisor to the Special Rapporteur on Adequate Housing.

Four critical steps to operationalize the New Urban Agenda's transformative commitment to decent work and inclusive and sustainable cities (SDG 11)

BY DARIA CIBRARIO, PUBLIC SERVICES INTERNATIONAL (PSI)

In October 2016 over 30,000 representatives of national, regional and local governments, trade unions, business, academia, urban planning and civil society gathered in Quito, Ecuador, for the Habitat III Conference (HIII), where state representatives adopted the New Urban Agenda (NUA),¹ the UN guidelines meant to serve as a reference for urbanization policies for the next 20 years. The NUA is directly related to the implementation of SDG 11: “Make cities and human settlements inclusive, resilient and sustainable”.

Since the onset of the HIII process, trade unions have made clear that to make cities fair and for urbanization to result in lasting socio-economic inclusion, poverty elimination and inequality reduction, workers must be placed at the heart of the policy agenda and that commitments and urban policies must find root in the decent work framework of the International Labour Organization (ILO), also consistent with SDG 8. If city workers' livelihoods are unsustainable, cities will be unsustainable too. What has ended up in the final text of the NUA is far

from trade unions' demands and recommendations. Yet, the clear references to “full and productive employment and decent work for all”² mandate the operationalization and monitoring of this NUA's transformative commitment to generate decent employment in cities and local communities.

In their position on Habitat III's “Ten key points for fair cities and for an inclusive New Urban Agenda”³ trade unions distilled and elaborated a set of practicable policy recommendations that continue to be a reference and can serve as a roadmap for realizing the HIII transformative commitment to ensure sustainable and inclusive cities for all.⁴ Four stand out for their powerful and comprehensive approach in the operationalization of the NUA transformative commitment to decent work and SDG 11:

1. Negotiation and implementation of local tripartite decent work pacts in cities, metropolitan areas and regions

Local tripartite decent work pacts are powerful shared transformative policy frameworks that representatives of city and local governments - together with local trade unions and business – can set up through social dialogue and collective bargaining, and where each party takes its part of responsibility and shares commitments to generate sustainable socio-economic development through the creation of decent employment. Such measures can include:

- local active labour market policies for decent employment generation, including positive action for gender equality, youth and ageing workers (NUA, para. 62) and diversity;
- mechanisms to promote legal, regulated employment relations complying with labour rights and to facilitate the transition of informal workers into to the formal economy (NUA, para. 59);
- benchmark-setting for city or metropolitan living wages and

1 UN General Assembly (2016), quoted in the following as NUA.

2 NUA, para. 14b and para. 57.

3 www.world-psi.org/sites/default/files/en_psi_position_on_habitat_iii.pdf.

4 Cibrario (2016).

positive listing and incentives to employers paying living wages;

- the creation of decent green jobs jointly with just transition plans for those employed in carbon-intensive operations, within the commitment to local climate action consistent with the 2015 Paris Agreement on Climate Change (NUA, paras. 75 and 79);
- training, upskilling and employability actions needed to realize just mitigation and adaptation to climate change, digital and circular economies transitions and to build viable paths between education and decent employment opportunities, as well as inter-generational knowledge exchanges in local communities;
- specific acknowledgement of the role of small and medium enterprises (SMEs) in employment creation at a local level and appropriate policies to support, enhance and accompany their decent-work generating potential (NUA, para. 58);
- social cohesion measures to support the integration of migrants and refugees within the local economy and communities (NUA, para. 57).

When well designed and managed, local decent work pacts are powerful, empowering and participatory tools that generate decent employment while promoting compliance with human and labour unions' rights (NUA, para 26).

2. Inclusion of labour and environmental clauses in public procurement jointly with public contract transparency, disclosure and anti-corruption measures

The implementation of the NUA says much about infrastructure and housing building, but little about how to tap into the enormous potential that socially and environmentally responsible public procurement represents to leveraging urban building and infrastructure development policies and purchasing power to generate decent employment and ensure that contract builders and suppliers respect human and labour rights as well as environmental standards. Through well designed public procurement policies, local governments can demand the companies they contract to exercise responsible labour, social and environmental standards affecting all workers on building sites in line with ILO Convention 94,⁵ protect the local community from harm linked to poor, unsafe building and infrastructure and create decent employment that benefits the local community and economy.

Specific guidelines for the operationalization of responsible public procurement to uphold the NUA transformative commitment to

5 ILO Convention concerning Labour Clauses in Public Contracts, 1949 (www.ilo.org/dyn/normlex/en/f?p=NORMLEX_PUB:12100:0::NO::P12100_INSTRUMENT_ID:312239).

decent work and inclusive cities include the following measures:⁶

- explicit references to equal treatment and conditions for all workers on building sites regardless of their origin and status;
- mandatory formal, legal employment arrangements;
- adequate provisions for health and safety standards and skills;
- a chain of liability down the whole subcontracting process;
- transparency measures, with the details of public contracts and adjudication processes made publicly accessible to allow for scrutiny and proper evaluation;
- an integrated approach to corruption covering all actors involved in public procurement, including adequate, effective measures for proportional and dissuasive sanctions; public seizure of profits and gains attained through corruption and unethical practices; and the protection of whistle-blowers, their families and communities from harm and retaliation.⁷

6 The RESPIRO Guides on Socially Responsible Procurement of Building Construction Work and on the Socially Responsible Procurement of Textile and Clothing provide additional guidance, see www.respiro-project.eu/en/respiro-guides/.

7 PSI (2016).

3. Universal access and public ownership and investment in essential urban public services

Accessible, affordable and quality public services are the cornerstone of inclusive, sustainable cities. Universal access to water, energy, health care, transportation, waste management, social services, education, public spaces, social housing and other essential public services significantly reduces inequality among urban populations and is a prerequisite for the respect of human rights, including gender equality. When public-private partnerships (PPPs) enter the provision of essential public services prioritizing profit and dividend maximization, instead, the social and environmental sustainability objectives that public institutions have a duty and a mandate to pursue are distorted and are no longer achievable. Essential service jobs are externalised, headcount is reduced, pay and conditions are lowered and workload increases to squeeze resources out of the service into private profits: this is also a systematic destruction of decent jobs that is at odds with the NUA commitment.

After 20 years of evidence of failure of PPPs to deliver essential services,⁸ cities and communities worldwide are increasingly bringing essential services back

in-house through remunicipalization (see box on remunicipalization in the water sector in [Chapter 6](#)).⁹ The implementation of the NUA must draw on this lesson and rely on the public financing and management as viable alternatives to the PPP mantra for much needed urban essential services.

When essential services are publicly owned and provided, profits are also reinvested in the public service to improve it or cut user costs rather than to extract profit and pay shareholders. This goes to the advantage of local communities and fosters urban socio-economic inclusion, in line with the NUA commitments and SDG 11.

4. Tax justice for local governments and communities and progressive municipal fiscal systems

Taxation is a key lever to beat inequality and to operationalize the NUA's commitment to urban socio-economic inclusion and the SDGs. Adopting all of the above-mentioned policies is not possible without a sustainable stream of resources that local and regional governments (LRGs) can tap into without exacerbating inequality further. Cities and metropolitan areas are the engines of global growth and development, but to be inclusive they need adequate resources to finance and invest in urban and local public

services and infrastructure. LRGs are also in charge of the implementation on the ground of global frameworks such as the Sendai Protocol on Disaster Preparedness, the decent work agenda, the Paris Agreement on Climate Change, the SDGs, and now the NUA. Yet, when it comes to being financially empowered to do so, austerity measures, tax avoidance, international loan conditionality, international trade and tax deals, and shrinking intergovernmental transfers and unfunded mandates increasingly strip them of the essential resources they need to fund and deliver to essential public services to urban dwellers and local communities.

Much of the discussion that led to the NUA and its outcome concentrate around inter-municipal tax competition, PPPs, city-based benchmarking for borrowing resources in the stock market and user-fee charges. These are unsustainable and socially regressive options that are going to detract from the NUA transformative commitment to inclusive cities and from the SDGs. What is needed is a mix of tax justice for local governments and of progressive municipal fiscal systems that includes the following:¹⁰

- 1 Central government tax recovery measures and adequate in-

8 See, e.g. Wainwright (2014), Hall (2015), Jomo et al. (2016), Romero/Vervynck (2017).

9 Kishimoto et al. (2014), Reynolds et al. (2016).

10 For a full set of viable policy recommendations on financing the implementation of the NUA see Cruz (2017).

tergovernmental fiscal relations and transfers. As LRGs cannot deal with mobile tax bases, central governments must ensure that corporate and private actors pay their fair share to the local communities where they are settled, operate and generate profit and do not free ride on them. This means raising additional tax revenues as well as strengthening and empowering national tax authorities and employees to recover avoided tax - in cooperation with other countries - particularly from multinational corporations, which are known to shift their tax bases to tax heavens and low-tax jurisdictions. Higher revenue collection at the central level then needs to result in higher transfers to LRGs to achieve the SDGs and implement the NUA. In addition, LRG authorities must be involved in tax policy so that they can demand fair returns for local communities in terms of tax revenues, local decent work creation, clean technology transfer, profit reinvestment, fair pricing for commodities.

- I The empowerment of LRGs to raise and collect local taxes and adopt progressive municipal fiscal policies. Depending on the local context and priorities, these include local taxes on property, business, income, excise and health, and land value-capture mechanisms.
- I The establishment of 'fiscal social contracts' between LRG

authorities, institutions and taxpayers, whereby a relationship of trust is created among them and the latter accept to comply with tax obligations as they see the immediate benefits and returns in terms of access to improved local public services and infrastructure within a context of legality, fairness, transparency and accountability.

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Daria Cibrario is Local and Regional Government and Multinational Corporations Officer at Public Services International (PSI)

The “Aerotropolis” phenomenon – high risk development thwarting SDGs

BY ANITA PLEUMAROM, TOURISM INVESTIGATION AND MONITORING TEAM

With increased global economic integration, a new form of airport-centric commercial development has emerged and is spreading rapidly worldwide. As nodes in global production systems offering speed and connectivity, ‘city airports’ are being transformed into ‘airport cities’, or so-called ‘aerotropolises’. Like other cities, the aerotropolis consists of a central core with rings of development permeating outwards. But its core is an airport, and all surrounding development supports and is, in turn, supported by the airport industry.

Promoters hail this new urban form as economically efficient, globally competitive, attractive and sustainable.¹ They point to the promise of creating powerful engines of local economic development, attracting tourism-related industries, generating jobs for locals and added value for neighbouring communities.

But in fact, the aerotropolis profoundly subverts the goal of building inclusive, equitable and sustainable cities. It is not a city

designed to enhance the lives and livelihoods of urban dwellers and to provide public space to nurture participatory democracy and civic empowerment. It is a city driven by a combination of private business imperatives and State control, with the high levels of security and controls that go with airports. It constitutes a super-centre of conspicuous consumption with facilities and services primarily catering to privileged and wealthy upper-class air passengers with hyper-mobile and luxurious lifestyles, and to transnational corporations that are keen to get their products swiftly to customers around the world.

Apart from the airport, aerotropolis developments usually feature hotels; shopping and entertainment facilities; retail, convention, trade and exhibition complexes; golf courses; as well as manufacturing and warehouse areas. These projects are often given preferential treatment, such as relaxed regulations and tax breaks, and are sometimes integrated with larger Special Economic Zones (SEZs), where supportive infrastructure, such as transportation links, energy and water is provided.

Those who benefit most from such projects are not local communities but international investors and corporations such as construction firms, airlines and other transport companies, hotel chains, real estate companies, insurance and security equipment companies, retail businesses as well as manufacturing companies with an export orientation.

The proliferation of aerotropolis schemes needs to be seen in the context of the global trend to financialize infrastructure. Airport-related projects are being coveted by the financial sector and transformed into assets through which private investors are guaranteed high returns. Public-private partnerships (PPPs) are on the rise in the airport industry. However, the expanded use of public money – for example, taxes, pension funds and aid - to offset the risks involved in these massive projects is of special concern, particularly in developing countries struggling with poverty, ailing economies and high debts. PPPs tend to externalize the high costs onto the backs of people(s) and the biosphere.

¹ See e.g., John D. Kasarda, President and CEO of Aerotropolis Business Concepts (www.aerotropolisbusinessconcepts.aero).

Aerotropolis schemes devour huge tracts of land, sometimes more than 100 square kilometres. Major impacts include land conflicts, forced evictions, loss of biodiversity and farmland, environmental degradation, air, water and noise pollution, and lack of transparency and accountability. Given their petroleum-intensive infrastructure, aerotropolis developments are perpetuating the global fossil fuel-based economy that drives runaway climate change.

For all these reasons, resistance against aerotropolis ventures has been growing worldwide – from the UK and Turkey in Europe; to Tanzania in Africa; Indonesia, India and Taiwan in Asia; to Mexico in Latin America. In 2015, an alliance of civic groups formed the Global Anti-Aerotropolis Movement (GAAM)² in order to research and monitor developments and support local struggles against socially and environmentally destructive projects.

Anita Pleumarom is Coordinator of the Tourism Investigation and Monitoring Team (T.I.M.-TEAM), an independent research and monitoring initiative to provide information for public use and to engage in campaigns for social and ecological justice in tourism and development.

² <https://antiaero.org/>.

SDG 12

Binding rules on business and human rights – a critical prerequisite to ensure sustainable consumption and production patterns

BY JENS MARTENS AND KAROLIN SEITZ, GLOBAL POLICY FORUM

The transformation of our world, as proclaimed in the title of the 2030 Agenda, requires fundamental changes in the way that our societies produce and consume goods and services. The private sector has a particular role to play in this regard. But far too often there is a considerable gap between the social and environmental commitments companies make and the actual effects of their activities on people and the environment. At the international level, instruments to hold corporations accountable for human rights abuses and the violation of social and environmental standards are weak. Even in the 2030 Agenda, governments are mandated only to “encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle” (SDG target 12.6). In light of the inadequacy of existing instruments, a growing number of governments, NGOs, academics, and even business representatives are calling for legally binding rules on business and human rights.

During the last few years, the international debate surrounding the environmental, social and human rights responsibilities of corporations has gained momentum. Not least, growing public criticism of transnational corporations and banks has contributed to this debate. The list of criticisms is long: ever-new pollution scandals (notably the VW emissions scandal), disregard for the most basic labour and human rights standards (e.g., in Bangladesh’s textile or the Chinese IT industry), massive bribery allegations (against e.g., Siemens or more recently the Brazilian construction company Odebrecht), as well as widespread corporate tax avoidance strategies (e.g., Google, Starbucks and IKEA).

