

RESISTING CORPORATE CAPTURE OF UN MULTILATERAL SPACES:

THE ROLE OF CIVIL SOCIETY IN DISMANTLING
SYSTEMS OF EXPLOITATION AND GREED



Introduction

As a result of globalisation, our worlds are more connected, more intertwined, and more complex than ever before. As the slate of actors with a vested interest in global affairs has widened, so too have the modalities for incorporating these actors into decision-making spaces. While scientists, academics, and members of civil society all aim to represent the interests and needs of people and the planet in many of these multilateral spaces, corporations and big philanthropy seem to be given an extraordinary level of influence despite their questionable motivations and interests, which at times may be in conflict with global goals like the 2030 Agenda for Sustainable Development and the Paris Agreement.



The history of multilateral governance spaces has been one of opening doors and widening stakeholder engagement through concepts such as ‘partnerships’, ‘multistakeholderism’ and ‘networked multilateralism’. While the United Nations (UN) Security Council’s permanent members still maintain veto power, recent history has seen a greater inclusion of non-state actors in many spaces and special events. While theoretically this is a positive trend in creating opportunities for Civil Society Organisations (CSOs) and coalitions to influence, it has also created opportunities for corporate entities, notably Transnational Corporations (TNCs) and Multinational Corporations (MNCs) to also influence policies. These official channels of influence are amplified by back-door and off-the-record meetings, leadership or advisory appointments, and financial leverage that corporations can utilise as a result of the power they hold in economic markets and as donors to various UN missions and programmes.

It is precisely this concern that has prompted this briefing paper—to explore the phenomenon of ‘corporate capture’ of multilateral governance spaces and what can and ought to be done to combat this influence and capture. This briefing will explore the history of stakeholder engagement, looking mainly into civil society participation over time as it contrasts with corporate and business participation; analyse the current landscape and trends regarding the participation in UN spaces; identify the gaps and challenges in accessing these spaces for all stakeholders especially for CSOs; describe the impact on overall human rights and development justice; and offer recommendations to increase constructive dialogue with civil society on reform of multilateral spaces to deliver Development Justice and human rights for all.

In recent years, in part due to the COVID-19 pandemic and resulting economic crises, UN Special Procedures Independent Experts, civil society, and UN leadership have recognised a need to transform our global system. At the opening of the 2023 Sustainable Development Goals (SDG) Action Weekend, Secretary-General Antonio Guterres urged, ‘let’s transform the world; let’s bring more justice and equality to our international institutions’.

The global architecture, fuelled by power imbalance, profit making, and inequalities, is ill-equipped to address the compounding issues of the climate crisis, worsening inequalities, a rollback on the rights of women and gender-diverse people worldwide, and inadequate social protection and fiscal space due to austerity measures and unsustainable debt.

At the Group of Seven (G7) meeting in May 2023, UN Secretary-General Antonio Guterres named these challenges directly:

‘There is a systemic and unjust bias in global economic and financial frameworks in favour of rich countries, which is naturally generating great frustration in the developing world... The Bretton Woods system and the Security Council reflect the power relations of 1945. And many things have changed since then. The global financial architecture became outdated, dysfunctional and unfair’

As the UN, at the helm of the multilateral system, nears its 80th Anniversary (2025) and the deadline for the 2030 Agenda for Sustainable Development, Member States have the opportunity to chart a new course of action for humankind. Through greater corporate regulation and a reimagining of stakeholder engagement in policy making spaces, it is possible to bring global governance closer to the values and needs of people and planet.

Mechanisms for Stakeholder Engagement across the UN System

As this briefing will explore how corporate power is integrated into different bodies and mechanisms across the UN system, it is necessary to understand the various mechanisms for stakeholder engagement that exist and how they create windows of opportunity for corporations to wield influence. In some cases, these mechanisms for engagement are specifically designed for CSOs, in others, they have been created to mobilise corporations and philanthropists. Across the examples provided, while opportunities to engage with the UN do exist for CSOs, many of them also contain provisions for corporate entities, and the scales tip overall in favour of corporations. The subsequent sections detail the history of stakeholder engagement with the UN, along with various noteworthy mechanisms for engagement.

UN Mandate on ‘Non-Governmental Organisations’

As the UN Charter begins with ‘We the Peoples of the United Nations’, it is only fit that groups representing the interests of people worldwide are able to play a role in shaping the policies that impact them, while holding governments accountable to their commitments. While inclusion of civil society in UN affairs has grown significantly over time, there remain concerns regarding the modalities of inclusion, the quality, and nature of participation and outcomes. Due to the broad definitions used to reference non-state actors and the universal processes for participation, opportunities for civil society are entangled with other stakeholders, including private sector companies and philanthropic entities.

The 1945 San Francisco Conference – UN Charter

At the 1945 founding conference of the UN in San Francisco, 50 Member States adopted the UN Charter. While no official mandate for civil society participation in the conference existed before the UN Charter itself, records indicate that civil society actors were present within select Member State delegations. Approximately 1,500 civil society representatives were accounted for, while the remaining 5,000 attendees came from government delegations, the press, and UN secretariat. However, most of these civil society representatives came from Western countries, specifically the United States (US).¹ In a firsthand report at the time, Henry Atkinson, General Secretary of the Church Peace Union noted the US delegation invited members of civil society to participate as ‘consultants’ to the process.²

The UN Charter mandated the Economic and Social Council (ECOSOC), an organ of the UN, to facilitate engagement with civil society. Chapter X, Article 71 of the UN Charter states:

‘The Economic and Social Council may make suitable arrangements for consultation with non-governmental organisations which are concerned with matters within its competence. Such arrangements may be made with international organisations and, where appropriate, with national organisations after consultation with the Member of the United Nations concerned.’³

1. Jolly, R. et al. (2019). *UN Ideas That Changed the World*, Indiana University Press, 2009. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/pace/detail.action?docID=455784>

2. Atkinson, H. (1970). *First-hand Report from the San Francisco Conference, Where the UN Charter was Signed*, Carnegie Council. <https://carnegiecouncil.org/media/series/100-for-100/first-hand-report-from-the-san-francisco-conference-where-the-un-charter-was-signed>

3. United Nations Charter, Chapter X, Article 71. <https://www.un.org/en/about-us/un-charter/full-text>

Consultative Status with the United Nations Economic and Social Council

It is within this category of 'Non-Governmental Organisations' (NGOs) that civil society's formal participatory rights were conceived. The term 'NGO' served to differentiate non-state actors from intergovernmental organisations or specialised agencies like the North Atlantic Treaty Organization (NATO) or the World Trade Organisation (WTO) for example.⁴ However, this means that the definition of an 'NGO' is quite broad; So long as an entity operates outside of government and does not claim sovereignty of any territory, it is considered an 'NGO'.

Thereafter, ECOSOC established a 'Consultative Status' for NGOs. The benefits of this status include:

- ▶ Access to UN Grounds and participation in various meetings and special events taking place under the auspices of the ECOSOC and its subsidiaries, the human rights system (including the Human Rights Council), and special events organised by the President of the General Assembly;
- ▶ Opportunity to deliver written and oral statements at these events;
- ▶ Ability to organise and sponsor 'side events' in the margins of official meetings and book event space on UN Grounds;
- ▶ Serve as an observer in open meetings and meet or network with government and UN representatives outside of official meeting times.

Shortly after the UN Charter was signed, one of the first 'NGOs' to receive consultative status at the UN in 1946 was the International Chamber of Commerce (ICC), followed by the International Organisation of Employers (IOE) in 1947.⁵ These business-oriented organisations may not align with a general understanding of civil society, but given the broad definition of Non-Governmental Organisations, they have accessed the UN through the same mechanisms available to non-profit, international, regional, national, and sub-national organisations working directly with communities.

In 1996, ECOSOC established the Committee on Non-Governmental Organisations (through ECOSOC Resolution 1996/31) to keep pace with the rising number of applications annually. This resolution outlined that 'international, regional, subregional and national organisations, in conformity with the Charter of the United Nations' were deemed eligible to apply for Consultative Status. The resolution also outlined that the committee 'should ensure, to the extent possible, participation of non-governmental organisations from all regions, and particularly from developing countries, in order to help achieve a just, balanced, effective and genuine involvement of non-governmental organisations from all regions and areas of the world'.⁶

The Committee on NGOs, is composed of 19 elected ECOSOC Member States, serving four-year terms on a rotating basis, with regard to equitable geographical representation.⁷ While UN Staff will review applications for Consultative Status at first, the Committee on NGOs is responsible for approving or deferring the application, and this decision may be revisited by the broader ECOSOC membership as well. This means that an organisation's application is at the will of the Member States they may seek to hold accountable in these decision-making spaces, making the success of their application uncertain in some cases.

