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OVERVIEW

At this point in the roadmap to 2030, it is essential to get it right regarding the private sector's accountability for women's, children's and adolescents' well-being, and for public health.

The 2030 Agenda for Sustainable Development (2030 Agenda) will not be achieved without the active and meaningful involvement of the private sector. In a context of instability, uncertainties and budget constraints in many parts of the world, governments, bilateral donors and the United Nations (UN) system increasingly look to the private sector to help meet global challenges and fund the Sustainable Development Goals (SDGs), with their price tag of US\$ 5.7 trillion. The health SDG alone will require nearly three times the current level of investment in low- and middle-income countries—as much as US\$ 371 billion annually by 2030.

The current proliferation of public-private partnerships (PPPs) is expected to accelerate under the SDGs. The Joint Fund for the 2030 Agenda was launched in 2018 by the UN Deputy-Secretary-General to facilitate scaling up SDG implementation through PPPs. Increasingly, corporations feature prominently in international policy circles and CEOs mingle regularly with the world's decision makers in Davos and at UN headquarters. Yet at the same time, tax avoidance by multinationals—estimated at US\$ 500 billion annually—undermines policy coherence and drains money from the countries most in need.

Can the private sector be held accountable for protecting women's, children's and adolescents' health? And if so, who is responsible for holding them to account, and what are the mechanisms for doing so? This report explores this theme, asking the key questions: Who is checking to see if businesses are aligned with people's rights to health? Are adequate standards and oversight systems in place under the 2030 Agenda and the Addis Ababa Action Agenda? Just how much so-called corporate blue washing is going on?

The UN Secretary-General's Independent Accountability Panel for Every Woman, Every Child, Every Adolescent (IAP) has set out to answer

these questions in fulfilment of our mandate: provide a snapshot of progress on the Global Strategy for Women's, Children's and Adolescents' Health 2016–2030, using the specific lens of accountability: Who is accountable to whom, for what, and how?

Getting accountability right

The IAP is well aware that this report ventures into hotly contested terrain, riddled with misconceptions and mistrust. We hope that it will mitigate some unnecessary polarization and facilitate meaningful dialogue, transparency and accountability. It comes at an important moment, a year away from the first review of the 2030 Agenda by heads of state and government. It is especially relevant given the private sector's role in universal health coverage (UHC), the growing privatization of health services, and the steady growth of business engagement in health. The powerful influence that corporate interests wield in setting public policy agendas and in democratic elections, through political lobbying on the domestic front or through trade negotiations and involvement in the G20 and World Trade Organization processes, makes it increasingly important to address the questions set forth in this report.

At this point in the roadmap to 2030, it is essential to get it right regarding the private sector's accountability for women's, children's and adolescents' well-being, and for public health more broadly. Private sector engagement in health cannot be treated as largesse or charity. Accountability, beyond answering to shareholders and investors, must include the public: the individuals and families that rely upon equitable, quality and efficient health systems; the workers that make up the backbone of health systems; and the people deeply affected by private sector operations within and across borders—including the environmental and gender impacts of these operations.

The private sector's role in health is not new. Its members—who have saved and improved countless lives—include family doctors; creators of vaccines, medicines and medical breakthroughs;

The IAP recommendations

1. **Access to Services and the right to health:** To achieve universal access to services and protect the health and related rights of women, children and adolescents, governments should regulate private as well as public sector providers. Parliaments should strengthen legislation and ensure oversight for its enforcement. The UHC2030 partnership should drive political leadership at the highest level to address private sector transparency and accountability.
2. **The pharmaceutical industry and equitable access to medicines:** To ensure equitable, affordable access to quality essential medicines and related health products for all women, children and adolescents, governments and parliaments should strengthen policies and regulation governing the pharmaceutical industry.
3. **The food industry, obesity and NCDs:** To tackle rising obesity and NCDs among women, children and adolescents, governments and parliaments should regulate the food and beverage industry, and adopt a binding global convention. Ministries of education and health should educate students and the public at large about diet and exercise, and set standards in school-based programmes. Related commitments should be included in the next G20 Summit agenda.
4. **The UN Global Compact and the EWEC partners:** The UN Global Compact and the EWEC partners should strengthen their monitoring and accountability standards for engagement of the business sector, with an emphasis on women's, children's and adolescents' health. They should advocate for accountability of the for-profit sector to be put on the global agenda for achieving UHC and the SDGs, including at the 2019 High-Level Political Forum on Sustainable Development and the Health Summit. The UN H6 Partnership entities and the GFF should raise accountability standards in the country programmes they support.
5. **Donors and business engagement in the SDGs:** Development cooperation partners should ensure that transparency and accountability standards aligned with public health are applied throughout their engagement with the for-profit sector. They should invest in national regulatory and oversight capacities, and also regulate private sector actors headquartered in their countries.

advertising firms behind public health campaigns (to combat, for example, HIV/AIDS or violence against women); and developers of information and communications technologies (for instance, m-health and telemedicine for remote communities), to name but a few.

