

DECEMBER 2014

**MULTI-STAKEHOLDER PARTNERSHIPS, CORPORATE
ACCOUNTABILITY AND PUBLIC-PRIVATE PARTNERSHIPS
IN THE CONTEXT OF THE 3RD INTERNATIONAL
FINANCING FOR DEVELOPMENT CONFERENCE**

In the context of the post-2015 development agenda, which includes the Financing for Development conference, the United Nations is witnessing the rise of a powerful multi-stakeholder partnerships paradigm . This particular governance model, which embraces a voluntary (rather than legally binding) and responsibility-based (rather than commitment-based) “partnership” approach with the private sector, has been influencing the content and debates of the Rio+20 sustainable development conference, the Open Working Group on the Sustainable Development Goals and currently, the Financing for Development process.

This trend, which is in large part upheld by large Transnational Corporations and the governments invested in it, can be witnessed across almost every international

and determinants that shape national policy space for development.

Some key elements of a global partnership for development are:

1. a development-oriented trade regime;
2. facilitating external debt sustainability;
3. regulating financial markets, including food and commodity price markets;

The UN Global Compact and the UN Guiding Principles on Business and Human Rights

corporations and many “Non-Governmental Organisations” that represent corporate interests. The very term “stakeholders” obscures the sharp power imbalances between various sectors and groups and the vast differences between their agendas. It also promotes a depoliticized model of governance that negates the different interests and power structures inherent in the global economic system;

- Armed by the investor-state dispute settlement clause in bilateral investment treaties as well as bilateral and plurilateral trade agreements, many multinational corporations have sued governments in closed-door arbitration tribunals for introducing or amending regulations and policies that reduce their profits or potential profits, even if state regulations are intended to secure economic and social rights and prevent environmental harm. Multi-stakeholder partnerships in the Post-2015 development agenda needs to urgently address the threats posed by trade agreements and bilateral investment treaties to government regulations related to national development priorities, such as health and environment;
- The role of transnational corporations in the post-2015 agenda also needs to confront the controversial and much publicized issue of tax evasion and avoidance , including the use of offshore tax havens, transfer mispricing and illicit financial flows from the South to the North.

Some recommendations for a way forward

- An intergovernmental governance framework for multi-stakeholder partnerships, rooted in the international human rights framework and existing obligations in all three dimensions of sustainable development (economic, social, environment).

The central objective of the framework would be to ensure accountability and ex-ante assessment of partnerships. For this, there would need to be clear criterion, applied ex ante, to determine whether a specific private sector actor is fit for a partnership in pursuit of the post-2015 goals. United Nations member states would be at the helm of formulating the framework, including the criterion, the oversight and monitoring process based on due diligence reporting and independent third-party evaluations.

As outlined in the statement of the Righting Finance Initiative, such criteria should examine, at the least:

1. Whether the private actor has an evidence-based history or current status of abusing human rights or the environment, including in their cross-border activities;
2. Whether the private actor has a proven track record (or the potential to) deliver on sustainable development, as articulated by the UN outcome by 2015;
3. Whether the private actor has previous involvement in acts of corruption with government officials;

4. Whether the private actor is fully transparent in its financial reporting and ensures

Private sector financing is profit-oriented and not required to invest in social needs and global public goods. The public sector, whose crucial roles are to finance social needs towards poverty eradication and finance global public goods, thus remains the lynchpin of a global strategy for sustainable development financing. Private finance is undeniably a part of the strategy, but should not be the core foundation.

Two central concerns of infrastructure-related PPPs are:

- Costs and risks, particularly in the form of contingent explicit and implicit liabilities; and,
- Socialization of costs while privatizing the benefits—thus exacerbating inequality in income and access to the very infrastructure services.

The developmental role of the state is critical. This means that the state needs to be able to play a pro-active developmental role in the governance of the economy, the regulation of the market and in ensuring that economic growth creates decent work and translates into equality, opportunity and well-being through ensuring the economic and social rights of people, including women's rights.

10 Recommendations on PPPs *(particularly in infrastructure project financing):*

(1) Fiscal and public debt risks of PPPs are properly accounted for and placed under public scrutiny through mechanisms for participation and accountability;

(2) Institutional and capacity pre-requirements for the success and effective functioning of PPPs should be in place before they are undertaken. Building competent and effective institutions for governance takes time and skills- training, which are often incompatible with the need to deliver quick public-private partnership deals;

(3) Equity concerns should be addressed in distribution, access and affordability of infrastructure and services. Providing access alone has proven to be insufficient; it is equitable and affordable access that is an essential dimension to fight poverty;

(4) Regulation and enforcement in infrastructure projects is necessary, particularly of laws, policies and safeguards to ensure the economic and social rights of people, including women's rights, as well as environmental protection and sustainability.

Regulations include rules against tax evasion and tax loopholes. For example, all firms involved should be required to disclose annual information related to taxes paid, profits made, sales, and information regarding beneficial ownership, including trusts, foundations and bank accounts.

(5) Align private sector financing to developing countries investment and

development priorities . Developing country ownership should be respected by aligning investments to national development strategies, including national industrial and agricultural policies and strategic priorities for scaling up the domestic private sector. A coherent framework that sets clear guidelines for alignment and ownership, and regular reporting on results have been recommended by many actors as a first step forward;

(6) Make development outcomes the overriding criteria for project selection and evaluation . (One possible requirement could be that development outcomes are disclosed at the project, not the aggregate, level, which could improve accountability of public-private projects to affected communities);

(7) Prioritise domestic MSMEs and companies over foreign companies . (This is essential for private investments to actually support the development of competitive and