4. Sybank, R. (2017). A 'Global Crackdown on Civil Society'? Assessing the Accreditation Practice of the United Nations Committee on NGOs. https://ecosoc.un.org/sites/default/files/NGO%20Page%20Files/Research%20Pages/United%20Nations%20and%20NGOs/Sybank_Global%20Crackdown%20on%20Civil%20Society.pdf

5. UN ECOSOC. (2021). List of non-governmental organisations in consultative status with the Economic and Social Council as of 1 September 2019, E/2019/INF/5. <https://digitallibrary.un.org/record/3921292?ln=en>

6. UN ECOSOC. (1996). Consultative relationship between the United Nations and non governmental organisations, E/1996/31 P.5. https://www.unov.org/documents/NGO/NGO_Resolution_1996_31.pdf

7. UN ECOSOC. (n.d.). The Committee on NGOs. <https://www.un.org/ecosoc/en/ngo/committee-on-ngos>

As of December 2022, ECOSOC reports that 6,343 NGOs hold active consultative status with ECOSOC.⁸ Of this total, 1,883 are listed as organisations based in Asia and the Pacific.⁹ Other organisations without consultative status can also apply on an ad-hoc basis to participate in some special events as well.

Non-Governmental Liaison Service's Special Accreditation Processes

In addition, the Non-Governmental Liaison Service (UN-NGLS), founded in 1975 within The Civil Society Unit of the UN Department of Global Communications facilitates engagement with civil society without official ECOSOC Consultative Status.¹⁰ Their special accreditation process allows organisations (civil society and private sector entities alike) to participate in special and high-level events across the UN. These applications are then reviewed by the Office of the President of the General Assembly where decisions are undertaken to approve or deny an organisation's application. As of July 2023, 1,595 organisations hold this accreditation status through UN-NGLS.¹¹

While one may be able to consider ECOSOC Consultative Status a 'fast lane' for approval to participate in various sessions and high-level events, obtaining this status can be a challenge and does not guarantee hassle-free CSO engagement afterwards.

As the scope of the UN grew over time, so did the slate of interested stakeholders. Seventeen thousand NGOs participated in the 1992 Earth Summit in Rio, and at the Beijing Conference in 1995, 32,000 NGOs were in attendance, including 5,000 Chinese NGOs.¹² With the 1990s came Reagan-era economics — an emphasis on privatisation and an assumption that governments could not solve the world's problems alone. While this was good news for civil society organisations seeking to participate in official governance processes, it also meant that spaces like the UN began to turn to the private sector, namely multinational and transnational companies and philanthropic institutions as well.

Corporate Engagement with the UN

Since the late 1990s and early 2000s, the UN and its Member States have promoted this concept of 'partnerships', specifically in the context of corporate and business actors. In 2011, former Secretary-General Ban Ki-Moon stated, 'when governments, the United Nations, businesses, philanthropies and civil society work hand-in-hand, we can achieve great things'.¹³ This concept of the UN, Member States and Non-State Actors working together to solve the world's problems was certainly informed by Reagan-era economic policies of the 1980s (with privatisation and deregulation at the forefront) and the UN's financial challenges throughout the 1960s and 1980s.¹⁴

8. UN ECOSOC. (2022). *List of non-governmental organisations in consultative status with the Economic and Social Council as of December 2022*. <https://digitallibrary.un.org/record/4012070?ln=en>

9. UN DESA (2023). Advanced search for Civil Society Organizations. <https://esango.un.org/civilsociety/displayAdvancedSearch.do?method=search>

10. UN Civil Society. (n.d.). *Non-Governmental Liaison Service*. <https://www.un.org/en/civilsociety/ngls>

11. United Nations. (2023). *Organisations Formally Associated with the United Nations Department of Global Communications*. <https://www.un.org/en/civil-society/list-csos-associated-department-global-communications>

12. Jolly, R. et al. (2019). *UN Ideas That Changed the World*, Indiana University Press, 2009. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/pace/detail.action?docID=455784>.

13. United Nations Press Release. (2011). *Secretary-General Urges Governments to Take Long-term View on Renewable Energy, Spelling Out Priorities at 'Clean Industrial Revolution' Event in Durban*. Department of Public Information. SG/SM/13998/EN/263. <https://press.un.org/en/2011/sgsm13998.doc.htm>

14. Adams, B. & Martens, J. (2015). *Fit for whose purpose? Private Funding and Corporate Influence in the United Nations*. Global Policy Forum. https://sustainabledevelopment.un.org/content/documents/2101Fit_for_whose_purpose_online.pdf

Since gaining their ECOSOC consultative statuses, the ICC and IOE have repeatedly created space for businesses within the UN System. Scholars such as Karsten Ronit note that business associations like these ‘dispose of significant resources that are far superior to those accumulated by intergovernmental organisations’, allowing them to ‘represent the negotiated positions of the relevant business groups in exchanges with intergovernmental bodies, and thus they have many opportunities to leverage public policies adopted in these forums’.¹⁵ In 2016, the ICC was granted observer status within the UN and in recent years, the ICC and IOE have worked together to issue joint positions and statements on matters of business and human rights.¹⁶

In addition to the aforementioned mechanisms for engaging NGOs, civil society and corporate actors alike, there also exist several other mechanisms for corporate actors to wield influence and participate in UN spaces. This holds consequences for the legitimacy of the UN as an institution which upholds human rights when corporations have repeatedly violated the rights of people in pursuit of generating profit. Ranging from exploitation of workers, tax evasion, record carbon emissions to forcibly relocating indigenous and local communities and displacing local markets, corporations have historically proven ill-equipped to self-regulate in the name of upholding human rights.

As noted in the UN Charter, a primary goal of the UN is to ‘establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained’.¹⁷ With this in mind, increasing regulation of the private sector, holding actors accountable to human rights law and the SDGs, rather than accepting their funds and involving them as ‘stakeholders’ or ‘partners’ is essential to creating an enabling environment for these policies to become reality.

Through the UN Global Compact, the UN Office of Partnerships, and the 2030 Agenda, spaces have been created to prioritise voices of the business sector. Further, the establishment of the UN Foundation as a tool for receiving funds from corporations and philanthropic institutions opened opportunities for businesses to influence the UN agenda through their financial power.

The UN Foundation

The UN Foundation, with the mandate to mobilise funds from the private sector for UN activities, was created in 1998 to receive Ted Turner’s US\$one billion gift of Time Warner Stocks (the value of which plummeted when the Dot com Bubble burst). Turner announced his donation after the US government refused to pay US\$one billion in their assessed contributions to the UN Regular Budget.¹⁸ Following its creation in 1998, the UN Foundation became a primary driver of fundraising from third party sources, namely philanthropic giants associated with MNCs and TNCs.