Victims of human rights violations by corporations often face unsurmountable barriers to access to justice. A regulation gap exists especially with regard to corporations operating transnationally. In many cases victims are not able to hold these corporations accountable for their actions, neither in the country of jurisdiction, or home country, nor in the host country of the business enterprise. In contrast, new trade

and investment agreements ensure transnational corporations more far-reaching investor rights. They can use private tribunals to sue governments if they deem their profits or investment potentials are affected by new laws – including higher health and environmental standards.

Experience has shown that voluntary guidelines, such as the UN Guiding Principles on Business and Human Rights (UNGP)¹ have failed to hold corporations accountable. More and more governments have concluded that these Guiding Principles and the mechanisms for their implementation were only of limited effect. A statement to the UN Human Rights Council in September 2013 initiated by the government of Ecuador and supported by an additional 85 countries, stated:

“We are mindful that soft law instruments such as the Guiding Principles and the creation of the Working

¹ UN (2011).

Group with limited powers to undertake monitoring of corporate compliance with the Principles are only a partial answer to the pressing issues relating to human rights abuses by transnational corporations. These principles and mechanisms fell short of addressing properly the problem of lack of accountability regarding Transnational Corporations worldwide and the absence of adequate legal remedies for victims.”²

Nobel Prize laureate Joseph Stiglitz shared this opinion. At the UN Forum on Business and Human Rights in December 2013, he too emphasized the need to go beyond the UN Guiding Principles:

“We need international cross-border enforcement, including through broader and strengthened laws, giving broad legal rights to bring actions, which can hold companies that violate human rights accountable in their home countries. [...]

“Economic theory has explained why we cannot rely on the pursuit of self-interest; and the experiences of recent years have reinforced that conclusion. What is needed is stronger norms, clearer understandings of what is acceptable—and what is not—and stronger laws and regulations to ensure that those that do not behave in ways that are consistent with these norms are held accountable.”³

Unfortunately, these demands were not sufficiently reflected in the negotiations of the 2030 Agenda and the SDGs. In response, the UN Working Group on Business and Human Rights stated in July 2015:

“We see in the newly proposed sustainable development goals that the private sector is envisaged as having a key role. At the same time, we are concerned that there is not sufficient recognition of the fact that business activities can also have negative effects on human rights [...].”⁴

In the 2030 Agenda, governments could only agree on the following cautiously balanced sentence:

“We will foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements and other ongoing initiatives in this regard, such as the Guiding Principles on Business and Human Rights and the labour standards of the International Labour Organization, the Convention on the Rights of the Child and key multilateral environmental agreements, for parties to those agreements.”⁵

In the 2030 Agenda governments could not agree to go beyond existing ‘soft law’ instruments. This did not prevent Victoria Tauli-Corpuz, the UN Special Rapporteur on the rights of indigenous peoples, as well as a number of other experts, to call on the UN to replace ‘soft law’ with ‘hard law’ in business and human rights policy. “An international legally binding instrument would significantly help in establishing the much needed balance in the international system of rights and obligations with regard to corporations and host governments,” she claims.⁶

The ‘Treaty Process’

Against this background, the UN Human Rights Council’s resolution of 26 June 2014, which was initiated by Ecuador and South Africa, to establish an open-ended intergovernmental working group (OEIGWG) “to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises”⁷ deserves to be called historic. For the first time since the dissolution of the UN Commission on Transnational Corporations in 1992, an intergovernmental body of

2 <http://business-humanrights.org/media/documents/statement-unhrc-legally-binding.pdf>.

3 Stiglitz (2013), pp. 4-5.

4 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16082&LangID=E and www.ohchr.org/Documents/Issues/Business/20150710_WG_SDGletter.pdf.

5 UN (2015), para. 67.

6 Opening remarks by Victoria Tauli-Corpuz, UN Special Rapporteur on the rights of indigenous peoples, during the first session of the OEIWG on 6 July 2015 in Geneva (www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session1/VictoriaTauli.doc).

7 UN Doc. A/HRC/RES/26/9 (http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9).

the UN was established to address the international regulation of corporations.

A global alliance of several hundred civil society organizations has been at the forefront of such a demand. This Treaty Alliance (www.treatymovement.com) recommends the establishment of a binding ‘treaty’ to regulate the activities of transnational corporations and other business enterprises with respect to human rights.

The importance of this recommendation is not only reflected in the strong support of civil society organizations but also the growing interest of UN Member States. While only 60 countries participated in the first session of the intergovernmental working group in July 2015, already 80 countries attended the second session in October 2016.

Discussions surrounding the form, content and scope of a possible legal instrument dominated the agenda of the first two sessions of the intergovernmental working group, in 2015 and 2016.⁸ Many of the participants agreed that a binding agreement should complement the existing UN Guiding Principles. Participants also agreed that such an instrument should address not merely gross human rights abuses, but all human rights abuses in general.

Elements of a Treaty on Business and Human Rights

Up to now, especially legal experts and civil society organizations have presented various proposals on the form, scope and content of a future legal instrument.⁹ A treaty could take the form of an all-encompassing, detailed agreement, a shorter, more general framework agreement, an optional protocol to an existing human rights agreement, or a set of thematically focused individual agreements.¹⁰ Most of the proposals for such an agreement include the following elements:

1. **Definition of responsibilities and liability for human rights abuses:** A treaty should establish corporate liability for human rights abuses. This would require a definition of the specific responsibilities of corporations and business enterprises.¹¹
2. **Due diligence commitments, including human rights risk and impact assessments:** A treaty should commit businesses to introducing guidelines and taking the necessary measures to prevent human rights abuses in all their economic activities, throughout the entire supply chain.
3. **Monitoring and enforcement mechanisms:** Ensuring the implementation of such a treaty will require corresponding monitoring and enforcement mechanisms at the national and international levels.¹²
4. **Enhanced intergovernmental cooperation to investigate, sentence and enforce judgements:** A treaty should commit States to collaborate in all judicial matters based on a principle of shared responsibility analogous to the principle applied to tackling corruption and transnational organized crime.
5. **Establishment of extraterritorial obligations for states to protect human rights:** As stated by Olivier de Schutter, former UN Special Rapporteur on the right to food, “States may have to be reminded of their duties to protect human rights extraterritorially, by regulating the corporate actors on which they may exercise influence, even where such regulation would contribute to ensuring human rights outside their national territory [...]”¹³
6. **Clarification of the relation between a treaty and bilateral and multilateral trade and investment agreements:** Specific proposals on the relationship between human rights and trade and investment agreements have been made by international law experts such as Markus Krajewski, Professor at the University of Erlangen-Nuremberg, Germany. Either a treaty becomes superordinate to such

8 www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx.

9 www.treatymovement.com/resources/.

10 Deva (2014).

11 International Commission of Jurists (2016).

12 Ibid.

13 De Schutter (2016), p. 66.

agreements or it would have to amend, in binding terms, existing trade and investment agreements to include effective human rights clauses. The treaty could also require states to conduct human rights impact assessments before, during and at the end of the negotiations of new agreements. It could further define obligations of export credit and investment guarantee agencies.¹⁴

Next Steps

The third session of the intergovernmental working group takes place in Geneva from 23 to 27 October 2017. Ecuador, as chair of the working group, is expected to present draft elements of a legally binding instrument in advance. These draft elements will be discussed at the session, and afterwards Member States will decide on the next steps in the process.

To be viewed as successful, the Treaty Alliance expects governments at the third session to encourage:

- 1 “A substantive, cooperative, and constructive negotiation between States about concrete and detailed elements of the treaty concerning its content and scope;
- 2 “A participatory approach to ensure diverse civil society perspectives; and
- 3 “The establishment of a road map for the completion of the negotiations within a short period of time.”¹⁵

Although the current international political climate is not particularly favourable, the treaty process still offers the historic opportunity for governments to demonstrate that they put human rights over the interests of big business. This will be a critical prerequisite for implementing the 2030 Agenda, not least the goal to ensure sustainable consumption and production patterns.

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Jens Martens is Executive Director and

Karolin Seitz is Programme Officer at Global Policy Forum

¹⁴ Krajewski (2017).

¹⁵ www.treatymovement.com/statement.

Can the (interlinked) SDGs curtail the extractive industries?

BY VOLKER LEHMANN AND LENNART INKLAAR, FRIEDRICH-EBERT-STIFTUNG NEW YORK OFFICE

While the 2030 Agenda and the SDGs recognize the need to use natural resources in a sustainable manner,¹ there is no specific reference to the use of non-renewable resources, such as metals, minerals or fossil fuels. This is a critical omission as the removal of non-renewable resources from their original surrounding is an inherently unsustainable activity, for which costs and benefits have to be carefully addressed. Extraction of these resources on an industrial scale contributes to many of the ills of unsustainable development (corruption, economic stagnation, human rights violations, environmental degradation, etc.) that the 2030 Agenda now aims to rectify. And despite the Agenda's shortcomings, if the SDGs were to be fully implemented, the question is not whether this would affect the governance of resource extraction and extractive industries, but how far-reaching the consequences would be.

Conversely, one may ask how far this sector would have to be transformed to make achieving the 2030 Agenda realistic. Mapping exercises have been carried out by the IFIs and UNDP to spell out the potential contributions that the extractive industry can make towards the fulfillment of each of the 17 SDGs.² These exercises are problematic in at least two ways. First, both the 2030 Agenda and the problems that arise from extractive industries are indivisible, interlinked and universal, so that accounting for progress narrowly goal-by-goal is not likely to help implement them in an integrated way. Second, it is questionable to what extent the extractive industry is willing on a voluntary basis to shift from being part of the problem to being part of the solution.

By the same token, UN Member States that signed onto the 2030 Agenda will not put its voluntary policy prescriptions into practice unless they are pressured to do so. An alternative, more productive approach towards implementing the SDGs would therefore be to see where the 2030 Agenda has the potential to either a) curb extractive

industries or b) even transform the current, resource-consuming development model. It would of course also have to address the question of what extractive-industry dependent countries are meant to do.

Curbing the industry

Towards these ends, human rights-based approaches provide both an analytical tool and a framework for action. On a normative level, the 2030 Agenda was a missed opportunity for putting human rights at the centre as many of the goals and targets fall behind existing international obligations. Nevertheless, now that it is time to put the Agenda into practice, for a number of cross-cutting issues the reference to existing human rights lends itself to the kind of political action that could have a considerable impact on the operations of extractive industries.

A case in point regards land and resource rights, since control of and secure land titles for women, indigenous communities and other marginalized groups stand in the way of extractive industry projects and their large-scale land use. Such rights feature under SDG 1 on poverty, in target 1.4 (access to, ownership of, and control over land and natural resources); under SDG 2 on food security and sustainable agriculture in target

1 A/RES/70/1, Preamble, which makes reference to "all natural resources – from air to land, from rivers, lakes and aquifers to oceans and seas" (para 9), and SDG 12.2: "By 2030, achieve the sustainable management and efficient use of natural resources."

2 Columbia Center on Sustainable Investment/Sustainable Development Solutions Network/UNDP/World Economic Forum (2016) and International Finance Corporation/IPIECA/UNDP (2017).

2.3 (equal access to land, particularly for indigenous communities); and under SDG 5 on gender equality in target 5.a (equal rights to land and natural resources for women).

These SDG targets continue the re-allocation of resource rights, which historically, as part of the UN's decolonization and self-determination agenda, were reserved for sovereign States in the interest of their national development.³ While such a State-centric approach left many behind, at least for indigenous peoples the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) upgraded their rights to resources. UNDRIP requires indigenous peoples' free, prior and informed consent to resource extraction projects affecting their lands, territories and other resources. Yet in reality, serious violations of indigenous peoples' land, self-governance and cultural rights continue. And the renewed conflict between Indian nations of the Standing Rock reservation and the current US administration about the Dakota Access pipeline project demonstrates that this problem is not limited to any particular region of the world.

Instead, the problem falls squarely within what is commonly summarized under the term 'resource curse', meaning that abundant natural resources can fuel conflicts, inhibit economic performance and corrupt political regimes. SDG 16 on sustainable peace, access to

justice and inclusive Institutions and SDG 17 on means of implementation and the global partnership for sustainable development appear to be particularly relevant as they include targets intended to reduce violence (16.1), curb illicit financial flows (16.4), reduce corruption and bribery (16.5), develop effective, accountable and transparent institutions (16.6), ensure public access to information (16.10), strengthen domestic resource mobilization (17.1) and mobilize additional financial resources (17.3).

The tool readily available that dovetails with these SDGs is the Extractive Industry Transparency Initiative (EITI).⁴ The EITI is today's most comprehensive framework for the governance of natural resources and has led in many of its (currently 51) implementing countries to increased transparency and accountability regarding oil, gas and mineral resource revenues. Yet extending EITI membership – which is voluntary for both countries and corporations – will in itself not be sufficient to address the problem of accountability. For one, it is a misnomer, as it holds to account States and governments, which can be delisted as a result of non-compliance, but not so extractive industry corporations.

Moreover, the EITI's limited scope on transparency cannot address the cross-cutting challenges of extractivism to sustainable development, that is, how to break away from a development model based on increased and unequal resource utilization in a world of finite resources – and how to combat the model's negative 'externalities', in particular the impacts of climate change in different parts of the world.

The greater transformation – production and consumption

The extraction of resources is a means to meet a demand, which is mostly related to production and consumption. A systematic decrease in demand is where the future of the extractivist endeavour will be decided. Therefore, the systemic shortcomings of the SDGs, already highlighted in the 2016 Spotlight Report,⁵ are particularly relevant also for resource extraction. Neither SDG 12 nor target 8.4 ("Improve... resource efficiency and sustainability in consumption and production") under SDG 8 on sustainable growth, in and of themselves lead to less resource consumption as long as the mantra of more economic growth remains uncontested. Similarly, SDG 13: To have at least a 50 percent chance to meet the 2 degrees Celsius limit of the UN Framework Convention

3 A/RES/17/1803.

4 EITI (2016).

5 www.2030spotlight.org/sites/default/files/contentpix/spotlight/Agenda-2030-en_web_accessible.pdf.

on Climate Change (UNFCCC), the majority of carbon-based energy resources would have to remain in the ground. At least on paper, the SDGs and the UNFCCC acknowledge that there is a common but differentiated responsibility between those who have historically profited from a resource-intensive economic development model and those who have not. But how and why extractive industries (many of which are State-owned) would give up the huge potential for profit remains uncharted territory – as does the issue of developing and implementing alternative models for countries whose economies are heavily, if not solely, dependent on resource extraction.

Clearly, Member States' multilateral commitments and a hope for the industry's voluntary compliance will not be sufficient. But the SDG implementation process can be used – on both the national and the international level – to highlight the discrepancy between the fine words of the 2030 Agenda and the resource extraction realpolitik and to keep up the political pressure, including in the High-level Political Forum (HLPF).

