



2018 Report

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SUMMARY OF  
RECOMMENDATIONS

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# PRIVATE SECTOR: WHO IS ACCOUNTABLE?

for Women's, Children's and Adolescents' Health

In September 2015, the United Nations Secretary-General launched the Global Strategy for Women's, Children's and Adolescents' Health 2016-2030 (Global Strategy) to help further the achievement of the 2030 Agenda for Sustainable Development. The Strategy builds on 15 years of progress under the Millennium Development Goals and the Every Woman Every Child (EWEC) movement. A key strategic priority for the EWEC is to ensure strong implementation of the Sustainable Development Goals (SDGs).

To this end, the United Nations Secretary-General appointed the Independent Accountability Panel for Every Woman, Every Child, Every Adolescent (IAP). The Panel provides an independent assessment of progress and challenges to help strengthen the response from the international health community and countries worldwide.

The IAP is comprised of distinguished panellists from diverse regions and backgrounds--from human rights and health experts to statisticians. They command attention from the global community to promote accountability across the Global Strategy's spectrum of issues addressed under its three pillars: survive, thrive, transform.

The IAP members are:

- **Carmen Barroso** (Brazil) & **Kul Chandra Gautam** (Nepal) Co-Chairs;
- **Brenda Killen** (Ireland);
- **Pali Lehohla** (South Africa);
- **Winfred Osimbo Lichuma** (Kenya);
- **Elizabeth Mason** (United Kingdom);
- **Giorgi Pkhakadze** (Georgia);
- **Dakshitha Wickremarathne** (Sri Lanka);
- **Alicia Ely Yamin** (United States of America).

WHO/FWC/NMC/IAP/18.1

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## RECOMMENDATIONS TO TRANSFORM PRIVATE SECTOR ACCOUNTABILITY

Governments, bilateral donors and the United Nations system increasingly look to the private sector to help meet global challenges and fund the Sustainable Development Goals (SDGs). But who is checking if private sector actors are aligned with the right to health of women, children and adolescents? Who is responsible for holding them to account?

These are the questions the UN Secretary-General's Independent Accountability Panel for Every Woman, Every Child, Every Adolescent (IAP) set out to answer in fulfilment of our mandate, using the specific lens of accountability: Who is accountable to whom, for what, and how?

At this point in the roadmap to 2030, it is essential to get it right regarding private sector accountability. The private sector plays a huge role in health—delivering services and medicines, innovating medical breakthroughs that save lives, and providing the food that sustains us. Many industries also impact on the underlying social determinants of health and on people's well-being more broadly—domestically, as well as across borders.

The question is not if, but how the private sector is to engage. This is where accountability comes in. While some private sector actors are increasingly aligning with the aspirations of the SDGs, many others are not. And while many commit to self-regulation, this—on its own—is not enough. Without robust oversight mechanisms, independent review, adequate remedies, and the active participation of civil society

in informing and shaping private sector performance, accountability can be just lip service.

Health is a fundamental human right. It is not a commodity. Markets will not self-regulate for equitable access to medicines and services. The essential needs of people living in poverty—and of women, children and adolescents—cannot be subordinated to profit margins and financial interests. Businesses engaging in the context of universal health coverage must be aligned with one central objective: improving people's health. They may also reap rewards and some profits. Political and corporate leadership, together with much-needed trust-building among civil society and other stakeholders, can ensure that these objectives are achieved.

The report presents five recommendations, which are addressed to governments, parliaments, the judiciary, the United Nations (UN) system, the UN Global Compact, the Every Woman Every Child (EWEC) partners, donors, civil society and the private sector itself. By adapting our constructive approach to accountability to focus on the private sector—across the full cycle of monitor, review, act and remedy—we hope the report will be beneficial to for-profit, private sector actors in guiding their future engagement and performance. Strengthening private sector accountability can help ensure the best results for everyone—for the public, as well as the private good—and create the healthiest, fairest world possible, enabling women, children and adolescents to survive, thrive and transform.

# 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.

## 1

# Access to services and the right to health



## RECOMMENDATION 1

**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.**

Ministries of health should integrate for-profit providers into national health governance systems by developing private sector stewardship and accountability strategies.

### KEY MEASURES

- **Require private sector providers to report to the ministry of health, include them in system-wide monitoring and review processes, and harmonize quality of care standards across private facilities.**
- **Engage civil society in monitoring compliance with quality standards and health coverage entitlements.**
- **Ensure that providers comply with international human rights obligations for the protection of patients' rights;** and that the public is made aware of patients' rights and the grievance mechanisms available. Human rights violations, including those stemming from disrespect and abuse in maternity care, should be sanctioned.
- **Extend private sector stewardship to multisectoral planning and monitoring systems addressing nutrition, NCDs, environmental health and other social determinants of health,** covering both domestic and transnational business operations, through inter-ministerial collaboration.