Today, the UN Foundation notes that they ‘steward the more than US\$ two billion entrusted to us by our Chairman, partners, and donors since our founding’. In 2020, the UN Foundation had expenses totaling US\$280.3 million. The latest slate of UN Foundation Partners includes Disney, Walgreens Boots Alliance, Stephen Curry, BNY Mellon, Johnson & Johnson, Takeda, Vodafone

15. Ronit, K. (2019). *Organized business and global public policy: Administration, participation, and regulation*. In D. Stone & K. Moloney (Eds.), *The Oxford handbook of global policy and transnational administration* (pp. 565–582). Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780198758648.001.0001>

16. ICC & IOE. (2004). *Joint views of the IOE and ICC on the draft “Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights”*. [https://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/business_and_human_rights/EN/\(2004-03\)%20Draft%20Norms%20Business%20and%20Human%20Rights%20ICC%20IOE%20Position.pdf](https://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/business_and_human_rights/EN/(2004-03)%20Draft%20Norms%20Business%20and%20Human%20Rights%20ICC%20IOE%20Position.pdf)

17. United Nations Charter. (1945). <https://www.un.org/en/about-us/un-charter/full-text>

Foundation, Bill & Melinda Gates Foundation, Ariadne Getty Foundation, Nike Foundation, Royal Dutch Shell, and William & Flora Hewlett Foundation.¹⁹

United Nations Global Compact

Just two years later, the 2000 Millennium Declaration stated that Member States would resolve to ‘develop strong partnerships with the private sector and with civil society organisations in pursuit of development and poverty eradication.’²⁰ This took place around the same time as the creation of the UN Global Compact by Former Secretary-General Kofi Annan, which aims to ‘bring business and the United Nations together to give a human face to the global market.’²¹

In late 1999 at the World Economic Forum (WEF), Kofi Annan proposed the Global Compact as an alternative to regulation and human rights restrictions on business entities. He suggested that business actors ‘enact a set of core values in the areas of human rights, labour standards, and environmental practices’. He went on to note:

‘There is enormous pressure from various interest groups to load the trade regime and investment agreements with restrictions aimed at preserving standards in the three areas I have just mentioned. These are legitimate concerns. But restrictions on trade and investment are not the right means to use when tackling them. Instead, we should find a way to achieve our proclaimed standards by other means. And that is precisely what the compact I am proposing to you is meant to do.’²²

After the Global Compact’s founding in 2000, it has gone on to create The Ten Principles of the UN Global Compact, a set of voluntary ‘principles’ and ‘values’ for members to align their businesses in the areas of human rights, labour, environment and anti-corruption, though no accountability mechanism for the principles exists. Companies around the world are invited to join the Global Compact as fee-paying members and it is self-described as the world’s largest corporate social responsibility entity. The Global Compact plays an active role in promoting private sector influence, engagement, and consultation in UN decision-making. It is also one of several entities established with the primary goal of engaging private actors with the UN and its activities.

The more than 20,000 participating companies span the globe and range in size from Small and Medium Size Enterprises (SMEs) to Foundations to MNCs.²³ It leverages influence through a number of Global Compact Local Networks which are involved at local, national and regional levels of governance and multilateral decision-making. Recently, the Global Compact has been positioned as a premier partner in the UN Development System (UNDS) at programme country level, giving it privileged access to UN entities and programme country governments. The Global Compact is a hybrid body using its UN status to position itself in the forefront of partnership constructs, while evading accountability to the UN Charter and human rights instruments.

United Nations Office for Partnerships

The UN Office for Partnerships (UNOP), also founded in 1998, serves as a gateway for partnership building between the UN and private sector, foundations, and other non-state actors. It proclaims

18. Adams, B. & Martens, J. (2015). *The UN Foundation—A foundation for the UN?* Global Policy Forum. <https://www.globalpolicy.org/en/publication/un-foundation-foundation-un>

19. UN Foundation. (2023). *Our Partners*. <https://unfoundation.org/who-we-are/our-partners/>

20. United Nations Millennium Declaration. (2000). A/RES/55/2. <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-millennium-declaration>

21. UN Global Compact. (2020). *20 Years of the UN Global Compact*. <https://unglobalcompact.org/take-action/20th-anniversary-campaign#:~:text=Launched%20in%202000%20by%20former,face%20to%20the%20global%20market>

22. Annan, K. (1999). *Remarks at Davos*. <https://press.un.org/en/1999/19990201.sgsm6881.html>

23. UN Global Compact. (n.d.). *Our Participants*. <https://unglobalcompact.org/what-is-gc/participants/>

to “convene, connect and co-create opportunities to accelerate solutions for people and for the planet” without clear guidance regarding what actors specifically it seeks to mobilise. It also serves as the secretariat for the Sustainable Development Goals (SDG) Advocates, 17 leaders on SDG progress from different sectors. Notably, Microsoft President Brad Smith is among the SDG Advocates.

UNOP also hosts the Partnerships for SDGs Online Platform, which is a global registry for partnerships and commitments from all actors related to the SDGs, in addition to the SDG Action Zone, an annual event during the UN General Assembly High-level Week where actors can participate in discussions for ‘multilateral collaboration’ on the SDGs.²⁴ While the UNOP is also mandated to convene the Youth Advisory Group on Climate Change, composed of young academics and activists, the majority of the office’s partnerships appear to be with foundations and business actors. The ambiguity regarding the office’s mandate further obfuscates the distinction between the different types of NGOs.

The 2030 Agenda, Major Group and Other Stakeholders & SDG 17

More recently, the 2030 Agenda for Sustainable Development has established its own mandate for inclusion of civil society in the SDG process. The UN Conference on Sustainable Development in Rio (Rio+20) included civil society in the development of the SDGs and developed the Major Group and Other Stakeholders (MGoS) mechanism to facilitate civil society engagement with the 2030 Agenda at national, regional, and international levels. This mechanism, built upon the 1992 Earth Summit’s ‘Major Groups’ mechanism, includes 21 different MGoS constituencies, among them a Business and Industry stakeholder group.

A key component to civil society participation in the SDGs process includes consultation at the regional and national levels in addition to participation in the Voluntary National Reviews (VNRs) process. For many CSOs, the VNRs process can be an important space to highlight concerns amongst people living in the country or to challenge the ‘official’ government narrative that may selectively omit information.

However, the MGoS mechanism itself proves restrictive for CSOs given the limits it places on the number of representatives from each constituency allowed in negotiating rooms, official and unofficial sessions. Further, each stakeholder group is expected to deliver collectively drafted positions on the SDGs each year, and speaking slots are allocated to these stakeholder groups, rather than individual organisations thus limiting opportunities available. While organisations that participate in each stakeholder group may be united in some way, civil society is not a monolithic interest group, and collective positions that reflect the realities of diverging contexts (and in some cases perspectives) proves a major challenge to meaningful participation for CSOs.

Through SDG 17 (Partnership for the SDGs), the UN has promoted ‘multi-stakeholder partnerships’ to catalyse action across all of the SDGs. While one of the targets is to ‘encourage and promote effective public, public-private, and civil society partnerships’, the only associated indicator of this target’s success is the ‘amount in United States Dollars committed to Public-Private Partnerships (PPPs) for infrastructure’, a target clearly aimed at measuring only PPPs.²⁵ This fails to measure meaningful participation of civil society, and further associates ‘partnerships’ narrowly with the private sector.

²⁴ UN Office of Partnerships. (n.d.). *Curated Initiatives*. <https://unpartnerships.un.org/curated-initiatives>

²⁵ UN DESA. (2021). *Major Groups and Other Stakeholders: A Review and Evaluation of the Engagement in the 2020 and 2021 Sessions of the High-level Political Forum on Sustainable Development (HLPF) and Areas to Strengthen Participation in 2022*. https://sustainabledevelopment.un.org/content/documents/29458MGoS_ReviewEvaluation_of_Engagement_20202021_HLPF.pdf

Across the 2030 Agenda, it is clear that governments are falling short of their financial obligations to realise the SDGs, a gap that has been used to justify engagement with the private sector in addition to civil society.

The 'Faces' of Corporations Across the United Nations System

Corporations can utilise the aforementioned mechanisms of engagement to influence decision-making processes. As donors through the UN Foundation and to the UN Funds and Programmes, corporations hold financial leverage. As participants in high-level meetings and negotiations and as members of working groups and panels, corporations shape policy discussions as 'experts'.

Corporations as Direct Donors

Outside of these fixed initiatives like the UN Foundation and the UN Global Compact to facilitate corporate engagement with the UN, corporations are also actively involved with the various UN Funds and Programmes as donors and implementing project partners. The sheer financial power of corporations enable them to exercise influence on the agenda of the UN architecture itself. As the UN seeks greater funding to carry out the basic functions of the UN Charter, corporate and philanthropic funds are an appealing stop-gap.

As such, the various UN Funds and Programmes have turned to the private sector. UNICEF's 2020 contributions from private actors totaled US\$ 717 million, amounting to 21 percent of their overall income. UN Women's top private sector contributors in 2020 were the Bill and Melinda Gates Foundation and the BHP Billiton Foundation, each giving US\$ 4.7 million and US\$ four million, respectively. UNDP's top 10 private donors in 2020 include: Bill and Melinda Gates Foundation, Coca Cola Company, and Citi Foundation.