During the 2016 HLPF, attempts to hold accountable extractive industries were conspicuously absent. At a minimum, any extractive industry that considers itself a partner should have to sign the EITI and be subject to impact reporting. Only France, Germany and a few other countries declared support for the EITI in their voluntary national reviews. From 2017 onwards, the HLPF should become an opportunity to pressure UN Member States to use the SDGs as a tool to rein in the extractive sector.

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Volker Lehmann is Senior Policy Analyst and Lennart Inklaar is Administration and Program Officer at the Friedrich-Ebert-Stiftung New York Office

SDG 13

The pivot point: realizing Sustainable Development Goals by ending corporate capture of climate policy

BY TAMAR LAWRENCE-SAMUEL WITH RACHEL ROSE JACKSON, CORPORATE ACCOUNTABILITY INTERNATIONAL, AND NATHAN THANKI, GLOBAL CAMPAIGN TO DEMAND CLIMATE JUSTICE

The influence of transnational corporations is the greatest obstacle to achieving Sustainable Development Goal (SDG) 13, which commits states to “take urgent action to combat climate change and its impacts”. For too long, transnational corporations have relied on their disproportionate economic and political might, and used both subtle and overt methods to undermine UN initiatives to achieve global justice and sustainability. This force is especially evident in the corporate capture of the United Nations Framework Convention on Climate Change (UNFCCC). If equity and sustainability as embodied in the 2030 Agenda are to be protected, the UN and its institutions must pivot away from involving transnational corporations in global policy-making, which includes indirect activities and initiatives that influence the course of action taken by any policy-making body – not only regarding climate, but across all areas of development and sustainability.

SDG 13: essential to equitable and sustainable development

The critical role of SDG 13 in achieving sustainable development cannot be understated. If we do not take urgent action, the climate crisis will continue to wreak havoc around the globe, but it will have particularly devastating effects for people living in the lowest income countries. Simply put, climate change will widen the inequality gap and exacerbate poverty for people and countries that have done next to nothing to cause the climate crisis.

Climate change is already causing displacement and economic hardship, and those effects will intensify if we do not take urgent action. The year 2016 was the hottest ever recorded, and a record-topping occurrence of natural disasters, such as floods, earthquakes, and hurricanes left US\$ 175 billion of damage in their wake.¹ After last year’s drought across

Southern Africa, 17 million people were expected to require food assistance before the 2017 harvest, Chinese floods caused US\$ 14 billion in damage, flooding and landslides in Sri Lanka displaced hundreds of thousands, and climate and weather-related events displaced 19.2 million people, twice as many as conflict and violence in 2015.² Bolivia endured its worst drought in a quarter of a century,³ and 175,000 Moroccan farmers lost their jobs due to drought.⁴ Given these recent disasters, we can see how a quarter of a billion people, predominantly from lower income communities, are projected to become climate change migrants by 2050.⁵

Fossil fuel corporations have intensified climate change knowing it would come at such a devastating

1 Riley (2017).

2 World Meteorological Organization (2016).

3 Jemia (2016).

4 Middle East Monitor (2016).

5 Christian Aid (2007).

social and environmental cost,⁶ but the daily business practices these corporations employ to expand operations and amass profits also have a direct and devastating effect on equality and sustainability. For example, in Peru's Amazon rainforest, the Spanish oil company Repsol, part of a group of 90 corporations most responsible for creating the climate crisis,⁷ has quite literally drilled into and built upon the livelihoods of indigenous populations that have lived self-sustainable lives for generations.⁸ Now, these once entirely self-sufficient populations are less able to provide for themselves and are forced to rely on the same corporation that has endangered them to provide them with necessities.

Worldwide efforts to achieve sustainable development will be futile unless we act quickly and ambitiously to address climate change and the danger it already presents to people's lives and livelihoods. Critically, if the global community fails to achieve SDG 13, we will fail more broadly to realize the pressing and necessary goals of the 2030 Agenda.

Corporate capture of global climate policy is a severe threat to success

Given the fundamental nature of SDG 13 to the entire sustainable development agenda, it is imperative that the global community closely examine and take action to eliminate the biggest obstacle to achieving robust, decisive climate policy: corporate capture. From policy development to implementation, at local and global levels, corporate interests delay urgent climate action, weaken country commitments to cut emissions, stifle initiatives by States to act according to current need, historical responsibility or capacity, and block climate financing initiatives in an effort to protect profits and ensure future expansion.

Intense industry pressure aimed at promoting a weak regulatory environment results in commitments that are voluntary in nature and weak in scope, form

and content.⁹ Take, for example, the UNFCCC's Paris Agreement, which is recognized as the main international pathway to achieving progress on SDG 13. The Agreement hinges on voluntary, inadequate and inequitable country pledges (Nationally Determined Contributions) that fall significantly short of the "urgent action" needed to effectively and equitably address climate change, let alone stand a chance at keeping global temperature rise to well below 2° Celsius. Even now, as world governments work towards a 2018 deadline to transform the Paris Agreement from words into action, countries with strong fossil fuel ties continue to undermine meaningful action at every turn. These countries are not only adamantly opposing measures to strengthen the global response to the climate crisis, but are even attempting to weaken commitments already clearly made in the Paris Agreement, all while refusing requests from global South countries to address the role corporate capture has played in undermining decades of meaningful climate action.¹⁰

This is particularly concerning, given that the driving motive of the fossil fuel industry – expansion and profit – is fundamentally at odds with the need to drastically curb emissions to address climate catastrophe.

Tactics employed by transnational corporations to thwart climate action

To understand how transnational corporations have been able to undermine climate policy, we must examine the varied tactics they employ. These include:

- Direct lobbying of policy-makers and political contributions, which leave politicians in debt to the industry and its will;

6 Center for International Law (2016) and Carrington/Mommers (2017).

7 Clark (2013).

8 Corporate Europe Observatory/The Democracy Center/TNI (2014).

9 See for example, Corporate Accountability International (2017), InfluenceMap (2015), Corporate Europe Observatory/The Democracy Center/TNI (2014) and Leggett (1999).

10 See for example www.nytimes.com/2017/05/16/climate/corporations-global-climate-talks-bonn-germany.html?_r=0 and www.theguardian.com/environment/2017/may/17/fossil-fuel-lobby-to-declare-interests-at-un-talks.

- Indirect lobbying through industry associations and front groups that gain direct access to the world leaders who decide climate policy;
 - Co-opting science by undermining sound science, promoting misleading science, and occupying academia, increasingly shaping the scientific foundation that informs policy;
 - Buying goodwill and influence by joining non-binding voluntary initiatives, offering technical assistance to governments, corporate sponsorship and public-private partnerships, corporations buy goodwill for financially rescuing public institutions in times of need, and the power to dictate global solutions to the same problems they knowingly created.
- Between October 2013 and March 2015, in the lead-up to the Paris Agreement, eight oil and gas corporations or bodies with industry-related interests, whose future profits hinge on weak climate policy, reported holding 143 meetings with European government representatives, including at the highest levels,¹⁶ providing just a snapshot of the amount of lobbying taking place across the industry.
 - Industry representatives also join official government delegations at UNFCCC negotiations,¹⁷ giving them face-to-face time with governments working toward solutions to the very problems corporations drive. For example, Shell representatives joined both the Nigerian Delegation at COP16 in Cancun (2010)¹⁸ and the Brazilian delegation at COP14 in Poland (2008).¹⁹

Following are a few examples of each of these tactics.

Direct lobbying of policy-makers and political contributions

- Just ten of the largest fossil fuel corporations, all of which are among the top 40 corporations most responsible for greenhouse gas emissions to date,¹¹ spent as much as US\$ 21 million lobbying EU policymakers between 2015 and 2016.¹²
- The oil and gas industry spent more than US\$ 117 million lobbying in 2016¹³ and more than US\$ 100 million in political contributions during the 2016 US election cycle alone.¹⁴ Shell, ExxonMobil, the industry-funded American Petroleum Institute, the Western States Petroleum Association (WSPA) and the Australian Petroleum Production & Exploration Association (both industry trade associations) collectively spend an estimated US\$ 115 million annually obstructing climate policy.¹⁵

Indirect lobbying through industry associations

- BusinessEurope, whose membership and leadership includes many fossil fuel corporations, has influenced European Commission policy proposals so successfully that Commission climate policy recommendations have reflected most, if not all, of BusinessEurope's interests, weakening recommendations significantly.²⁰
- Business Roundtable, U.S. Chamber of Commerce, Fuels Europe, National Mining Association, International Chamber of Commerce and Business Council of Australia are only six of hundreds of industry-funded or industry-associated groups that are allowed direct access to UNFCCC negotiations.²¹ Some still have yet to publicly acknowledge the burning of fossil fuels as the main driver of climate change, while others are allowed full access to UNFCCC negotiations even while strongly

11 Heede (2014) and Clark (2013).

12 EU Transparency Register (2017): Profiles of Repsol, S.A., Shell Companies, BP Plc, Statoil ASA, ExxonMobil Petroleum & Chemical, Chevron Belgium NV, Rio Tinto, Total S.A, ConocoPhillips, and Lukoil (<http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en#en>).

13 Center for Responsive Politics (2016a).

14 Center for Responsive Politics (2016b).

15 Influence Map (2016).

16 Clarke/McClenaghan/Carter (2016).

17 Hope (2016).

18 UN Framework Convention on Climate Change (2010).

19 UN Framework Convention on Climate Change (2008).

20 Corporate Europe Observatory/Friends of the Earth Europe (2014).

21 UN Framework Convention on Climate Change: Admitted NGO Database (http://unfccc.int/parties_and_observers/ngo/items/9411.php).

opposing the Paris Agreement and aggressively undermining national and international climate policies. Collectively and in recent years, they have spent millions lobbying decision-makers and have received millions from fossil fuel corporations.²²

Co-opting science

- Even while 97 percent of climate scientists agree that climate change is real and driven by human activity,²³ Exxon Mobil gave more than US\$ 27 million between 1998 and 2012 alone to institutions and think tanks that have produced research discrediting and questioning the science of climate change.²⁴
- Corporations have continuously sought to weaken the scientific reports of the UN Intergovernmental Panel on Climate Change (IPCC), the leading international body for analyzing climate science. In 1999, as the IPCC was preparing to publish a groundbreaking report establishing a correlation between human activity and global warming, industry representatives succeeded in watering down a 40-page draft report to only eleven pages.²⁵ An industry-associated group²⁶ has even gone so far as to offer to pay individuals up to US\$ 10,000 to critique IPCC reports.²⁷
- Corporations are increasingly, and often quietly, funding some of the most prestigious academic institutions researching energy and climate change, including Harvard (US\$ 3.75 million from Shell), Stanford (funded by Exxon), and UC-Berkeley (US\$500 million from BP).²⁸ Research that appears to be independent and objective is being funded through deals that give the fossil fuel industry the power to steer climate research in a self-advancing direction.

Buying goodwill and influence

- Shell, BP, Crescent Petroleum, Electricite de France, General Electric, and Rio Tinto all have partnerships with the UN,²⁹ giving corporations with vested interests financial leverage that they can use to shape the international policy agenda. Historically, the UN has established partnerships with organizations such as the International Chamber of Commerce, which is largely funded by transnational corporations³⁰ and which has a track record of undermining climate policy initiatives.³¹
- The Global Compact, a non-binding, entirely voluntary UN partnership initiative, allows corporations to self-identify as ‘socially responsible’. This allows them to effectively avoid stringent, binding regulations while simultaneously promoting a socially responsible image by association with the UN.³² As of April 2017, participants included 137 oil and gas producers, including some of the world’s biggest polluters like Shell, BP, Repsol, Lukoil and Total.³³
- Caring for Climate, a corporate-driven partnership launched by the UN Secretary General in 2007, allows corporations to promote themselves as leaders in climate action, despite the fact that joining the initiative is voluntary and lacks mechanisms to commit them to take specific, enforceable action.³⁴ It is led by a steering committee composed of corporate executives who advise the UNFCCC itself.³⁵ As a result, the highest intergovernmental institution responsible for addressing climate change is being advised by some of the very corporations fueling the climate crisis.

22 Corporate Accountability International (2017).

23 Cook et al. (2013).

24 Greenpeace (2013).

25 Leggett (1999).

26 The American Enterprise Institute (<https://www.aei.org/about/>).

27 Littlemore (2006).

28 Franta/Supran (2017).

29 Adams/Martens (2015).

30 Jewler (2014).

31 Corporate Accountability International (2017).

32 UN Global Compact (www.unglobalcompact.org/what-is-gc).

33 UN Global Compact: Our participants (www.unglobalcompact.org/what-is-gc/participants).

34 <http://caringforclimate.org/about/>.

35 <http://caringforclimate.org/about/governance/>.

The role of transnational corporations in sustainable development and climate policy must be redefined

Transnational corporations have increasingly come to occupy a political space in the UN, a space which Member States, and only Member States, legitimately can – and should – fill. As a result, there is an inherent and irreconcilable conflict of interest at play. The legal duty to shareholders, and therefore the mandate of transnational corporations is to make profits and to expand. The mandate of the UN and its institutions is to advance policies that provide solutions to global inequality, poverty and climate change. Given that transnational corporations exacerbate inequality by externalizing costs and disregarding human rights, and given the liability and culpability of corporations in fueling climate change, it is clear that these two mandates are fundamentally at odds.

The UN cannot purport to address global inequality and poverty while its institutions, such as the UNFCCC, fail to take decisive action to address the underlying and irreconcilable conflict posed by allowing corporations to have so heavy a hand in shaping policy agendas. Such inaction, even in the face of evident need, can be seen in and of itself as a likely result of the industry's influence.

There is indeed a role for corporations to play in addressing sustainable development and climate change. They should be actively adapting their policies, products and practices, such as transitioning away from increased fossil fuel production into sustainable energy solutions, or eliminating dangerous and controversial practices such as drilling in nature reserves or fracking. Profits cannot come at any cost, and corporations must reverse the course of the social and environmental destruction they leave in their wake. They must be legally bound to act with an urgency that matches the magnitude of the climate crisis, rather than primarily through inadequate voluntary initiatives that will always be secondary to the fiduciary duty corporations have to maximize profits for their shareholders. They should be required to implement business practices that abide by strong policies and regulations set by governments – nothing more and nothing less. But allowing the private sector to promote itself as the

solution and financier for sustainability and equality puts our future quite literally in the hands of the very entities that have played a large part in placing it at such tremendous risk.

The UN cannot continue to serve the interests of the very corporations that have driven and continue to drive the climate crisis, above and beyond the interests of the billions of people whose lives and livelihoods hang in the balance. The success of SDG 13, and therefore the success of the SDGs in their entirety, hinges on this. If we are to advance real solutions to avoid climate chaos and disaster, we must rid the UN of these polluters of policy. If we do not, the very institutions and procedures put in place to address inequality and sustainability, such as the UNFCCC, the Paris Agreement and the 2030 Agenda for Sustainable Development, will become the drivers of further social and environmental injustice.