The challenges of harnessing the innovations and potential contributions of such an important sector are both ethical and practical. The private sector's bottom line is primarily financial profitability, which does not necessarily mean putting people's well-being first. This inevitably poses serious dilemmas and possible conflicts when attempting to put in place a global agenda founded on principles of human rights, dignity, equity and leaving nobody behind. Concerns around the privatization of development and the abdication of responsibilities by states and global institutions are central to the thinking of the IAP and are shared by many.

Governments are the guardians of private sector accountability

The responsibility for ensuring oversight of the private sector lies first and foremost with the public sector. Health is a human right and is interdependent with other human rights that affect the social determinants of health. These rights are enshrined in international law. Governments—from the national and local to the international level—are responsible for safeguarding the right to health, within their own countries and through fulfilment of extraterritorial obligations. It is their task to oversee that all involved, including the private sector, are held answerable for how their actions impact on people's health.

Accountability governing the private sector's engagement in the area of health, however, is particularly vague and undocumented. The concept of accountability is often narrowly understood as the application of civil and criminal measures to sanction corruption and tax evasion, labour and environmental abuses, or human rights violations. These are, of course, fundamental functions of accountability. This report, however, espouses the IAP's comprehensive, constructive, learning

approach to accountability—one in which remedy is a sine qua non component, underscoring how accountability can be corrective and preventative as well. In so doing, we hope the report will be beneficial to for-profit, private sector actors in guiding their future engagement and performance.

When the public sector is strong and government is responsive to its citizens, the private sector can thrive, enhance growth and well-being and accelerate innovation to achieve the 2030 Agenda. Major challenges arise when the public sector is weak and lacks the capacity for effective regulation, as is particularly true in low-income countries where unchecked business interests are prone to produce adverse consequences in affected communities. Moreover, global rules related to trade, intellectual property, and other forms of economic governance may hamper national abilities to effectively regulate private sector actors, especially transnational corporations. In the absence of strong government oversight in the countries where companies operate, and multinational corporations are headquartered, people—especially poor, rural and marginalized communities—may lack the education or means to avert harm. They may fall victim to quack services and treatments they can barely afford. Or they may be exposed to the risks of non-communicable diseases (for example, to obesity as a result of aggressive marketing of low-cost junk food and sugary drinks). Or simply, they may not be able to afford essential, life-saving services and medicines—often made available by the private sector to society's well-off and well-insured, while fractured public health systems and failure to uphold the rights of the have-nots leave the poor and marginalized without access to quality health care.

Of course, even in democratic countries with robust institutional capacities there is a need for continuous vigilance, within their own borders as well as over corporate entities that fall under their effective control. An active civil society and the protection of freedom of information can help to counter the risks of misdirected motives and conflicts of interest in the for-profit sector. Yet self-reporting and self-regulation are often the sole forms of accountability practiced by business sector entities engaging in health and the SDGs. While the IAP welcomes the commitment

of many private sector actors to these accountability mechanisms, we recognize that they lack validation by independent sources and are not sufficient on their own. Accountability must go beyond self-regulation. The UN Global Compact, for instance, is a mechanism created to bring businesses on board as partners for development. Yet the challenge remains of balancing the carrots (which abound for UN Global Compact members in terms of corporate visibility and privileged access to policy-makers) with the sticks (which are all too thin from the perspective of meaningful accountability).

Which private sector?

The landscape of private sector actors is vast and complex. It is characterised by great diversity in the aspects of health covered; types of engagement; types of entities and country settings; and motives and degrees of willingness to be subjected to meaningful accountability and the rule of law.

While acknowledging the diversity of private sector involvement in health, we narrow the scope of our analysis in this report to: *for-profit actors operating in the health sector and/or having significant impact on women's, children's and adolescents' health across the pillars of the Global Strategy—survive, thrive and transform.*

In the context of achieving universal health coverage to attain the SDGs, this report looks at three key areas of private sector engagement:

- health service delivery, from small providers to large hospital networks
- the pharmaceutical industry, from local pharmacists to multinational manufacturers
- the food industry and its significant influence on health and nutrition, with a focus on non-communicable diseases (NCDs) and rising obesity.

Without robust oversight mechanisms, independent review and adequate remedies, accountability can be just lip service.