Case study:

COVID-19 Pandemic & COVID-19 Vaccines Global Access

Amid the COVID-19 Pandemic, several Member States, UN Officials, and CSOs were incredibly active in promoting the COVID-19 vaccine, therapeutics, and other health technologies be free from intellectual property rights and patents. This would make the vaccine formula and treatments a global public good, free to be replicated by any country with capacity to produce and distribute. At the WTO, India and South Africa proposed a waiver to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement for this, which was rejected by the WTO membership.

As just a few pharmaceutical companies quickly developed and patented the COVID-19 vaccine, these actors have maintained intellectual property rights, which means that in order to produce COVID-19 vaccines and treatments, any company or public health agency must pay a hefty fee to the company that originated the vaccine. The pandemic has created nine new billionaires from the pharmaceutical industry, including the Chief Executive Officers

²⁶ UN General Assembly. (2015). *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, Goal 17, target 17.17; para. 48. <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F70%2F1&Language=E&DeviceType=Desktop&LangRequested=False>.



(CEO) of Moderna and BioNTech.²⁷ The Moderna vaccine costs an estimated US\$ 2.85 per dose to manufacture, yet it costs on average between US\$19 and US\$24 per dose for consumers, up to US\$ 57 in poorer countries.²⁸

After two years of fraught negotiations (despite pushes from Civil Society to make COVID vaccines, treatments, diagnostics and equipment global public goods) the power of big pharmaceutical (corporate) lobbyists has been demonstrated.²⁹ In July 2022, the WTO adopted a decision on this TRIPS Waiver which unfortunately fails to do away with patents and Intellectual Property Rights and instead falls back on pre-agreed aspects of the TRIPS Agreement, including an existing but complicated licensing measure but only applicable to COVID-19 vaccines (not therapeutics or diagnostics) limited to five years.³⁰ A major pitfall in the agreement lies in the restriction to vaccines, as developing countries will also need access

27. Oxfam International. (2021). *COVID vaccines create 9 new billionaires with combined wealth greater than cost of vaccinating world's poorest countries*. <https://www.oxfam.org/en/press-releases/covid-vaccines-create-9-new-billionaires-combined-wealth-greater-cost-vaccinating>

28. Marriott, A. & Maitland, A. (2022). *The Great Vaccine Robbery*. The People's Vaccine Alliance. https://webassets.oxfamamerica.org/media/documents/The_Great_Vaccine_Robbery_Policy_Brief.pdf

29. Feminists for a People's Vaccine. (2021). *Resources*. <https://feminists4peoplesvaccine.org/#resources>

30. World Trade Organisation. (2022). *TRIPS Council welcomes MC12 TRIPS waiver decision, discusses possible extension*. https://www.wto.org/english/news_e/news22_e/trip_08jul22_e.htm

to manufacturing technologies in order to develop their own vaccines, which are not covered in this decision.

Corporations instead engaged with the COVID-19 Vaccines Global Access (COVAX) initiative, a multistakeholder effort co-organised by Gavi The Vaccine Alliance, and the Coalition for Epidemic Preparedness Innovations (CEPI) to address the unequal and inequitable distribution of vaccines throughout the pandemic. While the World Health Organisation (WHO) served as a junior partner to the initiative, COVAX was clearly led by the aforementioned co-organisers, both of which are already multi-stakeholder initiatives representing business and industry interests.³¹ COVAX served as a voluntary programme wherein pharmaceutical and medical companies could opt-in to allow COVAX to sell their vaccine to developing countries at a discount.

Not only does the initiative undermine the responsibility and authority of the public sector to provide adequate social services, but it further cements the role of private entities as 'donors' or 'philanthropists' in UN multilateral spaces. Corporations can, through initiatives like COVAX, apply a market-based 'band-aid' to a problem and be applauded for their goodwill and assistance in a time of need. Instead, what is needed to address the root causes of inequalities is a systemic transformation, an overhaul of unjust policies that have created and worsened inequalities within and between countries.

Shared-Value Partnerships

In the context of a UN funding crisis and the resulting engagement with corporate entities as donors, it is important to consider the implications of the influence that this status affords them. While corporate entities or philanthropic organisations can donate core resources (resources to be used at the discretion of the fund/programme), they are also able to donate non-core or earmarked resources for a specific project or initiative. Donations to an earmarked initiative allow corporations to donate to issues and programmes that are a priority for them — and the bias that affects that decision ought to be questioned. Effectively, through their role as a donor, corporations hold the power to shape and steer the programmatic direction of UN Funds and Programmes, which has a reverberating effect on the UN agenda as a whole.

In recent years, there has been an emphasis on mutually beneficial, or 'shared-value' partnerships with businesses and philanthropy, signalling an exchange of power, influence, and resources, rather than a traditional donor-grantee relationship. The UNDP webpage dedicated to private sector engagement features a quote from Achim Steiner, UNDP Administrator which states that, 'While the private sector can bring both agility in delivery and new approaches to financing the SDGs, the UN has an important role to play in creating an enabling environment for business to contribute'.³² This illustrates indirect influence that corporations are able to wield as a result of their status as donors to UN multilateral spaces and raises concerns, especially because an 'enabling environment for business' relies upon privatisation, little to no regulation or taxation of business actors, a lack of accountability to human rights standards, and exploitative market-based solutions in lieu of Development Justice and systemic transformation.

³¹ Gleckman, H. (2021). COVAX: A global multi stakeholder group that poses political and health risks to developing countries and multilateralism. Friends of the Earth International and Transnational Institute. <https://www.foei.org/publication/covax-covid19-vaccine-report/>

³² UNDP. (n.d.). Our Partners. <https://www.undp.org/partners/private-sector>



During the Private Funding and Partnerships session of a 2021 United Nations Children's Fund (UNICEF) Executive Board Meeting, Deputy Executive Director of Partnerships Carla Haddad Mardini articulated a desire to not only leverage private sector funding, but to also see private sector actors as 'partners': '[W]e need to completely shift from simple transactional funding relationships to a spectrum of engagement with business to better influence their own practices.'³³

While influencing business practices in alignment with human rights standards may have a positive effect, the fact that this is framed in the context of 'shared value partnerships' serves as yet another voluntary initiative with no legal accountability mechanisms in place. Further, the concept of a shared-value partnership suggests that businesses should also benefit from working with the UN multilateral system. If the primary objective of business is to be accountable to their shareholders and profit-margin, what is the trade-off and what implications does this have for Development Justice and human rights standards?

At the Vienna +30 World Conference: Our Rights – Our Future, UN High Commissioner for Human Rights Volker Türk reflected on the 30th anniversary of the Vienna Conference and its declaration which established agreed language on human rights as pivotal and intersectional. However, he noted that despite these commitments, the High Commissioner's office remains

³³ UNICEF Executive Board. (2021). *Structured dialogue on financing the results of the UNICEF Strategic Plan, 2018–2021*. <https://www.unicef.org/executiveboard/documents/SDF-results-unicef-strategic-plan-2018-2021-SRS-2021>

critically underfunded and that while ‘there have been massive gains in human rights since the Vienna Declaration...today, all around the world, we are seeing dramatic rollbacks.’³⁴ This rollback of rights globally necessitates not a shared-value partnership, but instead accountability for governments and companies at the forefront of violations of human rights.

Corporate Actors, Philanthropists & Entrepreneurs as ‘Experts’

Across the UN, corporate actors’ influence is carried through individual relationships, back-door meetings, and signals of support. Several high-profile individuals within the UN have recently demonstrated their willingness to engage with the private sector.

In June 2019, under the leadership of Secretary-General Antonio Guterres, the UN and the WEF signed a Memorandum of Understanding (MoU) framing a new form of strategic partnership.³⁵ The MoU contains commitments that the UN Secretary-General will be invited to deliver a keynote address at the WEF annual Davos gatherings, while his senior staff and the heads of the UN programmes, funds, and agencies will also be invited to participate in regional level meetings. It also contains a promise that the UN’s individual country representatives will explore ways to work with WEF’s National Forum Hubs.³⁶ The new WEF-UN agreement is unique as it creates an exclusive place for multinational corporations inside the UN. The MoU has raised severe concerns within the international community. In a letter to the Secretary General, over 300 CSOs called the UN Secretary General for a dissolution of the agreement with the WEF.³⁷

Further, leaders in business philanthropy like Bill and Melinda Gates and corporate representatives like Jack Ma of Alibaba Group are also afforded the opportunity to participate in, and in some cases lead various expert groups or panels across the UN agenda.