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Tamar Lawrence-Samuel is International Policy Director at Corporate Accountability International, Rachel Rose Jackson is Senior Researcher at Corporate Accountability International, and Nathan Thanki is Co-Coordinator at the Global Campaign to Demand Climate Justice.

SDG 14

The role of transnational corporations and extractive industries in seabed mining, and the impacts on oceans health and food security

BY MAUREEN PENJUELI, PACIFIC NETWORK ON GLOBALIZATION

You reap what you sow.
Moana (sea). Rich! Moana (sea)
But now mind got mines.

Haiku by Tekura Moekaā, 2014

Despite the importance of a healthy Pacific Ocean, evidence is mounting that this unique ecosystem is in real danger from anthropogenic threats such as overfishing, habitat destruction, and pollution and probably the most severe threat of all, climate change and resulting sea level rise. The rush to mine the deep seas is representing the newest frontier of extractive industry and perhaps the biggest threat to the world's oceans in the 21st century. There is a significant concern that seabed mining has the potential to cause major environmental destruction to the entire Pacific Ocean and would seriously undermine the implementation of SDG 14, to conserve and sustainably use the oceans, seas and marine resources. The fact that the International Seabed Authority does not have an agreed policy on the sustainable management of seabed minerals yet, points to the significant global gap in oceans governance.

Global race to secure access to minerals

Economists are describing a phenomenon known as a super cycle in which the speed and scale of the increase in demand, particularly by emerging economies for minerals, are expected to generally result in supply lagging behind demand, making seabed mining an imminent and some say inevitable venture. Seabed mining is today considered by some as an alternative to terrestrial sources of minerals which are rapidly diminishing due to increasing demands by emerging economies and sometimes unreliable supply from key export markets, particularly in Africa, China, Russia and South America.

Deep sea mining has been heralded as the answer by transnational corporations and mineral seeking countries, such as EU member states, Japan and the USA.

In 2008, the European Commission (EC) adopted its raw material initiative which set out a strategy for securing reliable and unhindered access to raw materials.¹ According to a 2008 EC paper, that is necessary for at least 30 million (European) jobs dependent on the availability of raw materials in critical sectors such as construction, chemicals, automotive, aerospace, machinery and equipment, which the paper estimates provide a total value added of EUR 1,324 billion.² Subsequently, the EU launched several initiatives including the European Technology Platform on Sustainable Mineral Resources geared towards the development of deep sea mining technology.

1 Commission of the European Communities (2008).

2 Ibid., p. 2.

There is growing worldwide competition for marine mineral deposits. The EU sees significant competitive potential in what it calls the ‘underexplored’ minerals on the sea floor which contain valuable raw materials such as copper, zinc, gold, silver and rare metals. The EU is highly dependent on imports of ‘high-tech minerals’ such as cobalt, platinum, rare earths and titanium, which are increasingly essential to the development of new technologies.

The irony is that sophisticated products such as environmentally friendly hydrogen fuel-based cars require platinum-based catalysts and electric cars require lithium. It seems to be contradictory that the EU is pushing for an untested and highly risky environmental form of mining to pursue the development of environmentally friendly products.

Japan, the world’s third biggest economy and a mineral-dependent island nation leads efforts to exploit seabed minerals.³ It has made steady progress in developing the technology needed to exploit unconventional deep-water material. Under international maritime law, Japan holds sway over the 200 nautical miles (230 miles) from its shore, the world’s sixth-largest Exclusive Economic Zone (EEZ). Like the EU, Japan has progressed on its rare earths diplomacy initiative and has invested in building capacities including opening up a Rare Earth Research and Technology Centre in Hanoi, Vietnam. Trial operations are expected to begin in Japanese waters by the end of 2017.

Great uncertainty and growing concerns over potential impacts of deep sea mining

Despite the significant financial investment in technological development and industry players talking a good game, there are no commercial deep sea mining activities to date and prospects have been delayed repeatedly.

3 Suga/Suzuki (2016).

There are significant uncertainties regarding

1. the legal framework,
2. the commercial and economic feasibility of such ventures, and
3. the environmental and social costs of large-scale deep sea mining.

In a Japan Times article, a geologist from GEO-MAR-Helmholtz Centre for Ocean Research in Germany stated that the actual value of the minerals beneath the ocean floor remains highly uncertain.⁴ This view is confirmed by the World Bank in its Pacific Possible series, which argues that deep sea mining “has unknown associated risks.”⁵ Observations so far indicate that seabed floor deposits targeted for mining could amount to 600 million to 1 billion tonnes of minerals, including 30 million tonnes of copper and zinc.⁶

Industry leader, Nautilus Minerals Inc., a Canadian company is the holder of the largest number of exploration licenses and the first commercial license in the world. Nautilus Minerals, in its Annual Information Form for 2015, admits to the significant high-risk and speculative nature of the business “[...] which even a combination of careful evaluation, experience and knowledge may not eliminate.”⁷

The company states that the high-risk nature of the business relates to exploration costs, untested techniques and equipment, ongoing community agitation against the project and acquisition rights to potential deposit of minerals. As an exploration company that has no production history operating in a field where there is no precedent setting, Nautilus expects to

4 www.japantimes.co.jp/news/2017/02/20/business/demand-increases-rare-earth-metals-deep-sea-mining-gets-second-look/#.WParQPmGMdUSource.

5 World Bank (2016), p. 10.

6 www.japantimes.co.jp/news/2017/02/20/business/demand-increases-rare-earth-metals-deep-sea-mining-gets-second-look/#.WRXSZ8akJaQ.

7 Nautilus Minerals Inc. (2016), p. 59.

incur losses in the future and cannot be certain of the commercial quantities or grades of minerals that will be recovered.

Mining companies and governments are trying to extract valuable metals and minerals from depths ranging from 400 to 6,000 metres below sea level, some of these minerals are located close to coastal communities whilst others are further offshore. Waters deeper than 200 metres make up 65 percent of the world's oceans, and are already vulnerable to human activities – seabed mining poses a new threat. Many of these minerals are found in fragile ecosystems such as hydrothermal vents raising concerns amongst the scientific community. Professor Richard Steiner in a Huffington Post article argued that the discovery of deep sea hydrothermal vents in 1997 at the Galapagos Rift stunned the world of science, as these vent systems rely entirely on chemosynthesis rather than photosynthesis – the first ever known.⁸

Only 300 of these deep sea vent systems have been discovered so far, and it is estimated that perhaps only 500 – 5,000 may exist in the world ocean, making this one of the rarest ecosystems in the earth's biosphere. Biologist Stace Beaulieu with the Woods Hole Oceanographic Institution has warned that hydrothermal vent ecosystems that are ecologically and biologically significant may be subject to a catastrophic impact of mining with a loss of habitat and associated organisms.⁹ Scientists have also warned about the cumulative impacts which could eventually cause regime shifts and alter deep-ocean life support systems such as the biological pump and nutrient recycling.

A Blue Ocean Law report commissioned by the Pacific Network on Globalisation pointed out that even a cursory look at the existing scientific literature establishes the following as likely outcomes of seabed mining:¹⁰

1. species extinction and loss of biodiversity;
2. sediment plumes and tailings having the potential to pollute the entire water columns;
3. the uptake of heavy metals and toxins by marine animals, including commercial fisheries (such as tuna);
4. the disturbance of marine mammals from constant noise and light in the water;
5. the risk of oil spills and accidents from increased vessel and surface traffic;
6. the destruction of coral reefs through increased acidity of water;
7. the potential for induced volcanism or seismic activity; and
8. increased carbon emissions.

Countries including New Zealand, Australia, Namibia and Mexico which have significant regulatory and monitoring experience and abilities have adopted a strong cautionary stance on seabed mining exploratory activities, carefully weighing the uncertain benefits against impacts in an atmosphere of pronounced uncertainties.

In 2012, the Australian Northern Territory government implemented a three-year moratorium on conducting both exploration and seabed mining in the coastal waters of the Northern Territory, and

8 Steiner (2016).

9 www.japantimes.co.jp/news/2017/02/20/business/demand-increases-rare-earth-metals-deep-sea-mining-gets-second-look/#.WRW19MakJaR.

10 Blue Ocean Law (2016b).

subsequently placed a total ban on seabed mining in recognition of the rights of indigenous peoples as well as the potential impact on key marine industries.¹¹

In 2015, the Environmental Protection Authority of New Zealand refused to grant an exploratory license to mine phosphorite nodules on the Chatham Rise on the basis of the precautionary principle, arguing that the significant and permanent impact of mining outweighs the economic benefits of the project.¹² In 2013, Namibia established a ban on seabed phosphate mining while Mexico's federal environment authority denied a license for an offshore phosphate mining venture in 2016.¹³

The UN resident coordinator in Papua New Guinea has weighed into the debate by stating that seabed mining causes major environmental destruction not only to the communities in the province of New Ireland but to the entire Pacific Ocean.¹⁴ He went on to add that seabed mining would be against SDG 14 which places significant importance for the conservation and the sustainable use of the ocean, seas and marine resources.

The Pacific Context

The rush to mine the deep seas is gaining momentum, representing the newest frontier of extractive industry and perhaps the biggest threat to the world's oceans in the 21st century.

Much of this modern day 'gold rush' is unfortunately happening in the Pacific where government capacity is low – particularly in policing, regulation and enforcement of marine areas –, our governments have a very poor track record on land-based mining, and the need for new sources of revenues for government

coffers are extremely high, a situation which lends itself to abuse by multinational corporations.

Papua New Guinea was the first country in the world to issue a commercial license to Nautilus Inc. to begin mining by 2019. Across the Pacific Ocean, island nations such as Cook Islands, Fiji, Kiribati, Tonga, Solomon Island and Vanuatu have all issued exploration licenses. In the case of Vanuatu, over 143 licenses were issued without the knowledge of the parliament and the citizens of Vanuatu.

The scramble for seabed control, the last frontier, by multinational companies and western governments has proceeded largely unimpeded, with vast swathes of seabed (hundreds of millions of square kilometres) already licensed for exploration and future exploitation

Before the fundamental question has even been asked as to whether the inhabitants of the Pacific want or need seabed mining, seabed mining ventures are legitimized through the language of regulatory standards and environmental protection. Interested actors – in this case, the Secretariat of the Pacific Community, funded by the EU and the IMF – have developed model legislative frames for countries to be adopted and implemented at the national level. They serve as a green light to industry. The majority of the legislation developed at the regional and national levels has been undertaken without consultation or input from civil society, local communities, or, notably the indigenous groups most likely to be impacted by seabed mining activities.

Research commissioned by the Pacific Network on Globalisation and undertaken by Blue Ocean Law found significant flaws in the draft model legislation which overemphasizes the potential benefits, thereby creating a climate favourable to industry and deep sea mining operators.¹⁵ It advises States to incentivize investors by providing an environment that fosters investment, recommending that states provide predictable and stable governance. The draft model legislation adopted by the majority of the Pacific Islands

11 www.abc.net.au/news/2013-06-12/groote-eylandt-seabed-mining-total-ban-nt-govt/4749576.

12 Environmental Protection Authority of New Zealand (2015).

13 www.earthworksaction.org/earthblog/detail/victory_mexico_seabed_mining_project_scrapped#.WRm5H8akJaQ.

14 <https://ramumine.wordpress.com/2017/04/21/un-against-experimental-seabed-mining-in-png/>.

15 Blue Ocean Law (2016a).

focuses heavily on ensuring a clear licensing regime for industry while minimizing opposition from civil society.

The draft model legislation fails to provide the environmental safeguards and protect the rights of Pacific people. The models proceed on the assumption that the activities are likely to take place far in the deep ocean away from where communities live and accordingly the impacts are “extremely minimal” or, alternatively, that deep sea mining activities have “almost no impact” and therefore governments should only apply an environmental impact assessment (EIA) where necessary. The framework intentionally minimizes the importance of State adherence to the precautionary principle, a binding international legal norm, and the mandatory requirement of an EIA.

Along a similar vein, the framework relegates the concerns and interests of indigenous peoples to the sideline, largely ignoring their rights to territory, culture and resources. Specifically there is no mention of indigenous peoples’ rights to “free, prior and informed consent” in the development of activities which may potentially affect them. Despite denials to the contrary, communities in both Papua New Guinea and Tonga are already reporting impacts from exploratory seabed mining activities. In Papua New Guinea, villagers have reported an increase in the frequency of dead fish washing up on shore, including a number of unusual deep-sea creatures hot to the touch, as well as excessively dusky and murky waters. They also suspect that the noise of exploratory drilling and sampling may have chased sharks from their traditional grounds in the Bismarck Sea, impacting indigenous practice of shark calling.

An independent review of the Environmental Impact Statement for the proposed Nautilus Minerals Solwara 1 seabed mining project in Papua New Guinea from 2009 confirmed some of the communities’ reports about impact.¹⁶ It points to insufficient treatment of damage to highly valuable endemic benthic fauna, impact on pelagic (water column fauna); risks

of leakage from the discharge pipes; and the potential vertical and horizontal transporting of sediment plumes and pollutants onshore and into contact with marine seafood chains affecting the livelihoods of communities.

In Tonga, prospecting for seabed minerals has increased the number of large vessels operating in Tongan waters, including around prime fishing spots for local fishermen. According to the local fishermen, the presence of these large vessels has disturbed fish populations and forced fishing boats to make long detours to find fish in less crowded waters. Local fishermen interviewed argued that they feel like they are relegated to an increasingly narrow area of the sea.

Furthermore gaps and oversights in the legislative framework could expose individual countries to liability – including compensation claims – under established international law for harms resulting from seabed mining activities under their control, both within national jurisdictions and beyond national jurisdictions. The general failure to incorporate statutory provisions to provide sufficient environment protection, as well as the norm of “free, prior and informed consent” for indigenous peoples represent serious violations of international legal obligations.

The unbalanced promotion of benefits from seabed mining is particularly evident in the cost-benefit analysis of prospective seabed mining off the shore of Papua New Guinea, the Cook Islands and the Marshall Islands by the Australian consultancy firm Cardno.¹⁷ Given the admitted uncertainties and paucity of knowledge about the seabed, the very notion of a cost-benefit analysis is premature, in that the costs are still largely unknown and unknowable until further research can be done. Yet the widespread promotion of the cost-benefit analysis amongst island countries is contributing to a general attitude that seabed mining is a gold mine, waiting to be stripped, rather than a potential minefield of human, environmental and regulatory burdens.

¹⁶ Steiner (2009).

¹⁷ Cardno (2016).