**Parliaments should enact and strengthen legislation governing the parameters for private sector engagement in health, and ensure meaningful oversight and enforcement.**

### KEY MEASURES

- **Mandate independent accreditation of private health providers and require independent audits of facilities and insurance companies to ensure compliance with quality of care standards and entitlements under UHC schemes.**
- **Strengthen the mandate, authority, independence and capacity of the judicial system** to enforce national legislation and human rights standards with respect to the private sector.
- **Establish or extend patients' rights charters to explicitly cover for-profit private providers; require private sector facilities and insurance companies to have effective complaint and redress mechanisms.**
- **Establish legal measures and tax policies to incentivize business sector contributions aligned with public health priorities.** This includes creating a legal persona for social enterprises and mandating CSR financial contributions from large companies and multinational corporations.

**The UHC2030 partnership should help drive action to ensure comprehensive national policies and transnational collaboration for addressing private sector accountability. It should position women, children and adolescents—and accountability for their health and rights—at the forefront of the global UHC agenda.**

A comprehensive approach is warranted, including but going beyond the roles of ministries of health, to involve a range of sectors in holding industries to account for their impacts on nutrition, environmental and other social and economic determinants of health.

## 2

# The pharmaceutical industry and equitable access to medicines



### RECOMMENDATION 2

**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.**

Strengthening the accountability of the pharmaceutical industry as a whole to align it with public health should involve a mix of effective self-regulation by pharmaceutical companies in compliance with policies, laws and robust internal codes of conduct and strictly enforced government and legal regulations, alongside policies that offer incentives for companies.

**Ministries of health and public regulatory and procurement agencies should strengthen the policies and regulations governing the pharmaceutical industry and other actors involved in delivering medicines, in collaboration with ministries of finance and trade, among others.**

#### KEY MEASURES

- **Undertake national assessments and reviews of progress in ensuring access to essential medicines for women, children and adolescents.** Pharmaceutical companies should report on their efforts to facilitate equitable, affordable access to essential medicines; they should ensure public transparency regarding their policies and their implementation (including pricing), and their lines of accountability.
- **Set standards and minimal requirements to regulate pharmacies and drug retail outlets.**
- **Ensure adherence to standards and transparency in procurement processes; set clear contractual stipulations when negotiating public-private partnerships (PPPs) with pharmaceutical companies.**
- **Make full use of TRIPS flexibilities in trade and investment negotiations.** Undertake and make publicly available health and human rights impact assessments.

**Parliamentarians should strengthen legislation and oversight to ensure that public and private actors involved in the provision of essential medicines are aligned with rights-to-health and fair-pricing principles.**

#### KEY MEASURES

- **Require transparency on costs across the research and development, production, distribution and marketing of medicines and treatments.**
- **Ensure strict standards and enforce patent legislation from a public health needs perspective.**
- **Require pharmaceutical companies to make clinical trial data publicly accessible.**
- **Leverage financial and other incentives for pharmaceutical companies to invest in research and development aligned with public health priorities.**
- **Set standards of conduct for managing conflicts of interest.**
- **Standardize the prices of medicines, including by establishing price controls and caps for out-of-pocket expenses; ensure public awareness of price ceilings and of reimbursements for out-of-pocket costs.**

# 3

## The food industry, obesity and NCDs



### RECOMMENDATION 3

**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.**

UN Member States should develop a binding global convention to promote healthy diets and restrict marketing of unhealthy commodities by the food and beverage industry.

#### KEY MEASURES

The convention, to be negotiated after broad public consultation, should:

- **Establish minimum legal requirements** to guide governments in developing regulations.
- **Bring together existing international standards**—including the International Code of Marketing of Breast-milk Substitutes—as well as guidelines on marketing to children and adolescents.
- **Require reporting by Member States and invite independent reports** by the UN, civil society and academic coalitions, as well as by the food and beverage industry, and make these publicly accessible.
- **Establish an independent global review mechanism** in addition to national participatory reviews.

National governments, parliaments and the judiciary should enact and enforce regulations and legislation to curb the food and beverage industry's production and marketing of unhealthy products, with particular attention to women, children and adolescents.

#### KEY MEASURES

- **Ban televised marketing of unhealthy food and beverages** during hours when children are prime audience viewers.
- **Require nutritious school meals and implement health education programmes.**
- **Tax unhealthy foods and beverages**—including sugary drinks.
- **Harmonize national legislation with the International Code of Marketing of Breast-milk Substitutes.**
- **Require reductions in unhealthy contents of foods and beverages and mandate clear labelling for informed decision-making by consumers.**
- **Develop innovative policies and fiscal incentives to encourage the food and beverage industry to produce healthier foods and snacks.**

Governments and companies should ensure that socially responsible commitments to women's, children's and adolescents' health are included in the agenda of the next G20 Summit, with a focus on tackling obesity and NCDs. Minimum do-no-harm standards on public health should be established for companies joining the B20 (representing the G20 business community); these should extend across the borders of corporate operations, including through extraterritorial enforcement mechanisms.