Case Study:

High-level Panel on Digital Cooperation

One example of note is the Secretary-General’s High-level Panel on Digital Cooperation, co-chaired by Melinda Gates of the Gates Foundation and Jack Ma of Alibaba Group.³⁸ While the 20-person panel also included one representative of Oxfam International and several academics, the majority of the panel was composed of members of the private sector, namely businesses related to technology or government representatives in trade and industry, with no representatives from movements, especially those based in the Global South.

The panel was tasked with gathering ‘... the views and proposals of Member States, relevant industries, civil society and academia worldwide through a careful consultation process’.

34. Türk, V. (2023). *After 30 years, the UN’s human rights Office is “a force for unity”*. Vienna World Conference 30 Years On: Our Rights – Our Future. United Nations Human Rights Office of the High Commissioner (OHCHR). <https://www.ohchr.org/en/statements-and-speeches/2023/06/after-30-years-uns-human-rights-office-force-unity>

35. The World Economic Forum. (2019). *The United Nations –World Economic Forum Strategic Partnership Framework for the 2030 Agenda*. <https://weforum.ent.box.com/s/rdlgipawkxi2vdaidw8npbtyach2qbt>

36. The World Economic Forum’s ‘Global Shapers Community’ consists of young people who are leaders in business and industry with an interest in addressing needs of their communities ranging from poverty reduction to addressing climate change. More can be found here: <https://www.weforum.org/communities/global-shapers/>

37. Transnational Institute. (2019). *End the United Nations/World Economic Forum Partnership Agreement: Open letter to Mr António Guterres, Secretary General of the United Nations*. <https://www.tni.org/en/article/end-the-united-nations-world-economic-forum-partnership-agreement>

38. United Nations. (n.d.). *The UN Secretary-General’s High-level Panel on Digital Cooperation*. <https://www.un.org/en/sg-digital-cooperation-panel>

Unsurprisingly, the panel's 2019 report, 'The Age of Digital Interdependence', offers policy recommendations for expanding access to digital technologies, noting, 'we need to focus our energies on policies and investments that will enable people to use technology to build better lives and a more peaceful, trusting world'.³⁹

The Panel identifies values of 'respect, human-centeredness, human flourishing, transparency, collaboration, accessibility, sustainability and harmony' to guide digital technological development and use. While the values may be well-intentioned, they are not based in any internationally agreed and legally binding human rights obligations, making them unenforceable or accountable. Simultaneously, UN Human Rights experts have raised concerns regarding the potential for digital technologies to entrench existing inequalities and undermine human rights.⁴⁰

Case Study:

Food Systems Summit

In 2019, UN Secretary-General Guterres appointed Agnes Kalibata as the Special Envoy for the 2021 Food Systems Summit (FSS). Kalibata is the President of the Alliance for a Green Revolution in Africa (AGRA), an organisation that promotes agribusiness, placing the focus of food systems on productivity and yield, undermining traditional and indigenous farming practices.

An independent study by Devex found that undernourishment increased by 30 per cent in the countries where AGRA has active programmes between 2017 and 2020.⁴¹ An additional study by the Institute for Agriculture and Trade Policy (IATP) built upon these findings, noting that AGRA's intermediate objectives (private sector engagement and policy reforms) are being accomplished but are failing to produce the desired outcomes for farmers. After 15 years of AGRA programming, it may well be an indication that what AGRA calls its 'theory of change' is fundamentally flawed.⁴²

The appointment of Kalibata led to outrage amongst the civil society community, mobilising over 500 organisations in a letter to the Secretary-General.⁴³ Kalibata's appointment is representative of the broader trend of business and philanthropy leaders being seen as 'experts' worthy of leading the charge on multistakeholder initiatives, events, or working groups in UN multilateral spaces. An examination of the FSS outcomes and discussions demonstrates a very clear shift towards 'game-changing' solutions, as described by the Summit Compendium.⁴⁴ These solutions put great emphasis on technology and agribusiness giants, which, as demonstrated by the aforementioned data regarding AGRA's programming, does not reach the most vulnerable but instead harms smallholder farmers and their rights to livelihoods.

³⁹ UN High-level Panel on Digital Cooperation. (2019). *The Age of Digital Interdependence*. <https://www.un.org/en/pdfs/DigitalCooperation-report-for%20web.pdf>

⁴⁰ Marmo, E. (2019). *Human Rights in the Digital Age*. Global Policy Watch. <https://www.globalpolicywatch.org/blog/2020/04/05/human-rights-digital-age/>

⁴¹ Chakamba, R. (2022). *AGRA has failed to improve Africa's food security, report finds*. Devex. <https://www.devex.com/news/agra-has-failed-to-improve-africa-s-food-security-report-finds-102760>

⁴² Wise, T. (2022). *AGRA: Still failing Africa's Farmers*. IATP. <https://www.iatp.org/agra-still-failing-africas-farmers>

⁴³ UN Civil Society Letter to Secretary-General on Food Systems Summit. (2020). https://www.csm4cfs.org/wp-content/uploads/2020/03/EN_CSOLetter-to-UNSG-on-UN-food-systems-summit.pdf

⁴⁴ United Nations Food Systems Coordination Hub. (2023). <https://www.unfoodsystemshub.org/fs-summit-legacy/food-systems-summit-compendium/en>

Food Systems 4 People - described as a people's autonomous response to the FFS - completed an overview of the multistakeholder initiatives initiated at the FSS. They include 24 representatives from business and industry compared to 17 representatives of national NGOs and 11 representatives of affected communities.⁴⁵ This over-involvement of corporations may have a long-term impact on the programme proposals and agenda priorities of the FSS in years to come and may exacerbate 'mission creep' within UN development bodies, a phenomenon characterised by pushing organisations to undertake projects outside their core mandates as their programme activities become restricted by what funding is available.⁴⁶ In the case of the FSS, this is demonstrated by a draw towards agribusiness and technology-driven solutions to world hunger.

This also has implications for CSOs working with local and indigenous farmers. When the UN places a member of the private sector at the helm of a policy process, it implicitly signals an endorsement of that individual and/or organisation. AGRA's emphasis on agribusiness and technology displaces indigenous knowledge, farming practices and economies of smallholder farmers, notably women farmers. As MNCs buy land to 'scale-up' agribusiness in a developing country, policy-makers must consider the resulting impacts on land rights and the livelihoods, autonomy, and wellbeing of populations in rural areas.

⁴⁵ Chandrasekaran, K., Guttal, S., Kumar, M., Langer, L. and Manahan, M. A. (2021). *Exposing corporate capture of the UN Food Systems Summit through multistakeholderism*. Food Systems 4 People. <https://www.foodsystems4people.org/wp-content/uploads/2021/09/UNFSSreport2021.pdf>

⁴⁶ Adams, B. & Martens, J. (2015). *Fit for whose purpose? Private Funding and Corporate Influence in the United Nations*. Global Policy Forum. https://sustainabledevelopment.un.org/content/documents/2101Fit_for_whose_purpose_online.pdf

Current Trends & Challenges

Despite the growing appetite for inclusion of NGOs in policy making spaces, there still exist serious concerns amongst CSOs in particular that inhibit their full, free, and fair participation in UN multilateral processes. Among these concerns include the aforementioned conflation of civil society and private sector actors, funding and financial struggles that limit in-person participation, gatekeeping and hierarchical structures for engagement, and quality of participation notably with the trend towards virtual meeting methodologies as a result of the COVID-19 pandemic.

Conflating Civil Society Organisations and Private Sector

Outside of official mandates for engaging NGOs with UN processes, there also exists a discourse around the idea of ‘partnership’ as it is presented by policymakers in the context of stakeholders working together to address the world’s challenges. This shifts the role of NGOs from holding accountability to actively participating in the development and implementation. While many



organisations within civil society may already be working to address human rights, Development Justice, or humanitarian crises in their communities, the role and objective of civil society in global decision-making spaces has become murky due to an emphasis on partnership rather than accountability. Further, this discourse has also blurred the lines between types of NGOs, conflating academics, researchers, and CSOs with corporations despite their vastly different objectives and resources.