Conclusion

SDG 14 on the conservation and use of oceans is the place to situate the issue of seabed mining and to address the international communities' obligations to the sustainable management of all oceanic resources. The fact that the International Seabed Authority does not have an agreed policy on the sustainable management of seabed minerals yet points to the significant global gap in oceans governance on seabed minerals and places the burden of governance on Pacific Island states and their people as a testing ground.

Members of the international community have already established and adopted a strong cautionary stance on seabed mining within national areas of jurisdiction that can assist in and inform global governance of seabed minerals. As stated above, countries including New Zealand, Australia, Namibia and Mexico, which have significant regulatory and monitoring experience and abilities, have adopted a strong cautionary stance on seabed mining exploratory activities, carefully weighing the uncertain benefits against the impacts in an atmosphere of pronounced uncertainties.

There is a significant concern that seabed mining has the potential to cause major environmental destruction to the entire Pacific Ocean and would contradict SDG 14 which places significant importance on the conservation and sustainable use of the ocean, seas and marine resources.

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Maureen Penjueli is Coordinator of the Pacific Network on Globalization (PANG) based in Fiji

SDG 15

Trends in the privatization and corporate capture of biodiversity

BY SIMONE LOVERA, GLOBAL FOREST COALITION AND CENTRE FOR SUSTAINABLE DEVELOPMENT STUDIES, UNIVERSITY OF AMSTERDAM

Similar to other sectors, biodiversity policy has been significantly influenced by the neoliberal economic theories of environmental economists, who have promoted the privatization and commodification of the values and ‘services’ biodiversity provides, and market-based mechanisms and business involvement in biodiversity policy in general. Unfortunately the reference to ecosystem services under SDG 15 on the use of terrestrial ecosystems opens the door to such trends, which are increasingly opposed by some developing countries. An example is the influence of corporate interests in the forestry sector, as corporations have deliberately tried to weaken some of the forest-related targets under SDG 15. In addition the promotion of public- private partnerships (PPPs) and blended private-public finance facilitates the corporate capture of biodiversity policy, potentially frustrating a transformative change agenda.

Ecosystem services and the privatization of biodiversity

Target 15.1 under SDG 15 on biodiversity and the terrestrial ecosystem urges governments to conserve and restore “ecosystems and their services”. The seemingly innocent term ‘services’ supports a discourse about the economic value of what are considered ecosystem services that has been described as a political-scientific strategy to integrate biodiversity into capitalist economies.¹ It has also encouraged governments to establish markets or other economic incentive schemes that provide payments for these ecosystem services. Or as environmental scholar Jessica Dempsey states: “An ecosystem services approach, critical scholars (including myself) argue, risks reducing complex ecosystems to market logic, laying the ground for new round of accumulation and profiteering [...]”

Payments for Ecosystem Services (PES) represent an environmental economic approach to correct the failure of conventional markets to reflect the true value of biodiversity. The rationale is that through the internalization of the value of environmental services, conservation is made profitable and that this will attract additional funding.² In a market for ecosystem services such services are enclosed, measured and given a market value through a process of commodification that creates new fictitious commodities like ‘carbon credits’ based on what were often public goods.³ PES can be seen as a reflection of an increasingly popular approach to environmental governance where “the virtues and efficiency of economic liberalism are often taken for granted”.⁴

¹ Dempsey (2016), p. 92.

² Pirard (2012).

³ Reynolds (2012) and Beymer-Farris and Bassett (2012).

⁴ Broughton and Pirard (2011), p. 3.

The conditionality of PES is expected to lead to increased delivery of ecosystem services and thus more efficient conservation, and create a win-win situation of long-term conservation and economic development amongst communities.⁵ Communities are assumed to be free to choose whether they participate in PES mechanisms or not. However, government-imposed PES mechanisms are not always voluntary and often force citizens, through taxes or otherwise to pay for carbon sequestration or other environmental services. Service providers are sometimes forced to participate too, as for example through a decision of their local authorities.⁶ Other complications with PES and other market-based conservation schemes are that they are often based on a dubious scientific foundation and use highly simplified indicators, proxies and definitions for the ecosystem services they provide.⁷ Even more problematic is the fact that many PES mechanisms invest in the protection and enhancement of tree cover, without scientifically assessing the impacts of these activities on climate change mitigation and other ecosystem services.⁸ Especially monoculture tree plantations tend to have significant negative impacts on biodiversity, watersheds and climate resilience, as they are far more prone to forest fires and more vulnerable to storms, droughts and climate change-induced pests.

PES and other market-based mechanisms can have many negative social impacts too. It is estimated that up to 80 percent of the world's most important biological areas are found in areas that are territories of indigenous peoples or other economically and politically marginalized local communities.⁹ There is growing recognition of the fact that these local communities

play a key role in biodiversity conservation and restoration, as a result of their traditional knowledge, value systems and customary governance structures, which allow for relatively effective enforcement of local conservation norms. But these communities often lack formally recognized land rights.¹⁰ As a result, the main benefits of PES schemes tend to go to relatively wealthy landowners, while groups without recognized land tenure rights, which often include women, indigenous peoples, pastoralists and local communities, will not be rewarded for their biodiversity conservation efforts. Especially women tend to lose out in PES and other market-based conservation schemes, as they often lack formal land rights, even though they tend to play a vital role in conserving and restoring biodiversity. PES schemes do not only often ignore their role, but they can even lead to blocking women's access to the ecosystems they have conserved and used to provide resources for their livelihoods.¹¹ Elite resource capture and even land grabbing are inherent risks in PES schemes, as demonstrated by experiences in countries as varied as Nepal and Uganda.¹² More generally, because of unbalanced power relations market-based conservation schemes tend to be more beneficial to buyers of environmental services, or the intermediaries in market-based schemes, rather than to the original providers of these environmental services.¹³

During the negotiations over the 2030 Agenda and the SDGs, these concerns about the social and environmental impacts of markets in environmental services and the ecosystem services discourse in general were shared by a number of developing countries. As a result, they opposed explicit references to the concept of ecosystem services in the targets and while the SDG negotiation text that was produced in April 2014 still contained six references to ecosystem services, the final text includes one vague reference to "ecosystems and their services", while other references to market-based mechanisms like carbon

5 Pirard (2012).

6 An example is the Chinese Sloping Land Conversion Program, where the decision to participate was often taken by the local authorities, without consultation with the farmers themselves, see Bennett and Xu (2008).

7 Accounting for an ecosystem service like carbon sequestration, e.g., is complicated – estimating the carbon content in trees through different methods can lead to variations of more than 100% and other carbon pools in forests such as bushes and soils are even harder to account for, see Pelletier et al. (2012).

8 Porras et al. (2013) and Leimona et al. (2015).

9 Sobrevila (2008).

10 E.g., only 25% of the forest in developing countries is under recognized community governance, Bluffstone et al. (2013).

11 Seymour (2008) and World Bank (2009).

12 Jindal et al. (2008) and Maraseni et al. (2014).

13 Peskett et al. (2011).

offset trade were removed. However, the lack of these other references to ecosystem services and PES in the 2030 Agenda has not yet halted the expansion of PES schemes and other market-based mechanisms, which are particularly promoted by many donor countries and others with a strong ‘green economy’ agenda.

The corporate capture of ecosystems: The case of the forestry sector

In the course of the 2030 Agenda negotiations, the forestry sector long strived for an independent SDG on forests, but in the end proponents accepted the compromise of a specific separate mention of “sustainable forest management” in the title of SDG 15, and a specific forest-oriented target. The separate reference to forests alongside ecosystems in the title of SDG 15 makes little sense from a scientific perspective, as forests are an ecosystem. But it was in line with the forestry sector discourse that biodiversity is just an element of forests, and that there is a need for self-standing forest policies and agreements alongside the legally binding Convention on Biodiversity (CBD). This discourse has resulted in a deep and partly deliberate fragmentation in international forest policy. There are at least 26 legally and non-legally binding international agreements related to forests, and these agreements often duplicate or even conflict with each other.¹⁴

This legal fragmentation is very much the result of the corporate interests that dominate the forestry sector. These corporate interests are rooted in the forestry profession itself, which is primarily oriented towards timber production. Many public forestry agencies have an explicit mandate to economically exploit public forests and as a result, their policies tend to prioritize the production of timber over biodiversity and other environmental and social values of forests. Only in countries where a Ministry of Environment has the primary responsibility for forest policies do these policies tend to prioritize conservation.

The de facto corporate interests of many forestry departments have triggered a complex governance situation, in which public agencies have a clear economic incentive to weaken environmental standards. As described below, public-private partnerships between public and private forestry institutions and the promotion of so-called blended finance caused even greater challenges for forest governance, as the financial dependencies created by these partnerships trigger a disincentive for setting strict environmental and social standards and proper law enforcement.

How corporations tried to undermine the SDGs

While the separate references to sustainable forest management in the title and targets of SDG 15 are questionable from a forest biodiversity perspective, target 15.2 on sustainable forest management did form a historic victory for forest conservationists by setting an ambitious target to halt deforestation by 2020. This target was inspired by Aichi Target 5 of the CBD’s Strategic Plan, which states that “by 2020, the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero”. It is noteworthy that the crucial words “where feasible” and “close to” zero were removed in target 15.2, which means the target is significantly more ambitious.

This triggered an argument that between the presentation of the draft SDGs in July 2014 and their final adoption in September 2015 target 15.2 had become incorrect, and that the end date should be 2030, as the 2020 deadline would be unachievable. Yet, this argument ignored the fact that according to the FAO Forest Resources Assessment 2015, almost two-thirds of the world’s countries have already halted forest loss. For these countries, the main challenge is forest degradation, and addressing biodiversity loss triggered by the replacement of forests by monoculture plantations of invasive alien tree species like Eucalypt and Pine, in line with target 15.8, rather than halting forest cover loss.

The involvement of business and industry in this discussion was symptomatic of the problematic role large corporations play in weakening international agreements through their active and on the face of

¹⁴ Cashore et al. (2010) and Gupta (2012).

Corporate capture of agricultural biodiversity threatens the future we want

BY LIM LI CHING, THIRD WORLD NETWORK (TWN)

Agricultural biodiversity is the basis of the agriculture we need; one that is able to sustainably increase production, nourish people through diverse diets and be resilient to environmental stresses. It is clear that the conventional, industrial model of agriculture is failing on many counts.¹ The need for a paradigm shift to biodiversity-based farming practices such as agroecology is increasingly urgent, particularly in the light of climate change.²

Nonetheless, such a transition will be stymied if concentration in the seed and pesticides sectors continues. Already, the Big Six mega-seed and chemical corporations (BASF, Bayer, Dow, DuPont, Monsanto and Syngenta) control 75 percent of the global agrochemical market, 63 percent of the commercial seed market and over 75 percent of private sector research and development (R&D) in seeds/pesticides (see [box on agribusiness mega-mergers in Chapter 2](#)).³

Currently, regulators around the world are evaluating three mega agri-mergers: Dow Chemical and DuPont; China National Chemical Corporation (ChemChina) and

Syngenta; and Bayer and Monsanto. Should these mergers be approved, an oligopoly will end up controlling the world's food systems.

The combined power and influence of these corporations is bigger than their market share; a variety of inter-firm agreements such as cross-licensing and research and development (R&D) alliances are actually forms of collusion and cartel behaviour, creating barriers to entry and reinforcing their top-tier market power.

This concentration would further squeeze global food systems, locking them onto a narrow technological path, characterized by ongoing dependence on proprietary seed, including genetically engineered seed and agrochemical inputs.⁴ The concentration of power in food systems reinforces other lock-ins that result in less diversity in the crops grown, due to the tendency towards standardized, input-intensive crop varieties, to the detriment of traditional varieties and agricultural biodiversity.

The consolidation also means that the companies will be well positioned to access massive banks of genetic data. Efforts such as DivSeek, a large international digital gene-banking project, will facilitate the corporate control and capture of agricultural biodiversity. DivSeek plans to link and facilitate analysis of databases that will host the genomes of hundreds of thousands crop seeds as well as seeds of crop wild relatives, along with characteristic information about them.

Records released under Freedom of Information laws have revealed a DivSeek steering committee's interest in a Syngenta-proposed funding scheme to sell access to genetic data and apparent acquiescence to the company's demands on patenting of plant genes, sequences and traits,⁵ while a DivSeek founder has offered early access to genetic sequences and patent rights to valuable climate change genes to DuPont and Syngenta.⁶ Proprietary control via patents would be the ultimate corporate capture of agricultural biodiversity that is meant to be held in trust.

1 IAASTD (2009) and UNCTAD (2013).

2 IPES-Food (2016) and Altieri et al. (2015).

3 ETC Group (2015).

4 African Centre for Biodiversity (2017).

5 Hammond (2016a).

6 Hammond (2016b).

The mega-seed industry's agenda includes collaborating with DivSeek to advance a goal of evading benefit-sharing requirements when it accesses genetic resources electronically. The use of synthetic biology technologies, such as gene synthesis and gene editing, means that digital genetic resources data can be used to select, recreate, manipulate and utilize key genes without physically transferring materials – and potentially without implementing benefit-sharing obligations required under the Convention on Biological Diversity (CBD) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

Freed of these obligations, the use of these technologies would allow corporations to enjoy the financial fruits of mining international and other seed banks for valuable sequences, while leaving farmers and indigenous peoples – who have nurtured agricultural biodiversity – behind.⁷ This is a violation of farmers' rights and removes an incentive to continue conserving and sustainably using agricultural biodiversity.

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Lim Li Ching is a Senior Researcher at Third World Network (TWN). She was a lead author of the East and South Asia and the Pacific sub-global report of the International Assessment on Agricultural Science, Technology and Knowledge for Development (IAASTD).

⁷ Hammond (2017).

it benign involvement in sustainable development policy. In September 2014, 57 large corporations, in collaboration with UN entities and a range of other stakeholders organized a big Forest Summit in New York City which adopted, with great pomp, a New York Declaration of Forests.¹⁵ The Declaration included a commitment to eliminate deforestation, but by 2030 only. Due to the publicity campaign they deployed the New York Declaration was heralded as a great breakthrough, while its target date was actually ten years later than the target date the UN itself had just agreed upon in July 2014. The corporations that supported the New York Declaration included such companies as Unilever, Nestle, Walmart, McDonalds and Wilmar International, which were heavily dependent upon commodities such as beef, soy, palm oil and wood that were amongst the main drivers of deforestation, and the early target date of 2020 would thus be detrimental to their business interests.

Happily, the corporate-led campaign to weaken SDG 15.2 was not successful, as UN Member States did not want to re-open negotiations on the difficult compromise text that had been agreed upon in July 2014. It was also recognized that the target date of 2020 was in line with the overall objective of the CBD Strategic Plan to halt biodiversity loss by 2020, as it would be impossible to do so if deforestation is not halted, taking into account that forests represent an estimated 90 percent of the world's biodiversity.