All parties involved in health and in achieving the 2030 Agenda must be held to account. This applies also to private actors not covered directly by this report, including non-governmental organizations and secular charities, as well as faith-based institutions, which provide a considerable share of care in some settings; and foundations established and funded by corporations, with diverse objectives and degrees of independence—including some that shape the landscape of global health, such as the Bill & Melinda Gates Foundation. Although the extraordinarily influential role of the private sector in financing health, including health systems, is also outside the scope of this report, the IAP acknowledges its relevance. Some major private sector enterprises that affect people's health are also outside the focus of this report, for instance: the extractive industry, which has been well-covered from a human rights and accountability perspective; or the marketing and advertising industry, which shapes gender and other social norms.

Without the full cycle of accountability the SDGs will not be achieved

Under international law, accountability standards apply equally to all actors, public and private, whose activities impact on people's health and rights. Governments have a duty to establish accountability systems that are adequately resourced, in financial and human terms, to oversee compliance with these standards. Only in this way will we be able to achieve the Global Strategy and the 2030 Agenda. Thus, it is fundamental that multilateral institutions and donors invest in effective, accessible and transparent institutions, pursuant to SDG 16. Furthermore, inter-governmental bodies, expert jurists and courts increasingly realize that the governments responsible for exercising effective control over transnational corporations headquartered in their territory also have an obligation to promote accountability for the actions of these entities beyond their borders, directly and through multilateral institutions.

Without robust oversight mechanisms, independent review and adequate remedies, accountability can be just lip service. The public and civil society have the right to an active voice in drafting the laws and regulations that structure private sector activity and accountability, and to participate in implementing and monitoring them.

The IAP approach captures the full cycle of accountability—monitor, review, act and remedy—building on the approaches of the Commission on Information and Accountability for Women’s and Children’s Health, and of the Independent Expert Review Group. This year, we have adapted our accountability framework to focus on the private sector (see Panel 1).



PANEL 1. APPLYING THE IAP’S CONCEPTUAL FRAMEWORK TO PRIVATE SECTOR ACCOUNTABILITY

For this report, the IAP’s accountability framework—monitor, review, act and remedy—is applied to state obligations to hold the private sector accountable. Emphasis is placed on the right to health, its social determinants, and on service delivery—all of which are deeply influenced by private sector actions. Given the global nature of the influence some private sector actors have on health—for example, the pharmaceutical, food and tobacco industries—both national and extraterritorial accountability are stressed. The circle of accountability also encompasses the ways in which businesses wield economic and political influence over policy-making, affecting the health of women, children and adolescents.

Monitor refers to gauging, based on adequate data, whether progress is being made, with a focus on revealing inequities. This requires using and monitoring the right indicators. It also involves putting systems in place to compare the performance of institutions, both public and private, in terms of health service quality, equity and other aspects. However, monitoring private providers is challenging, as the necessary data is not always integrated into public systems. Adequate monitoring of some major actors within the health system, such as pharmaceutical companies, is also difficult because of changing regulations, transfer pricing practices and other cross-border issues.

Review refers to the function of independent oversight institutions such as courts, parliaments, national human rights institutions, auditors and national statistics offices; as well as the role of the media and civil society, enabled through public access to findings of review processes. Currently, review of private sector actors within the health system and of commercial actors that influence health is particularly weak, due to deregulated markets and limited legal enforcement.

Act and remedy refers to the actions ordered by an independent body, which generally have both direct effects on a specific group of people and broader indirect effects on policy, legal and institutional reforms. Without effective access to remedies, prompted by the functions of independent review and oversight, the conditions that prevent people from thriving cannot be transformed.

Key accountability measures that can be applied by countries include:

- **legislation**, including tax, labour and environmental law, and to manage conflicts of interest, among other reforms to establish standards and responsibilities aligned with public health objectives, even when these may limit profits;
- **regulation**, including to specify the terms under which private services, insurance companies and other industries are contracted, licensed and accredited to operate and price services and products;