In 2014, in the context of human rights standards for freedom of expression, association and peaceful assembly, and the right to participate in public affairs, the UN Office of the High Commissioner for Human Rights (OHCHR) sought to define 'civil society' and 'civil society actors' more clearly in their report titled, *A Practical Guide for Civil Society: Civil Society Space and The UN Human Rights System*.⁴⁷ They identified that civil society actors 'promote awareness of rights, assist communities in articulating concerns, shape strategies, influence policy and laws, and press for accountability... collect and channel views of communities so that decision-making on public policies can be informed more fully'.⁴⁸

This OHCHR definition of civil society notably excludes business and corporate entities. It includes humanitarian, development, and social justice-oriented organisations, human rights defenders, unions, academics and researchers, community-based groups, and faith organisations.⁴⁹ This distinction is particularly interesting against the backdrop of the 'partnership' discourse and the conflation of civil society and corporate actors under the umbrella term of 'Non-Governmental Organisations' officially.

This means that in processes and negotiations across the UN system, corporations may be taking time and seats from CSOs. In the case of the UN High-level Political Forum (HLPF), because the MGoS mechanism includes a Business and Industry stakeholder group, the speaking opportunities in official sessions and VNRs, as well as the limited availability of the UN to co-sponsor official side events, are spread across even more actors, thus shrinking opportunities for CSOs further.

This is exacerbated by UN entities like the Global Compact as they also create dedicated spaces for corporate actors in parallel to intergovernmental processes. For example, they host the annual SDG Business Forum alongside the HLPF. This invitation-only event included participation from UN Secretary-General Guterres, various UN Country Program Resident Coordinators, and representatives from governments.⁵⁰

By contrast, the only dedicated civil society session within the HLPF agenda was a two-hour meeting titled, 'Perspectives from Major Groups and Other Stakeholders at the Midpoint of the SDGs: Towards Inclusive Transformation' which facilitated a dialogue regarding all MGoS.⁵¹ The panel featured representatives from civil society and the dialogue saw interventions from

47. OHCHR. (2014). *A Practical Guide for Civil Society: Civil Society Space and the UN Human Rights System*. <https://www.ohchr.org/en/publications/policy-and-methodological-publications/civil-society-space-and-united-nations-human>

48. OHCHR. (2014). *A Practical Guide for Civil Society: Civil Society Space and the UN Human Rights System*. <https://www.ohchr.org/en/publications/policy-and-methodological-publications/civil-society-space-and-united-nations-human>

49. OHCHR. (2014). *A Practical Guide for Civil Society: Civil Society Space and the UN Human Rights System*. <https://www.ohchr.org/en/publications/policy-and-methodological-publications/civil-society-space-and-united-nations-human>

50. UN Global Compact. (2023). *SDG Business Forum*. <https://events.unglobalcompact.org/SDGBusinessForum>

51. UN ECOSOC. (2023). *Perspectives from major groups and other stakeholders at the mid-point of the SDGs: Towards inclusive transformation*. <https://hlpf.un.org/2023/programme/perspectives-from-major-groups-and-other-stakeholders-at-the-mid-point-of-the-sdgs>

representatives of Member States and the MGoS, including an intervention from the Business and Industry group. This offers just one example of where corporate actors are shrinking space and time available to civil society actors through their ‘double dipping’ across the UN system.

Challenges Obtaining Access to Spaces in the United Nations

CSOs, notably human rights defenders, are particularly vulnerable to intimidation and reprisals by governments. The UN OHCHR published an annual report detailing acts of intimidation and reprisals against individuals and groups engaging with the UN. Its 2022 report details that people or organisations in 42 countries across the world were met with reprisals and intimidation for cooperating with the UN on human rights including but not limited to travel restrictions, targeted legislation, detainment, and surveillance.⁵²

Further, the aforementioned UN ECOSOC Consultative Status application process proves challenging for CSOs precisely because the organisations they are seeking to hold accountable may sit within the NGO Committee that approves or defers applications. For instance, the International Dalit Solidarity Network (IDSN), an organisation dedicated to ending caste-discrimination and promoting the human rights of Dalit workers, first applied for Consultative Status in 2007 and their application had been deferred repeatedly until it was eventually accepted in 2022.

The long-standing deferment of IDSN’s application caught the attention of numerous human rights experts over time as part of a broader concern regarding the lack of transparency in the NGO Committee’s selection process. Notably, in 2018, Assistant Secretary-General for Human Rights, Andrew Gilmour noted, ‘In light of this trend, the Secretary-General in the report called on “... the Committee to apply the criteria for assessing organisations in a fair and transparent manner ... the repeated deferrals and apparent lack of transparency in decisions on consultative status by the NGO Committee has in some cases amounted to de facto rejections for human rights organisations, such as in the case of the International Dalit Solidarity Network (IDSN)”’.⁵³

In 2017, the International Service for Human Rights drafted ‘A Practical Guide to the UN Committee on NGOs in order to assist organisations applying for Consultative Status. The guide recognises the fraught process, noting that, ‘human rights NGOs can expect to face a protracted and challenging accreditation process due to the hostility of certain Member States to the activities of NGOs working to protect and promote universal human rights’.⁵⁴

Funding & Visa Challenges

Additionally, CSOs face challenges in obtaining visas and funding to participate in sessions or are unable to attend informal negotiations outside of the official, high-level meetings because they take place only in New York or Geneva. Organisations without UN ECOSOC Consultative Status are unable to attend preliminary or preparatory meetings or informal consultations on outcome documents that may happen outside of the official agendas of high-level events because they do

⁵² UN Human Rights Council. (2022). *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights – Report of the Secretary-General*. <https://www.ohchr.org/en/documents/reports/ahrc5147-cooperation-united-nations-its-representatives-and-mechanisms-field>

⁵³ International Dalit Solidarity Network. (2022). *IDSN’s ECOSOC Status – the longest pending NGO application*. <https://idsn.org/un-2/ecosoc/#:~:text=UPDATE%3A%20In%20December%202022%20IDSN,the%20UN%20on%20caste%20discrimination.>

⁵⁴ International Service for Human Rights. (2017). *A Practical Guide to the UN Committee on NGOs*. <https://ishr.ch/defenders-toolbox/resources/updated-a-practical-guide-to-the-un-committee-on-ngos/>

not hold UN Grounds passes and the resulting observer status. Further, organisations utilising grant funding to attend meetings at UN Headquarters or other high-level events hosted by the UN multilateral system are often faced with restrictions regarding travel funding that limits the length of their travel to the official agenda only. This limits the influence of organisations without a formal, regular presence in New York or Geneva.

In the context of the annual HLPF on the 2030 Agenda as well as the UN Commission on the Status of Women (CSW) sessions, in recent years, civil society has raised serious concerns regarding the challenges in obtaining funding and visas to attend the conference. A 2023 participation note from the HLPF Secretariat indicated that they were 'unable to provide support for obtaining a visa appointment, if you are not an invited speaker listed in the official HLPF programme'.⁵⁵ This meant that representatives of CSOs, academics, scientists, philanthropists, or private sector actors invited to speak in official sessions on the HLPF programme (and thus selected by the Member States planning the event) were afforded assistance in their travel arrangements, perhaps even through direct funding. Meanwhile, CSOs attending the HLPF through UN ECOSOC Consultative Status or Special Accreditation must obtain their own funding and travel arrangements. The prolonged visa process has inhibited CSOs, namely women's organisations, from travelling to New York for meetings for many years, with US President Donald Trump's travel constraints on Muslim-majority countries worsening the process.⁵⁶

Virtual or Hybrid Modalities & Quality of Participation Concerns

While the COVID-19 pandemic necessitated the UN to move many meetings online, the use of virtual meetings has become more popular, and the UN has subsequently utilised hybrid and virtual modalities across the agenda.

This poses additional challenges for civil society, mainly those without stable internet connectivity or those based in time zones that make Eastern Standard Time (EST) or Greenwich Mean Time (GMT) meeting times difficult (notably those from Asia and the Pacific). CSOs have cited these challenges for virtual or hybrid meetings, especially noting the inaccessibility of some virtual meetings that may not be webcast, may only be held in English, or may restrict the number of participants per organisation or constituency group in a virtual session.⁵⁷

This undoubtedly impacts the quality of participation for CSOs. Not only is it challenging for CSOs to stay up-to-date with ongoing UN multilateral spaces, when meetings or participation is restricted to virtual modalities, civil society's opportunities to network, connect, and speak with government representatives informally outside of official statements becomes severely restricted. This limits the extent to which CSOs are able to influence government positions and build relationships with elected officials with a view to holding governments accountable and advancing policies with women's human rights and Development Justice in mind.