The risks of public-private partnerships and corporate involvement for transformative change

Public-private partnerships (PPPs) between governments, corporations and other actors like NGOs have been actively promoted by the UN as a strategy to maintain its relevance in diversified governance models, and as a fundraising strategy. The financial dependency of UN entities and several governments on private sector contributions through partnerships and other private investments creates perverse incentives and conflicts of interests, and compromises

their role as unbiased institutions promoting general public interests. In sectors like the forestry sector the impacts have been particularly problematic, as corporations will prefer to invest in profit-oriented activities like the exploitation of monoculture tree plantations, instead of marginally or not profitable activities like forest conservation or community forest governance. As described above, monoculture tree plantations have significant negative impacts on biodiversity and climate resilience, yet due to the dependence of especially contemporary climate funds on private funding, several tree plantation projects have or are about to receive financial support through these funds.¹⁶

In addition, an inherent problem with corporate involvement in sustainable development policy-making is that corporations can accept and support qualitative sustainability measures that improve their production, but they cannot accept quantitative measures that would affect the growth of their production. No matter the political good will of some business leaders, the rules of capitalist economies do not allow a company to accept policy measures that would affect the economic growth of its business. PPPs and other forms of business engagement thus form a major obstacle to policies that aim to address demand-side drivers of biodiversity loss and climate change like meat and dairy consumption through quantity-related policy measures. Yet in light of the planet's physical boundaries, limits to growth have to be set, especially when it concerns products like beef, palm oil and soy that have a disproportionate negative impact on biodiversity and thus the biosphere's resilience.

15 www.undp.org/content/dam/undp/library/Environment%20and%20Energy/Forests/New%20York%20Declaration%20on%20Forests_DAA.pdf.

16 Examples include a recently approved Forest Investment Programme investment into a teak plantation in Ghana and the Paraguayan PROEZA project, which has been proposed as the first forest-related project to be financed by the Green Climate Fund. PROEZA would finance the establishment of more than 35,000 hectares of Eucalyptus monoculture plantations to provide biomass for the soy sector to dry soy.

Conclusion: corporate involvement as an obstacle to transformative change

Market-based conservation mechanisms and corporate involvement in sustainable development policies form a major obstacle to the transformative change mandated by the 2030 Agenda. As described above, market-based conservation mechanisms have a weak scientific basis, and they risk marginalizing the actors that play a central role in biodiversity conservation: indigenous peoples, local communities and women. The strong corporate involvement in the forestry sector has led to serious conflicts of interests that undermine effective biodiversity policy. Corporations have also played a dubious role in trying to undermine one of the most ambitious targets of the 2030 Agenda. More generally, PPPs and blended finance instruments create serious conflicts of interests, tend to support business as usual, and marginalize or even prevent quantity-related measures to address unsustainable consumption. As such, they will promote business as usual rather than transformative change.

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Simone Lovera is Executive Director of the Global Forest Coalition and guest researcher at the Centre for Sustainable Development Studies of the University of Amsterdam.

SDG 16

Progressive implementation of the 2030 Agenda depends on achieving sustainable peace

BY ZIAD ABDEL SAMAD, ARAB NGO NETWORK FOR DEVELOPMENT (ANND)

In September 2015, a universal commitment to achieving sustainable development for all and leaving no one behind was made with the adoption of the 2030 Agenda and its Sustainable Development Goals (SDGs). Labelled as “one of the more controversial goals,”¹ or that having “contentious origins”² SDG 16 took its place among the 17 goals, reaffirming that peace, justice, effective and accountable institutions as well as inclusive societies are prerequisites for sustainable development. SDG 16 became distinctive with its transformative nature, requiring genuine implementation, effective monitoring and enhanced accountability for overall progress of the 2030 Agenda. However, currently there is no significant progress with regard to SDG 16.

A quick review of the global peace and security situation presents a bleak picture. Looking at the Middle East alone:

- Of the more than 65 million people displaced worldwide, a report by the UN revealed³ that around 5 million refugees in countries neighbouring Syria affected by the war awaiting a political solution to end the war and achieve transitional justice.
- The world is challenged by 71 different conflicts, among them 11 civil wars with high atrocity; six of them are in the Arab region, while eight are in the Middle East.⁴

- It has been nearly 70 years that the Palestinians face illegal occupation for whom peace and self-determination go hand in hand.
- Most recently the former Egyptian President Hosni Mubarak was released (after six years house arrest), which in the words of human rights defender Malek Adly is “a blatant example of the selective prosecution that exists, bearing testament to the increasing politicization of the courts”.⁵

In such a context, the transformative nature of SDG 16 makes it uniquely powerful, yet also difficult to achieve as it requires significant shifts in all its inter-linked aspects: peace should be sustainable, positive (i.e., not simply the absence of violence); accountability should be mutual; inclusive societies requires the adoption of new social contracts; justice must be comprehensive including social, economic, environmental, cultural and political justice. In addition to this, the commitment to SDG 16 should be further strengthened together with resources allocated to

1 <http://sdg.iisd.org/news/undp-administrator-discusses-post-2015-agenda-sdg-16-and-soft-means-of-implementation/>.

2 www.idlo.int/news/highlights/opportunities-and-challenges-implementing-goal-16.

3 UNHCR (2016).

4 www.conflictmap.org/conflicts.

5 www.al-monitor.com/pulse/originals/2017/03/egypt-mubarak-release-mixed-reactions-ahmed-douma.html.

development financing, rather than military spending and investments. Global military expenditure in 2015 was US\$ 1,676 billion, about 2.3 percent of the world's total Gross Domestic Product (GDP).⁶ Reallocation of resources to development would be key to achieving the SDGs, and a shift from militarization as business to development financing would be central for achieving SDG 16.

Peace: give (positive and sustainable) peace a chance

In 1969 John Lennon's lyrics summarizes it so simply: "All we are saying is give peace a chance." But we need to stress now that the peace should be positive and sustainable. In other words, political will to give peace a chance and thus arrive at an absence of violence, conflict and war should be complemented by a comprehensive approach that encompasses all aspects of human security. More than two decades ago, in 1994, the UN Human Development Report introduced the concept of human security.⁷ With its seven identified components, namely economic, food, health, environmental, personal, community and political security, human security—defined simply as freedom from fear and freedom from want—necessitated a shift from a State-centric security approach. This transition was affirmed in the report, which stated that "it is now time to make a transition from the narrow concept of national security to the all-encompassing concept of human security".⁸

Nevertheless the global context now is in reverse mode; recent practices and discourse on security promote national security foremost. It is easy to recall the US President promising to build a border wall to boost national security or the EU that made border deals with Turkey or proposed a new Migration Policy Framework to Southern Mediterranean partner countries within which the priority is to keep refugees closer to home, thus a burden-transferring for the sake of EU's security.

With its 10 targets related to outcomes and two related to means of implementation, SDG 16 does not integrate all components of human security, and thus do not entail a comprehensive approach to achieve sustainable and positive peace. Yet with a holistic approach, the implementation of the 17 goals, and the targets of SDG 16 specifically, could ensure progress in all seven areas of human security.

A close look at SDG 16 nevertheless shows that the implementation of targets 16.4, 16.5, 16.6, 16.7 and 16.8—addressing illicit financial and arms flows, corruption, transparency, inclusive and representative decision-making and global governance would be decisive. This is mainly because these targets address systemic issues in the current neoliberal order, including lack of transparency and shrinking policy space. However, the indicators for these targets remain mainly quantitative, thus requiring those monitoring and advocating for genuine implementation to continuously tackle qualitative aspects. A framework for positive and sustainable peace should be the umbrella for these efforts, to turn the targets into effective outcomes. Yet, this is not enough and should be complemented with an elaborated approach of justice, accountability and inclusivity.

Justice: provide social justice for all

How can we achieve justice? The question can lead to different answers, when one sees justice as a relative or subjective concept. But by following a rights-based approach, as the 2030 Agenda does, justice can be particularly interpreted as providing social justice for all.

This initially requires a U-turn from long-promoted neoliberal policy approaches. The latter, entailing trade liberalization, privatization, efforts to attract of foreign direct investment compounded with a reduced role of the State and shrinking policy space, led to widening and deepening inequalities within and among countries, thus resulted in a lack of social justice. The United Nations dedicates each year one day, namely 20 February, to social justice, as a symbolic act to remember us that we have to struggle for addressing inequalities and social injustices in the remaining 364 days of the year.

6 www.sipri.org/commentary/blog/2016/opportunity-cost-world-military-spending.

7 UNDP (1994).

8 *Ibid.*, p. 24.

In this struggle, a revision of redistribution policies are at the forefront. Ensuring progressive taxation, social protection for all and addressing informal labour through sustainable employment generation policies are a must. Such policy revisions should be strengthened with a shift from a rentier State to a developmental State within which policies are rights-based and people-centred and decision-making processes are inclusive and representing different opinions.

In such an approach, the rule of law and justice would be enjoyed not only under the shadow of police forces, courts and prisons. With target 16.3 governments commit to “promote the rule of law at the national and international levels and ensure equal access to justice for all”. This target is quite comprehensive as it covers injustices at national and international levels and stresses the “equal” access to justice for “all”. This would also include, for example, injustices deriving from trade agreements.

To implement the goal of social justice for all, new social contracts between the State and the citizen could be created that can tackle inequalities at multiple levels, be it geographic, political, gender, ethical, religious, social, economic, cultural and environmental. However state accountability is not enough alone. We actually need mutual accountability to be enhanced through the implementation of the Agenda.

Accountability: enhance mutual accountability

State accountability is critical for citizens, who should be able to hold their governments accountable for their commitments and demand effective policies to address core development issues. SDG 16 tackles the goal of accountability with a specific target, namely target 16.6, requiring the development of “effective, accountable and transparent institutions at all levels”. As indicators of progress the indicator framework identifies the allocation of primary government expenditures by sector and the proportion of the population satisfied with their experience of public services. Nevertheless, the practice we face is not as simple as it reads. Governments remain restricted in adopting policies and measures to achieve this target, as they have to respect the condition-

alities attached to financing and follow neoliberal policy prescriptions by the international financial institutions (IFIs) and others. These prescriptions have resulted in the adoption of rigid austerity measures by many countries, rising unemployment and the widespread violation of the right to social protection for many, including women, elderly and disabled people. In other words, effective institutions fail, as private interests overcome public interests and rules set by the multinational corporate powers and the IFIs became dominant over national interests.

Moreover, SDG 16 remains limited in scope when it focuses only on State accountability as primary towards achieving peaceful societies. All development actors’ accountability is mutual and interlinked towards realizing societal peace. Yet not all of them receive the same attention. Mostly underexposed is the accountability of the private sector, particularly when it comes to the protection against human rights violations. Let us consider the case of a female worker in a textile company in a developing country. Lack of decent work conditions, no social protection and maybe even sexual harassment at work should point fingers not only at the State but also at companies and their customers, often multinational retailing corporations. A long-term perspective on accountability would require legally binding accountability rules for all development actors, including domestic companies and multinational corporations, in order to implement the SDGs. In this context, measuring progress in the provision of certain public services or more budget resources allocated to health and education that would impact directly the life of a woman would only be considered as short-term progress, not addressing any of the root causes of inequalities she faces. But how can she be even heard if there is no enabling environment for her to speak up?

Inclusiveness: support an enabling environment

While the indicator on the number of people satisfied with public services is useful in relating the target to the experience of real people, progress on this indicator requires an enabling environment to make their voices heard. One would not feel left behind, if his/her opinion were asked, heard and taken into consideration. This is not possible through tick-box exercis-

Private Military and Security Companies – obstacle to the realization of SDG 16

BY LOU PINGEOT, GLOBAL POLICY FORUM

The private military and security industry has been growing steadily since the mid-1980s. In 2009, the global security market was estimated to be worth about US\$ 100-165 billion per year, with an annual growth rate of 7-8 percent.¹ This means that the industry today is likely to be worth about US\$ 170-300 billion. In addition, a 2011 study estimated the number of employees in the formal private security sector to be between 19.5 and 25.5 million worldwide, a number which exceeds the number of police officers at the global level.² Today, Private Military and Security Companies (PMSCs) provide a wide variety of services, ranging from support to state militaries engaged in conflict to guard services for corporations and individuals and the operation of private prisons.

The private military and security industry directly affects the realization of SDG 16 to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.

This industry not only directly contributes to conflict violence, it also allows for the reproduction of socio-economic inequality.

PMSCs and conflict. PMSCs play a key role in making conflict possible by outsourcing its political, economic and human cost. In Afghanistan and Iraq, for instance, the USA has been able to rely on a workforce of low-paid employees from poor countries, who had been hired by PMSCs sometimes without being aware that they would be working in a war zone.³ PMSCs have made democratic societies less averse to war by hiding its costs. In an internal memo, the British Ministry of Defence has highlighted that “neither the media nor the public in the West appears to identify with contractors in the way they do with their military personnel. Thus casualties from within the contractorised force are more acceptable in pursuit of military ends than those among our own forces”.⁴

In other words, the private military and security industry allows governments to bypass the democratic process by making war

more palatable to the public and less amenable to scrutiny.⁵

Availability of weapons. According to a conservative estimate, PMSCs held between 1.7 and 3.7 million firearms worldwide in 2011. This excludes undeclared and illegal weapons, which would likely substantially increase this number. Indeed, PMSCs have been reported to illegally acquire weapons (and poorly stock them) in places such as Afghanistan, Brazil, India, Iraq and Tanzania.⁶ The private military and security industry thus increases the availability of weapons in countries both at peace and at war, and increases the risk that these weapons will be used against civilians. A 2009 survey in Israel, for instance, found a link between incidents of domestic violence and homicide and firearms licensed to private security guards.⁷

PMSCs and socio-economic inequality. The private military and security industry has particularly proliferated in States that experience high levels of inequality between wealthy and poor citizens.

1 Abrahamsen/Williams (2009).

2 Florquin (2011).

3 See for instance Stillman (2011).

4 Quoted in: www.theguardian.com/uk-news/2013/sep/26/mod-study-sell-wars-public.

5 Avant/Sigelman (2010).

6 Florquin (2011).

7 Mazali (2009).

As inequalities grow, the rich increasingly barricade themselves in fortified homes guarded by armed personnel, thus bypassing often unreliable police services. This is part of a broader trend that sees the wealthy disengaging from public services. While it is most obvious in emerging economies such as Brazil and South Africa, it also affects wealthier states such as the USA.⁸ By providing the security services that allow the wealthy to isolate themselves from the rest of society, the private military and security industry plays a key role in exacerbating inequality.