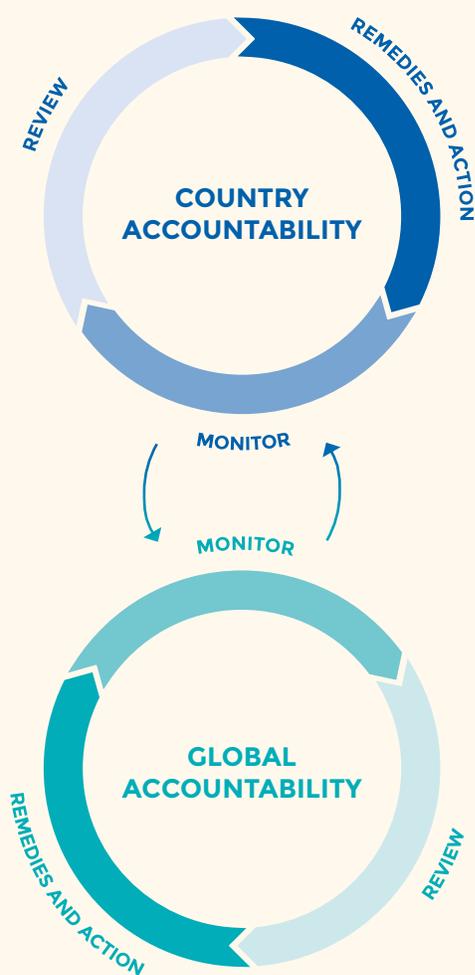
- **monitoring and evaluation** of private sector performance, in terms of both material and indirect impacts (such as in relation to positive or negative social norms and behaviours) of actions affecting women's, children's and adolescents' health and well-being;
- **independent review and effective judicial and other remedies**, including by international tribunals, such as the International Centre for Settlement of Investment Disputes and supranational human rights forums, to ensure compliance with legal and human right standards, and to mandate transformative actions to align industry operations and performance with public health, as well as issue sanctions when need be; and,
- **extraterritorial obligations of states** where transnational corporations are headquartered or over which they exert effective control relating to, among other things: taxation and accounting practices; equitable and non-discriminatory labour practices, including fair compensation, working conditions and unionization of workers; environmental practices; lobbying practices; advertising practices; and intellectual property claims, including carve-outs for public health in accordance with the DOHA Declaration and international human rights law.

The IAP's Unified Accountability Framework

The IAP's Unified Accountability Framework for the Global Strategy shows how levels of monitoring and review are layered and intertwined, from the national to the global.

First and foremost, governments are accountable for making progress on the Global Strategy and the SDGs, and for ensuring oversight of all services and industries operating within and across their borders. At the global level, the High-level Political Forum on Sustainable Development, the World Health Assembly and the Universal Periodic Review of the UN Human Rights Council are key global fora for monitoring progress.

Specific to the private sector, the OECD Guidelines on Multinational Enterprises, the Maastricht Guidelines on Extra-Territorial Obligations, the UN Committee on Economic, Social and Cultural Rights Business and Human Rights General Recommendation from 2017; and the Human Rights Council resolutions on Business and Human Rights, together with the International Labour Organization (ILO) Conventions, are among the relevant standards. The requirements set by independent industry and professional associations also provide useful guidance, but are not sufficient in and of themselves, as accountability requires independent review according to standards agreed through legitimate public processes. The UN Forum on Business and Human Rights, the UN Global Compact, and the World Economic Forum, in addition to the EWEC private sector constituencies, are among the key platforms for strengthening dialogue, and action, on accountability.



The structure of the report

This report draws on the IAP's public call for evidence, intensive research, and consultations with private sector leaders and the range of stakeholders involved in the Every Woman, Every Child (EWEC) initiative. These were extraordinary learning opportunities for gathering the insights that have made this report possible.

Chapter 2 begins by offering a snapshot of progress in advancing the Global Strategy across the three dimensions of rights, results and resources, with a focus on equity gaps and on whether we are measuring who and what really matters. We offer our observations on current global monitoring efforts and also highlight promising developments since our last report, in 2017, on accountability to adolescents. Particular attention is given this year to commitments made by private sector actors to the EWEC initiative, which showcase companies' leadership in support of women's, children's and adolescents' health. While they represent merely a small sampling of what businesses worldwide are doing, these examples also demonstrate what many more should be pursuing. We examine how the contributions of these initiatives are tracked and their performance is measured, and we look at the monitoring and accountability gaps that still need to be filled. We also review the due diligence and accountability standards that Global Strategy partners have in place for their engagement of the private sector, as well as those of the UN Global Compact.

In Chapter 3, we take a more in-depth look at private sector engagement and accountability in women's, children's and adolescents' health across our three focus areas: health service delivery in the context of achieving universal health coverage; the role of pharmaceutical companies and access to essential medicines; and food-industry impacts on rising obesity and NCDs. We ask ourselves: What do we know? What works for accountability? What are the gaps? Throughout, we review the obligations of states and the international human rights standards that govern the private sector, which should be used by executive and legislative branches of government and the range of stakeholders as guideposts to strengthen accountability. We identify how parliaments and judicial systems can help to build stronger checks and balances for women's, children's and adolescents' health by providing effective oversight; and we look at the role of citizen-led and independent accountability.

In Chapter 4 we present our recommendations, addressed to the range of stakeholders: UN Member States, the UN system, private sector actors, development cooperation partners, the EWEC global partners, the UN Global Compact, as well as civil society, including adolescents and youth.

The stakes are highest for the younger generations. What world will they be inheriting in 2030—will it be business as usual, or the transformative change they have been promised?