These challenges that CSOs continue to face, despite dedicated civil society engagement mechanisms and mandates, are compounded by the preferential treatment and access corporations are afforded as donors and 'partners' to various entities across the UN multilateral

⁵⁵ United Nations. (2023). *Information Note for Major Groups and Other Stakeholders Participation at the 2023 HLPF*. High Level Political Forum on Sustainable Development.

<https://hlpf.un.org/sites/default/files/2023-07/HLPF%202023%20MGOS%20Information%20Note.pdf>

⁵⁶ Global Issues. (2017). *Travel Restrictions Cast Shadow on UN Women's Meeting: Rights Groups*.

<https://www.globalissues.org/news/2017/03/16/22971>

⁵⁷ AWID. (2020). *We demand greater transparency and accountability from the Human Rights Council*.

<https://www.awid.org/fr/node/1645>

system. These challenges are exacerbated for women's organisations, given the global rollback on women's human rights.

UN Funding Challenges

Given the UN's funding structure of assessed contributions from Member States based upon their ability to pay, the organisation's annual budget is constrained considerably. Since the 1980s, Member States, led by the US, have held a position of 'zero growth doctrine', as a means to adopt the UN's annual budget by consensus, without needing a decision put to a vote.⁵⁸

The UN's total regular budget in 2022 was approximately US\$ 3.12 billion.⁵⁹ A decade earlier in 2012, the total regular budget expenditure was US\$ 2.76 billion.⁶⁰ Adjusted for Consumer Price Index (CPI) change (a metric to measure inflation and resulting changes to the prices of goods and services), the 2022 budget was actually 18.3 per cent less than what it was in 2012. By comparison, the city of New York had a 2020 budget of US\$ 92.5 billion.⁶¹

With the scope of UN activities growing and the budget shrinking or remaining stagnant, corporations present a solution to the funding challenges.

A recent study by Clario Tech found that, when comparing the Gross Domestic Product (GDP) of countries to the market capitalisation (estimated value) of corporations, companies like Apple and Amazon are wealthier than 90 per cent of the world's countries.⁶² Apple's US\$ 2.2 trillion net worth surpasses the GDP of countries like Italy, Brazil, Russia, Canada, and Spain. Companies like Microsoft, valued at US\$ 1.8 billion still surpass countries like Australia, South Korea, Mexico and Saudi Arabia.⁶³

While the COVID-19 pandemic has led to devastating economic crises, Oxfam International has found that the world's wealthiest individuals and corporations have largely escaped the effects of this crisis. Oxfam reports that today, 'the richest one per cent hold 45.6 per cent of global wealth, while the poorest half of the world have just 0.75 per cent' and that, '81 billionaires hold more wealth than 50 per cent of the world combined'.⁶⁴ Oxfam also found that, through a survey of 95 food and energy companies, their profits increased 256 per cent in 2022 compared with their profit increase average for the years 2018 to 2021.⁶⁵

With the context of the UN's funding challenges and the sheer value of corporations and the world's richest individuals, UN multilateral spaces have seen mobilising private sector funds as a way to continue the organisation's mission. The 2030 Agenda and the Addis Ababa Action

⁵⁸ Schaefer, B. (2012). *The History of the Bloated U.N. Budget: How the U.S. Can Rein It In*. The Heritage Foundation. (2012). *The History of the Bloated U.N. Budget: How the U.S. Can Rein It In*.

⁵⁹ United Nations. (2022). *Proposed programme budget for 2022, A/76/6 (Sect. 2)*. <https://digitallibrary.un.org/record/3927413?ln=en>

⁶⁰ United Nations. (2021). *Board of Auditors Report 2012, A/69/5/Vol.I*. <https://www.un.org/en/auditors/board/auditors-reports.shtml>

⁶¹ New York City Council. (2020). *2020 Budget*. <https://council.nyc.gov/budget/fy2020/>

⁶² Wallach, O. (2021). *The World's Tech Giants, Compared to the Size of Economies*. Visual Capitalist. <https://www.visualcapitalist.com/the-tech-giants-worth-compared-economies-countries/>

⁶³ Wall Street Journal. (2021). *Five Tech Giants Just Keep Growing*. <https://www.wsj.com/articles/five-tech-giants-just-keep-growing-11619841644>

⁶⁴ Christensen, M.B., Hallum, C., Maitland, A., Parrinello, Q., Putatoro, C., Abed, D., Brown, C., Kamande, A., Lawson, M. & Ruiz, S. (2023). *Survival of the Richest*. Oxfam International. <https://www.oxfam.org/en/research/survival-richest>

⁶⁵ Christensen, M.B., Hallum, C., Maitland, A., Parrinello, Q., Putatoro, C., Abed, D., Brown, C., Kamande, A., Lawson, M. & Ruiz, S. (2023). *Survival of the Richest*. Oxfam International. <https://www.oxfam.org/en/research/survival-richest>

Agenda both explicitly cite PPPs as a means to achieving and financing the SDGs.⁶⁶

But the engagement of the private sector has not simply stopped at accepting donations and funding for the work towards the UN multilateral system. For example, the 2020 SDG Partnership Guide notes,

*'The private sector brings far more, and potentially far more important, resources than money. Given its significant footprint on people (employees, customers), on the environment, on society (including through taxes), the way business operates can have a significant impact on sustainable development. Further, the greatest value of engagement can be through unleashing the power of business's resources (its technical innovation, reach and brand value) alongside its investment and value creation approach – finding commercially viable solutions that are scalable, products and services that are affordable, value chains that are sustainable.'*⁶⁷

Central to this assertion is the idea that the capitalist-logic and market-based approaches to-date have been aligned with the transformative vision of the SDGs and that engaging business and attempting to influence them, rather than regulate them, will deliver the results needed. This is demonstrated clearly in the discourse surrounding 'partnerships' as a way to refer to the UN multilateral system working with business and corporate actors.

⁶⁶ UN General Assembly (2015). *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, Goal 17, target 17.17; para. 48. <https://undocs.org/Home.Mobile?FinalSymbol=A%2FRES%2F70%2FI&Language=E&DeviceType=Desktop&LangRequested=False>

⁶⁷ UN DESA and TPI. (2020). *The SDG Partnership Guidebook*. <https://sdgs.un.org/publications/sdg-partnership-guidebook-24566>

Partnerships, Multistakeholderism & Networked Multilateralism

Upon taking his oath as UN Secretary-General in 2016, Antonio Guterres remarked that, 'We live in a complex world. The United Nations cannot succeed alone. Partnership must continue to be at the heart of our strategy. We should have the humility to acknowledge the essential role of other actors while maintaining full awareness of our unique convening power'.⁶⁸

The word 'partnership' has come to mean every type of engagement between UN entities and Non-State Actors. CSOs of all sizes and large corporations are both referred to with this terminology. This gives the illusion that these partnerships are equal and blurs distinctions amongst NGOs, a very diverse group of stakeholders that do not necessarily have the same interests.

The broad definition of partnerships and subsequent terms such as 'multistakeholderism' have created avenues for corporate actors to become involved with and influence the UN's agenda. Beyond the influence corporate actors are carrying as a result of their 'partnership' status, the concept of multistakeholderism represents a deterioration of global governance spaces and a shift in the mandates and authority of various multilateral institutions. In some cases,



⁶⁸ UN News. (2016). *Secretary-General-designate António Guterres' remarks to the General Assembly on taking the oath of office*. <https://www.un.org/sg/en/content/sg/speeches/2016-12-12/secretary-general-designate-ant%C3%B3nio-guterres-oath-office-speech>

multistakeholderism aligns global institutions and governance with stakeholders who are complicit in the continuation of global problems or uphold unjust economic systems responsible for perpetuating inequalities, climate inaction, and human rights violations.

As corporate entities are ultimately and solely accountable to their shareholders and profit-margin, inclusion of these actors risks shifting the UN's policies, principles, and approaches towards their interests, namely a continuation of poor regulatory structures and economic policies that have repeatedly exploited and impoverished the vast majority of the world's population.

The sheer fiscal value of the corporate sector has ultimately left them with an outsized role in these multistakeholder spaces relative to other stakeholders.