The prison-industrial complex. In recent years, the private military and security industry has expanded its activities to the management of private prisons and detention centres for immigrants. G4S, the largest private security company in the world, has run prisons (in the UK and South Africa, among others) and immigration detention centres (e.g., in the UK and Australia). According to many critics, the privatization of the prison system is directly leading to an increase in incarceration rates. The American Civil Liberty Union (ACLU), for instance, argues that the construction of prisons run on a for-profit

basis leads to unjust incarceration, which disproportionately affects marginalized minorities.⁹

Efforts at better regulation of the private military and security industry go only some way towards addressing these pressing issues. Ultimately, PMSCs are not only a symptom of political choices that have led to conflict and increased inequality, they also make these very choices possible.

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Lou Pingoot is policy advisor at the Global Policy Forum

8 Pastor (2003).

9 Shapiro (2011).

es and consultations done randomly. People should enjoy fundamental freedoms of assembly, expression and association, should have access to timely, reliable information and resources to actively engage in public policy-making. In response, multi-stakeholder national dialogues should be a common practice, through which transparency is preserved in all policy areas, including key policies like trade, development, investment and so on. National social dialogue should have all necessary tools at diverse levels supported by representative institutions accessible to all.

Unfortunately shrinking civic space is the reality for both North and South: take the case of a human rights defender facing human rights violations due to a travel ban, imprisonment, arbitrary detention or a protest against police intervention. Arrests of protestors occur in many countries. However calls for human dignity, including respect for these fundamental freedoms will always be made and never be wiped away. Indeed when non-violent marches, like the Women's March in the USA and in several other countries in January 2017, occurred, we all felt hopeful for the future. Likewise when the Tunisian Quartet won the Nobel Prize in 2015 or the Syrian White Helmets were nominated in 2016, our trust in people's power come into daylight once again.

In this regard, SDG 16's specific targets are important in terms of altering the situation at the national level (16.10 on access to information and the protection of fundamental freedoms specifically), but inclusivity is relevant beyond the national level. Inequalities and imbalances in representation have to be addressed at international level as well. Thus target 16.8 is complementary to inclusivity, aiming to "broaden and strengthen the participation of developing countries in the institutions of global governance". However such institutional reforms would remain only a small step in response to the overall need for structural changes in the development paradigm promoted. The development needs and how the institutions of global governance address these development needs must be the key question kept in mind.

Conclusion

The 2030 Agenda makes the strong link between establishing sustainable peace and security, building democracy, promoting human rights, and implementing relevant policies for social justice and sustainable development. All of these elements are listed in SDG 16 and its targets. It is consequently obvious that the overall assessment of SDG 16 is one of the most difficult and complicated.

Effectively, the security conditions across the globe are deteriorating. Armed conflicts are increasing worldwide both in their number and in atrocity, resulting in millions of refugees, internally displaced people and migrants, besides the huge loss of human and physical resources. Inequality is increasing due to the unprecedented concentration of wealth in the hands of the few. All these factors and many others show the enormous difficulties that the efforts to achieve SDG 16 are facing but makes its implementation even more critical. Therefore SDG 16 ought to be prioritized and set the framework for all the other goals and targets in order to really achieve sustainable development for all.

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Ziad Abdel Samad is Executive Director of the Arab NGO Network for Development (ANND), based in Beirut, Lebanon

Whistleblower protection – how serious are governments to address corruption

BY CAMILO RUBIANO, PUBLIC SERVICES INTERNATIONAL (PSI)

The UN estimates that US\$ 1 trillion is paid in bribes per year, while more than twice that amount – US\$ 2.6 trillion – is stolen annually through corruption.¹ This corresponds to more than 5 percent of global GDP. In turn, the findings of a recent study by the OECD indicates that fraud and wrongdoing are more likely to occur in organizations that are closed and secretive.²

Whistleblowing is a key tool to detect fraud and wrongdoing – whistleblower protection can facilitate workers' effectiveness in stopping wrongdoing at an early stage through voicing their concern before scandals erupt and stakeholders incur huge damages.

However, regardless of the progress achieved in the last decade and the surge in the implementation of whistleblower protection frameworks and awareness raising in many countries, some high-profile cases have also evidenced the shortcomings, both in the law and the practice. The lack of dedicated and comprehensive laws is one of them. The legal protection is often scattered into many different legislations, with emphasis in the reporting chan-

nels and the facilities to disclose the information. As a result, workers who blow the whistle still face harassment, retaliation and threats. Also, the lack of clarity and a coherent approach on what can be considered a 'protected disclosure' have led to whistleblowers being dismissed and even sentenced to jail for breaching confidential and non-disclosure agreements. Other frameworks also include a protection akin to witness-protection programmes. While this may offer a shield against harassment and threats, it fails at protecting whistleblowers' jobs.

A new PSI report provides arguments, evidence and examples on how a robust protection programme for whistleblowers with the active support of trade unions is a major – if not the most important – tool to fight corruption.³ Some of the key findings of the report are:

- Whistleblowing arrangements are an important means of detecting fraud; however, whistleblowing by employees is a more effective way of bringing wrongdoing to light than direct observation, routine controls, internal audits, external

investigation and external complaints. A recent Global Fraud Report showed that in 32 percent of cases where fraud was uncovered, an employee had blown the whistle to provide information that facilitated an investigation. In the USA, 48 percent of cases where fraud was uncovered were facilitated by employees making whistleblower disclosures.

- The lack of whistleblowing protection frameworks leads to many forms of retaliation and reprisals, namely: ostracism, demotion, job loss, loss of income, assault and even murder. A series of studies in the US public sector suggests between 16 and 38 percent of workers who blow the whistle suffer retaliation. Similar percentages of whistleblower retaliation were found in Australia and the UK. However, in Norway retaliation rates are much lower – between 7 and 18 percent – thanks to strong legislation and very high unionization rates.
- Based on an estimate in 13 countries, the number of workers who need whistleblower protection at some point is estimated at 7 percent of the global workforce.

1 UNODC (2016).

2 OECD (2016).

3 PSI (2016).

- I Whistleblowing to the media represents only the tip of the whistleblowing iceberg. Whistleblowers tend to raise their concerns with different audiences throughout the process, and the vast majority of whistleblowers tend to raise their concerns internally more than once before going external, if they go external at all. Findings show that 97 percent of whistleblowing starts as voicing a concern internally, and 90 percent remains internal.
- I Whistleblowing legislation and policies also carry a cost. However, whistleblower programmes show that the benefits outweigh these costs. The involvement of whistleblowers in uncovering fraud and other wrongdoing implies longer regulatory proceedings, and thus increased costs. However, whistleblower involvement helps regulators to build stronger cases. The benefits of stronger cases are a higher success rate in proceedings, and higher monetary penalties. A specific whistleblowing framework for employees who can disclose inside knowledge or organizational wrongdoing is a necessary element of an anti-corruption system.
- I Based on 37 years of lessons learned, the six key provisions of robust whistleblower protection legislation include: burden of proof on the employer, forum (independence of enforcement agencies), final relief, interim

relief, corrective action and support services (education and outreach). Although there are many examples of best practices on these six key provisions, the overall picture of whether and to what extent these key provisions are implemented in whistleblower legislation, is mixed.

This calls for a benchmarking initiative – a robust whistleblower protection framework to shield workers fighting corruption, but also to make the fight against corruption a credible and serious commitment. There is an important role here for social partners and the ILO. For instance, whistleblower protection is gaining momentum within the trade union movement – in addition to several national initiatives, European trade unions are leading a campaign backed by the European Federation of Public Service Unions (EPSU) and PSI.⁴

The ILO was one of the first international organizations to address this issue. The Convention on Termination of Employment of 1982 was one of the first international instruments to include whistleblower protection by providing that filing a complaint or participating in proceedings against an employer are not valid reasons for dismissal and by establishing that the burden for proving the reason for dismissal should rest on the employer. This reverse burden of

proof has been essential in protecting whistleblowers. Thus the ILO has a role again in taking that protection further and making sure there is a solid international standard in place.

If governments are really serious about addressing corruption as part of the 2030 Agenda and SDG 16, they should take action on the protection of whistleblowers right now.

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Camilo Rubiano is Trade Union Rights and National Administration Officer at Public Services International (PSI)

⁴ <https://whistleblowerprotection.eu/>.

SDG 17

Means of implementation or means of appropriation?

BY STEFANO PRATO, SOCIETY FOR INTERNATIONAL DEVELOPMENT¹

SDG 17: “Strengthen the means of implementation and revitalize the global partnership for sustainable development”, articulates key actions that are expected to unlock progress in the pursuit of the 2030 Agenda. It is contextualized and complemented by the Addis Ababa Action Agenda (AAAA) and the SDG-specific means of implementation (MoI). While civil society denounced its inadequacy to match the ambition of the 2030 Agenda, the combined MoI/AAAA framework still offers useful entry points to advance progress. Two main challenges undermine implementation: the refusal of developed countries to engage in any meaningful democratization of global economic governance and the pervasive private sector bias.

The apparently-forgotten global dimensions of the 2030 Agenda

The initial process to implement the 2030 Agenda has witnessed a very strong push for national implementation. While such a national focus is necessary and welcome, the term ‘national’ tends to be used primarily to refer to developing countries and the global dimensions of the agenda are constantly underplayed. Developed countries are therefore successfully deflecting attention from their responsibilities, while placing the spotlight on developing countries’ national progress. Meaningful discussion on the ‘four big elephants’ of the global system, namely trade, finance, climate and human mobility, remains peripheral, if not completely unaddressed, in the implementation and review process of the 2030 Agenda. This, despite the continued evidence that no real and lasting progress can be made without realigning the governance of these four major shapers of today’s globalization to the imperatives of human rights and

sustainable development. Unfortunately, the 2017 ECOSOC Forum on Financing for Development (FfD) Follow-up confirmed the unwillingness of developed countries to address these global issues within the United Nations context and reaffirmed their intent to continue to ring-fence the institutions they control. Interestingly, the ‘champions of democracy’ seem to refuse the democratization of global economic governance. At the same time, the discussion on MoI and FfD continues to be dominated by a pervasive private sector bias, which, under the worrying slogan of ‘making the business case for sustainable development’, identifies in the unlocking of private finance and action the fundamental key to SDG implementation.

Policy incoherence and global economic governance

Rather than resource provision, the first real challenge in the pursuit of the means of implementation can therefore be seen in the resistance to the democratic redesign of global economic governance. Progress on international tax cooperation, debt sustainability, equitable multilateral trade systems and alignment of international financial institutions with sustainable development, either requires new uni-

¹ This article draws and further builds on the author’s editorial, “Financing for Development: The progress money cannot buy”, *SID Development Journal on Financing for Development*, vol. 59:1.

versal and democratic institutions and frameworks or the democratization of existing ones. Notable examples are developing countries' calls for a global intergovernmental tax body and for an effective international debt workout mechanism. Unfortunately, the call for democratization meets the obstinate rejection of developed countries, that rather continue to build and strengthen their own institutions (e.g., the OECD) or those they unevenly control (e.g., Bretton Woods Institutions).

Not only does this represent an obstacle to progress, but it also continues to fuel significant policy incoherence, despite the fact that policy coherence with human rights and sustainable development is one of the critical pillars to advance implementation of the 2030 Agenda. In this respect, the United States' reservation on the intergovernmental outcome of the 2017 ECOSOC Forum on FfD follow-up² is therefore emblematic: “the United States disassociates from the sentence in Paragraph 20 that calls on all regional and global organizations and institutions to consider the SDGs as they develop their strategies, policies, and practices”.³ This statement obviously raises the urgency of the challenges to global economic governance which are posed by the shifting geopolitical context and the resurgence of assertive power politics, as these generate profound consequences on consensus-based processes where ‘minus-one’ or ‘minus-some’ arrangements cannot be pursued. Both the follow-up and review of the 2030 Agenda and the FfD follow-up process fall in this category.

The other victim of the incapacity to advance the democratization of global economic governance is the aspiration to address systemic issues, one of the characterizing features of the Monterrey Consensus on FfD. Inadequate financial market reforms, continued inability to address the financial drivers of commodity price volatility, new challenges to debt sustainability also promoted by the financialization of infrastructure, and the resistance to use mechanisms such as Special Drawing Rights to strengthen financial safety nets, all contribute to increasing the

systemic risks of the current pattern of globalization, not to mention the continued resistance by some to fully recognise the systemic nature of the climate risk. Unfortunately, the FfD follow-up process has not yet proved to be able to provide the space for both foresight and preventive action to indemnify the quest for sustainable development against the next systemic crisis.

As developing countries are pressured to advance national implementation of the 2030 Agenda, systemic structural obstacles continue to limit the policy and fiscal space to advance their development actions and shift the centre of gravity of their economies in favour of the domestic market. This situation continues to relegate many countries – particularly many African countries – to conditions of commodity-dependence and unacceptably low levels of economic diversification, given their inequitable positioning in the global organization of production. Another unacceptable example of policy incoherence is represented by the ongoing attempts to establish normative hierarchies between investors' rights and human rights through trade and investment agreements, further limiting the development policy space of developing countries.

Private sector bias versus the necessary realignment of the business model

The second challenge to the meaningful implementation of SDG 17 is provided by the pervasive narrative related to the private sector. Here, the main drivers are sometimes unclear. Many are quick to point the finger towards attempts by private, often large corporate actors to capture the public space. While this might be the case, the private sector bias of many governmental representatives is often disheartening and exposes a mindset of abdication of the State's responsibilities in the face of challenges the State seems to feel inadequate or powerless to confront. At times, the State's desire to cede the public sphere to the private sector seems larger than the desire of the private sector to seize it. And this creates a very weak negotiation context where the attempts to seduce the private sector tend to result in the actual seduction of the State.

² United Nations (2017).

³ United States Mission to the United Nations (2017).

In this context, the private sector question is often wrongly posed. It is probably true that the engagement of the private sector holds many of the keys to the success in the implementation of the 2030 Agenda. But the premise for such engagement needs to be the recognition that the current economic frameworks are responsible for unacceptable levels of exploitation of people, communities and natural resources, are damaging our ecosystems and continue to reproduce a global neocolonial division of labour that relegates many developing countries to the lower end of the global organization of production. Furthermore, these frameworks thrive on patriarchal structures and continue to exploit women's social reproduction roles. This has led to an understanding of production and productivity that defines as external most of the social, environmental and political imperatives of sustainable development. The fundamental role of the State is that of redrawing the lines that generate today's gap between what is legal and what is sustainable. Expecting that this gap would be filled by voluntary initiatives of the private sector is an abdication of State's responsibility to regulate in the public interest. It is also a fairy tale.