## 4

## The UN Global Compact and the EWEC partners

### RECOMMENDATION 4

**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.**

In the context of the UN Secretary-General's proposals for system-wide reform of partnerships with the private sector, our recommendations reflect standards that are common practice among development and UN agencies—but are not necessarily expected of, nor applied, when it comes to the for-profit sector.

**The UN Global Compact Board and Office should strengthen accountability standards to protect the right to health among women, children and adolescents.**

#### KEY MEASURES

- Bolster due diligence standards and practices for accepting and retaining members to ensure that the health impacts of their operations are addressed.
- Prompt companies to collaborate with national authorities to ensure alignment with public health standards.
- Proactively encourage corporations wishing to join to undergo health impact assessments, and existing members to undertake external evaluations of their health-focused initiatives.
- Open a space on the UN Global Compact website for independent parties, including civil society and academia, to publicly post evidence and assessments of industry performance.

**The UN Global Compact and the UN H6 Partnership Heads of Agency should ensure that the issue of business engagement and accountability for women's, children's and adolescents' health and rights is made an explicit work stream of the UN system's inter-agency platforms addressing private sector engagement,** at both the principals and working levels. They should also involve civil society in processes to determine due diligence and accountability standards for qualifying corporations as partner-ready for engagement with the UN.

**The EWEC global partners should ensure systematic application of robust monitoring and accountability standards with relation to engagement of the business sector, including to the support they provide governments for implementing the Global Strategy.** The EWEC global community is well-positioned to play a leadership role in innovating and modelling private sector accountability for women's, children's and adolescents' health. The strategic positioning of the PMNCH Private Sector Constituency and the for-profit EWEC commitment-makers, as EWEC champions, should be leveraged to this end.

**The EOSG should enable the PMNCH Secretariat to assume full responsibility for coordinating and managing improvements across the full cycle of EWEC commitments, including those of governments and corporations. The PMNCH should build in accountability standards from the start of private sector EWEC commitments.** It should facilitate the establishment of exclusionary criteria, as well as a due diligence process, governing EWEC private sector commitments.



The EWEC High-Level Steering Group should help put accountability of the for-profit sector 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 during next year's UN General Assembly. It should also place private sector accountability for women's, children's and adolescents' health on its own agenda.

The UN H6 Partnership entities and the GFF should apply due diligence and accountability standards to the technical advice and country programmes they support involving the private sector.

#### KEY MEASURES

- The UN H6 Partnership entities and the GFF should assist governments in establishing meaningful mechanisms for planning private sector engagement and tracking performance.
- The UN H6 Partnership should facilitate the development of technical guidance on monitoring and accountability standards for business engagement in women's, children's and adolescents' health. The process should fully involve academics and civil society, as well as consultation with companies.
- The WHO and the World Bank should ensure that global monitoring of UHC captures for-profit providers.
- The WHO should facilitate and strengthen the provision of legal advisory services to support governments in regulating the pharmaceutical and food industries.

## 5

## Donors and business engagement in the SDGs

### RECOMMENDATION 5

**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.**

Development cooperation partners—including bilateral donors, the development banks, global health foundations such as the Bill & Melinda Gates Foundation, and the UN system—should ensure that their engagements with the for-profit sector are guided by the same standards that they regularly apply to recipients of their technical and financial support.

**Bilateral donors should systematically apply accountability standards to private sector engagement in order to protect the right to health, especially for women, children, adolescents and left-behind groups. This includes all vehicles for mobilizing private sector investments in health—including blended finance and PPPs.**

#### KEY MEASURES

- Ensure transparency on additionality.
- Undertake impact assessments on health, human rights and equity.
- Ensure meaningful civil society and community involvement in decision-making and reviews of implementation.
- Make independent evaluations obligatory and their reports publicly accessible.
- Encourage governments to make planned PPPs open to public consultation, especially those impacting on health, and involve civil society in designing and monitoring them.

**The Global Partnership for Effective Development Cooperation (GPEDC) should ensure that health—with particular attention to women, children and adolescents—receives adequate attention in the guidance (currently under development and expected in 2019) for bilateral donors and development banks regarding the effective use of modalities of private sector engagement, including PPPs.**

**Development cooperation partners should invest in national regulatory and participatory accountability systems to hold private sector partners to account for women's, children's and adolescents' health.**

#### KEY MEASURES AND INVESTMENT AREAS

- Update national health information management systems to capture for-profit private sector providers.
- Strengthen public sector capacity to regulate the private sector, purchase services, negotiate contracts and manage PPPs.
- Build government capacity to negotiate international trade agreements and regulate the operations of multinationals to protect public health.
- Develop guidance for governments and parliamentarians on model legislation for effective regulation of private sector engagement in health.
- Strengthen independent accountability and oversight mechanisms, such as the judiciary and legal systems, as well as civil society organizations that carry out social accountability functions.



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