However, regulatory initiatives are no easy tasks in today's globalized economy and require high degrees of concerted global action to prevent harmful 'races to the bottom'. In this context, the governance question resurfaces, considering that rankings and implicit policy prescriptions of the World Bank's *Doing Business* and *Enabling the Business of Agriculture* (EBA) reports are driving pro-private sector deregulations across the world. Against this background, the first immediate step in reclaiming the regulatory role of the State remains the process initiated by the Human Rights Council through the establishment of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights. The mandate of this working group is to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises (see [Chapter 12](#)).

But regulation is not the only available instrument. The use of fiscal instruments to redress the relative pricing of the factors of production, for instance by decreasing or removing taxes on labour while increasing taxation on the use of natural resources, may lead to innovation in different directions than today's constant search to minimize the labour cost factor. Unfortunately, very limited policy discussions are held to explore these options. On the contrary, normative and fiscal incentives are often targeted precisely at the wrong-doers, for instance by removing taxes on productive transitions to more sustainable production patterns, therefore socializing the cost of adjustment rather than obliging it to be borne within the private sector itself. Interestingly, limited incentive schemes exist to support alternative economic models that fully internalize social, environmental and political dimensions, such as agroecology, circular economies and social solidarity economies, among others.

The public-private conundrum

Beyond the realignment of the business model with sustainable development, a second critical dimension of the private sector bias is related to the call, sometimes plea, to the private sector to partner with the public sector in the delivery of public goods and services. The term public-private partnership (PPP) is therefore used to both describe this general phenomenon and indicate particular contractual arrangements, which is what the PPP acronym tends to more specifically refer to.

Over the past years, several research initiatives led by civil society organizations and even international organizations have analysed PPPs, raising concrete evidence of their shortcomings.⁴ Several reports highlighted how PPPs tend to change the nature of public services with very limited evidence of greater efficiency, significantly increase the public cost if compared to public procurement, offer higher risks than public investments that are almost entirely socialized and undermine democratic accountability. When applied to large infrastructural projects, they

⁴ See e.g., Eurodad (2015).

Leveraging corruption: how World Bank funds ended up destabilizing young democracies in Latin America

BY ROBERTO BISSIO, SOCIAL WATCH

In October 2011, a World Bank press release proudly announced that “IFC, a member of the World Bank Group, is providing an innovative US\$ 50 million partial credit guarantee to a longstanding IFC client, Construtora Norberto Odebrecht S.A., to support the development of infrastructure in Brazil and other Latin American countries”.¹ Those US\$ 50 million almost magically multiplied by a factor of 40 in the title of the communiqué: “IFC Guarantee to Brazil’s Construtora Norberto Odebrecht will Support up to US\$2 Billion in Infrastructure.” The financial trick was explained as follows: “IFC has designed an innovative partial-credit-guarantee facility under which the US\$ 50 million guarantee will allow Construtora Norberto Odebrecht S.A. to obtain up to US\$ 250 million in surety bonds, directly supporting up to US\$ 2 billion in construction contracts in such sectors as power, water, roads, ports, airports, and irrigation.”

Both parties were very aware that this was a new model intended

to be tested and copied. Marcos Lima, who headed Odebrecht’s captive risk management, insurance, and surety bonds unit, said, “We expect to replicate this novel financial structure with IFC and other institutions in the future so as to further leverage capacity.”

On the World Bank side, Atul Mehta, director of manufacturing, agribusiness and services at IFC, said, “Infrastructure development is one of the most important challenges for sustained growth. It creates major employment and training opportunities for the base of the pyramid and for small and medium enterprises. IFC is pleased to pilot this new financial product which addresses a key constraint and hopes to offer it in other markets.”

The alliance between the World Bank and Odebrecht was so successful that a few months after this announcement, in July 2012 the IFC tested with the same construction firm a new model of public-private partnerships (PPPs), now aimed at education.

Instead of the traditional procurement process, whereby the school system pays a construction firm to build the facilities, the contractor would now get “a

20-year concession to finance, build, equip and operate non-pedagogical services of 32 new preschools and five primary schools”.² Under the terms of the concession, the private sector partner is not only responsible for the construction, but also for the “cleaning, surveillance, laundry, maintenance, and utilities management” during two decades, which would “enable the directors of the schools to focus on teaching rather than managing multiple vendors.”

The bidding process was facilitated by IFC. There were two bidders – Brazilian multinational Andrade Gutierrez S.A. and Odebrecht – and Odebrecht got the contract.

Soon the World Bank was expanding the model through all of Latin America. The first PPP in Colombia was signed in 2014 to recover the Magdalena River

1 See for this and the following quotes <http://ifcext.ifc.org/IFCExt/pressroom/IFCPressRoom.nsf/0/0F649A1A15FC4B0885257936005218E0>.

2 World Bank Group (2012): Public-Private Partnerships Briefs: Brazil: Belo Horizonte Schools (<http://documents.worldbank.org/curated/en/180971468188941367/pdf/96871-P3Briefs-BrazilBeloHorizonteSchools-Box391454B-PUBLIC-Colltitle-PPP-BRIEF.pdf>).

for navigation. It did not get off to a smooth start. Civil society opposed the project because local communities were not consulted and it lacked sufficient studies on environmental and social impact. Sociedad de Objeto Único Navelena S.A.S. which is the private partner in the Colombian PPP, is 87 percent owned by Odebrecht.

The World Bank database of PPPs currently registers projects with Odebrecht participation in Brazil, Peru, Colombia and Mexico, for a total of over US\$ 30 billion.³ Additionally, Odebrecht and four other Brazilian construction companies (Camargo Correa, Andrade Gutiérrez, Queiroz Galvao and OAS Construction) received billions of dollars from the Brazilian development bank BNDES to expand their operations in Latin America to Africa.

While the model expanded fast, in 2014, a small department of the Brazilian federal police was starting the codenamed 'lava jato' (carwash) operation to investigate these five companies. They were accused of forming a 'cartel' to decide among themselves the price

and the winner of all the public bids of the Brazilian state-owned oil corporation Petrobras. As the investigation grew the whole political system of Brazil was shaken. To bargain a reduction of his 20-year prison term, CEO Marcelo Odebrecht accused every political party, the current and three or four previous presidents of Brazil and several of their Latin American and African colleagues of receiving bribes from the company started by his grandfather.

At its peak in 2016, Odebrecht employed 128,000 people worldwide and had an income of around US\$ 100 billion a year. The fine it owes to the governments of Brazil, Switzerland and the USA is US\$ 2.6 billion, double what Siemens paid in 2006 when it was accused of bribing governments worldwide.

Is corruption in PPPs an accident?
Is Odebrecht just a 'bad apple'?

Spanish economist José Luis Guasch, formerly at the World Bank, found that 78 percent of all transport PPPs in Latin America have been renegotiated,⁴ with an average of four addenda per contract and a cost increase of US\$ 30 million per addendum. Thus, the cost of a road linking Brazil and Peru rose from US\$ 800 million to US\$2.3 billion through 22 addenda. Such contract changes, says Guasch, can be "fertile ground for corruption". There was abundant research available at the World Bank in the first decade of this century to warn about the potential negative effects of PPPs. "Everyone knew that Odebrecht was doing this," says Christopher Sabatini, a lecturer at Columbia University's School of International and Public Affairs in New York.⁵ "Collusion was clear from the beginning."

³ See <http://ppi.worldbank.org/snapshots/sponsor/odebrecht-sa-1503>.

⁴ Quoted in "The Odebrecht scandal brings hope of reform", in: *The Economist*, 2 February 2017 (www.economist.com/news/americas/21716105-revelations-wholesale-bribery-may-mark-turning-point-latin-americas-battle-against).

⁵ Quoted in the *Christian Science Monitor*, 10 April 2017 (www.csmonitor.com/World/Americas/2017/0410/As-Brazil-s-Car-Wash-case-surfaces-more-corruption-will-scandal-fatigue-slow-progress).

It is only logical that corruption might be embedded in the model. When you have a firm that leverages public money to raise private money (from US\$ 50 million to US\$ 2 billion, remember?) and it only has one possible client (the government), the temptation to influence that client through non-orthodox means might be too big.

Yet, the World Bank not only went on with the model, expanding it from Brazil to all of Latin America (and in the process severely undermining incipient democracies) but even after the 'lava jato' scandal, it decided in the spring of 2017 to accelerate the global push for PPPs, with the aim of jumping "from billions to trillions" in infrastructure funding, following exactly the same 'innovative' model first tried with Odebrecht in 2011.

Meanwhile in Brazil, 89 politicians and business people have already been convicted, sentenced to total of more than 1,300 years of prison time. Similar investigations are only starting in other affected countries. But the World Bank needs not fear. According to the country agreements that the Bank requires before operating anywhere, its officials are immune from prosecution by the host government.

Roberto Bissio is Executive Director of the Instituto del Tercer Mundo (Third World Institute) and coordinator of the Social Watch network

may also contribute to generating unsustainable debt levels by escaping public accountability and provide easy avenues for the financialization of these investments.

However, four key dimensions of this discourse help to problematize and contextualize this push for public-private partnerships. The first one is related to the emerging confusion on what is public and what is private. The often-unqualified call to mobilize private finance and engage the private sector is not backed by any clear understanding of what is private, what should remain public and is best delivered by the public sector and what is public but can be delivered by the private sector. Clearly, these distinctions are highly context-sensitive and different answers can be provided in different national situations, but no discussion seems to be currently framed in the firm recognition that there are public goods and services which are the distinct competence of the public sector.

The second dimension is related to the fact that boundaries between the public and the private are not fixed and private ownership is increasing shifting from physical to financial capital. Public partnerships with the private sector should therefore be located in the continued processes of commodification and financialization that are often aggressively promoted by the current pattern of economic globalization. Commodification is the process of extending the range of goods and services which are produced and commercialized by the private sector and traded within markets. It continuously erodes the concepts of public goods and human rights, as exposed by the commodification of food, water and health. It is therefore not by chance that the 2030 Agenda does not frame food, water and health as fundamental human rights, but rather addresses these as needs to be met, further opening the way for private provision. Beyond social services, the next frontier of commodification is knowledge, as widely exposed by the corporatization of seeds and genetic resources. Financialization, on the other hand, is a process that separates the ownership of physical capital from the ownership of financial capital, and progressively shifts the centre of gravity of the economy away from production and consumption in favour of financial

ownership, thereby increasing the size and importance of the financial sector in the management of the economy. The net effect of these two drivers is the increasing power distance between people and economic ownership and decision-making, rendering the reshaping of the economy to serve the needs of the people dramatically challenging. Beyond short-term consideration on effectiveness, transparency and financial efficiency, one of the most profound concerns about public-private partnerships is therefore their significant contribution to commodification and financialization and the consequent squeezing of the capacity of the State to regulate the economy in the public interest.

The third dimension of the discourse is related to the widening of the modalities of public-private interaction, with high rates of innovation in the interaction between the public and the private. This evolving reality poses new challenges to those policy-makers that want to establish guidelines and safeguards to protect the public interest within PPPs, as called upon by the Addis Ababa Action Agenda. While vigorous campaigning by civil society against harmful PPPs is essential along with advocacy to establish proper guidelines to protect the public interest, these policies may quickly become obsolete if the modalities of public-private interaction evolve to new forms that may not be covered by these safeguards. This led the Civil Society FFD Group to forge the term ‘public-private interfaces’ (PPIs) to refer to this broader phenomenon and to initiate a global survey to identify and cluster these new modalities to offer policy-makers a more comprehensive analytical context to frame their safeguarding interventions.

The fourth and last dimension of this discourse is related to the increasing participation of the private sector in public policy spaces, often translating into outright corporate capture. The underlying premise is the belief that there is a significant overlap between public and private interests, despite the glaring evidence to the contrary. This misunderstanding calls for prompt action to defend the integrity and restore the rights-holder centeredness of public policy spaces against their progressive ‘stakeholderization’. Such a defense implies the prompt establishment of robust safeguards against conflicts of interest, which

should range from excluding private financing, protecting the integrity of the policy process and ensuring the trustworthiness of the research and evidence that informs and supports policy-making.

Conclusions

The resistance to the democratization of global economic governance and the pervasive private sector bias in efforts to implement the SDGs represent significant, if not unsurmountable, obstacles to the provision of the means of implementation needed to truly pursue the 2030 Agenda. Rather than means of implementation, the international community is confronted with ‘means of appropriation’ of the development aspirations of developing countries and their communities to maintain an outdated, untenable, fragile and undemocratic economic order.

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Stefano Prato is Managing Director of the Society for International Development (SID)

Spotlight on Sustainable Development 2017

Reclaiming policies for the public

Privatization, partnerships, corporate capture and their impact on sustainability and inequality – assessments and alternatives

Report by the Civil Society Reflection Group on the 2030 Agenda for Sustainable Development

Published by

Social Watch

Avda. 18 de Julio 2095/301
Montevideo 11200, Uruguay
socwatch@socialwatch.org
www.socialwatch.org

Global Policy Forum

866 UN Plaza | Suite 4050
New York, NY 10017, USA
Königstrasse 37a
53115 Bonn, Germany
europe@globalpolicy.org
www.globalpolicy.org

Development Alternatives with Women for a New Era

Level 2 JP Bayly Trust Building
193 Rodwell Road
Suva, Fiji
info@dawnnet.org
www.dawnnet.org

Public Services International

45 avenue Voltaire
BP 9
01211 Ferney-Voltaire Cedex, France
psi@world-psi.org
www.world-psi.org

Third World Network

131 Jalan Macalister
10400 Penang, Malaysia
tw@twnetwork.org
www.tw.my

Arab NGO Network for Development

P.O.Box: 5792/14
Mazraa 1105 – 2070
Beirut, Lebanon
info@annd.org
www.annd.org

Society for International Development

Via Ardeatina, 802
Rome, 00178, Italy
info@sidint.org
www.sidint.net

Center for Economic and Social Rights

86 Chambers St, Suite 704
New York - NY 10007, USA
info@cesr.org
www.cesr.org

**The Reflection Group on the 2030 Agenda
for Sustainable Development is supported by**



Editors: Barbara Adams, Roberto Bissio, Chee Yoke Ling, Kate Donald, Jens Martens, Stefano Prato, Sandra Vermuyten

Editorial assistance: Karen Judd, Karolin Seitz and Matthias Pesch

Coordination: Jens Martens, Global Policy Forum

Design: kipconcept gmbh, Bonn

Photo: JohnnyH5 / iStockphoto

Printing: Medienhaus Plump, Rheinbreitbach. Printed on 100% recycled paper.

The views and opinions expressed in the articles are those of the authors and do not necessarily reflect the positions of the publishers, the editors, other authors, or funders.

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available in the internet at <http://dnb.d-nb.de>.

ISBN 978-3-943126-33-4

Beirut / Bonn / Ferney-Voltaire / Montevideo / New York / Penang / Rome / Suva, July 2017

with contributions from