With corporate entities characterised as 'partners' and 'stakeholders', they are legitimised and positioned outside of accountability mechanisms and regulatory structures. The aforementioned UN Global Compact's Ten Principles embodies this — a set of voluntary commitments in lieu of legal policies that regulate labour, tax, and privatisation of public services.⁶⁹ Mechanisms like the Global Compact have not transformed corporate activities dramatically, industries have not enacted policies in line with human rights standards voluntarily. With this in mind, there is a need for coherent regulation of corporate activities and accountability mechanisms for corporations and governments complicit in corporate exploitation.

Networked Multilateralism & Our Common Agenda

In September 2021, UN Secretary-General Antonio Guterres announced his *Our Common Agenda* aimed at accelerating the implementation of existing multilateral agreements, namely the 2030 Agenda and Sustainable Development Goals (SDGs). He urged Member States: 'The process surrounding Our Common Agenda is an opportunity to recommit to our fundamental enduring principles while overhauling the practices of multilateralism for a new age'. The report details this new multilateralism to be "an inclusive, networked, and effective multilateralism".

This emphasis on multistakeholderism or networked multilateralism represents a continuation of the blurred lines between stakeholders and an outsourcing of responsibility. Governance and accountability to advancing the goals of the UN must remain with Member States, with civil society playing a key role in holding governments accountable to their needs of people and planet underpinned by a respect for human rights.

The agenda includes a mandate for the UNOP to become the main interlocutor to support civil society engagement with the UN. However, the emphasis of this office, and its connection to the UN Foundation, has focused primarily on intermediating access for the private sector, namely corporations, to the UN. This further legitimises the role of corporations in the UN and conflates the role of corporations with the role of civil society, which serves as an accountability mechanism for Member States whereas private corporations often serve as roadblocks and impediments to SDG progress.

The agenda also created a mandate to convene the SDG Summit, which took place in September 2023 and the Summit of the Future, set to take place in September 2024. As the SDGs approach the midway point to the 2030 deadline, Member States are positioning the 2023 SDG Summit as

⁶⁹ OHCHR. (2012). *Guiding Principles on Business and Human Rights*. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf; UN Global Compact. (2003). *The Ten Principles of the*

a space to take stock of progress and identify systemic shortcomings and impediments. However, tensions have mounted in informal negotiations on the SDG Summit's outcome document, and reports indicate that the US has opposed 'calls to reform the international financial system and establish a multibillion-dollar development stimulus plan'.⁷⁰

Further, the 2024 Summit of the Future will focus more specifically on changes in governance needed to address the shortcomings identified in the 2023 SDG Summit. The concept note identifies that the summit will:

'Reinvigorate the multilateral system and strengthen global governance to respond to current and future challenges, in line with the UN Charter and international law;

Identify and address gaps in global governance, especially those that have emerged as obstacles to the achievement of the 2030 Agenda;

Boost the implementation of the UN75 commitments that are not sufficiently addressed through existing intergovernmental processes (including those related to the full implementation of the 2030 Agenda)'.⁷¹

Within the context of the SDG Summit and the upcoming Summit of the Future in 2024, civil society can propose policy recommendations to mitigate the influence of corporations and align multilateral governance spaces with the priorities of people and planet, grounded in legally binding intergovernmental agreements and human rights standards.

Further, civil society should also be wary of the multistakeholder and networked multilateralism discourse – while opportunities to broaden participation in many areas may be appealing to CSOs as a means to influence decision-making, CSO endorsement of these ideas risks further diluting the quality of UN policymaking and shirks responsibility for women's human rights and Development Justice from Member States to all actors.

Our Common Agenda also proposes that UN entities 'establish a dedicated focal point for civil society... These focal points will be expected proactively to create the space necessary for civil society actors to contribute at the country and global levels, and within United Nations meetings, networks, processes and arrangements'.⁷¹ CSOs should exercise caution with regard to this proposal, for concern that it may further obscure the process of participation, shrinking the space and opportunities available to CSOs, namely those based in the Global South. This development should be met with caution and steps must be taken to ensure that these focal points do not prioritise International Non-Governmental Institutions (INGOs) and CSOs based in the Global North, and that the participation and engagement offered is meaningful, free and fair. In any case, these focal points cannot and should not be a replacement for existing mechanisms UN system-wide.

UN Global Compact. <https://unglobalcompact.org/what-is-gc/mission/principles>

⁷⁰ Lynch, C. (2023). *US, allies block major UN development declaration*. Devex. <https://www.devex.com/news/exclusive-us-allies-block-major-un-development-declaration-106006>

⁷¹ UN. (2021). *Our Common Agenda*. <https://www.un.org/en/content/common-agenda-report/>

Now What? Opportunities Ahead

The power imbalances and lack of accountability in current partnership and multi-stakeholder approaches need to be replaced with a more transparent system that operates in the interests of people and the planet, rather than profit. In addition to greater distinction between civil society and corporate actors, the UN multilateral system's reliance on corporate donors and 'experts' must be interrogated, with a view to ensuring 'partnerships' are not working against the mission and goals of the UN multilateral system and that corporate funding does not come at the expense of transformative policies that deliver Development and Economic Justice.

Business and Human Rights, a Binding Treaty

Human Rights law places the duty and obligation to respect, protect and fulfil human rights and fundamental freedoms on Member States within their territories.⁷² While this should include both state and non-state (corporate) entities, the corporations themselves are not accountable to the Human Rights Council, and instead fulfilment and respect of rights remains a responsibility of states. With the complex nature of multinational and transnational corporate activities, regulation of these entities proves quite challenging and the economic pressure corporations can wield over and against states must not be understated. Further, the duty and obligation must include extraterritorial obligations, to hold actors accountable to their actions beyond borders.



⁷² OHCHR. (n.d.). *About Business and Human Rights*. <https://www.ohchr.org/en/business-and-human-rights#:~:text=About%20business%20and%20human%20rights,third%20parties%2C%20including%20business%20enterprises>.

This regulation and accountability of corporate activities would be possible through the creation of a UN Binding Treaty to regulate the activities of transnational corporations and other business enterprises. Since 2014, when the UN Human Rights Council established the ‘open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights’, civil society has been active in pushing for an instrument that will end corporate impunity and address power imbalances and the outsized role and influence of corporate actors, both in our societies and on the global level.

This work builds upon the UN Guiding Principles on Business and Human Rights, which are a ‘standard for preventing and addressing the risk of adverse impacts on human rights involving business activity’.⁷³ While the Guiding Principles are based on human rights norms and standards, they are not enforceable, whereas the Binding Treaty remains the best course to ensure compliance with human rights throughout their supply chains and reinforce the regulatory power of member states.

Participation in the sessions of the open-ended working group is restricted to UN ECOSOC-accredited organisations, and at the July 2023 session, the International Organisation of Employers remarked, ‘we again insist that business representatives should have been at the table in the actual drafting’.⁷⁴

Conclusion & Policy Recommendations

Some key changes are required across the agenda of the UN multilateral system to address the power imbalances and lack of accountability in current partnership and multi-stakeholder approaches. With targeted action, governments can utilise their regulatory power to support the protection and fulfilment of human rights while minimising the influence of corporations on the agenda. Potential proposals for consideration include:

- ▶ Greater, more transparent, and thorough conflict-of-interest policies to inform partnerships between multilateral institutions, corporations, and private philanthropy;
- ▶ Transparent due diligence policies for private sector entities and representatives that are involved with the UN System as donors, panel and working group members and participants;
- ▶ Recognition that the UN’s goals would be better achieved with strict regulation, multilateral governance, and accountability to the people rather than partnerships;
- ▶ Clearer distinction between civil society and corporate or business actors within offices mandated to engage in ‘partnerships’ or mobilise ‘Non-Governmental Organisations’;
- ▶ Strengthen accountability mechanisms for CSO participation, namely the Voluntary National Review and Universal Periodic Review processes as well as the negotiations on a Binding Treaty;
- ▶ Establishment of enabling policies and sufficient resources to enhance meaningful civil society participation, notably the participation of CSOs based in the Global South;
- ▶ Promotion of public ownership, rather than privatisation, in all spheres of society (public services and goods specifically);
- ▶ Governments must adequately fund international public institutions, including the UN and most specifically the Human Rights System; and

⁷³ OHCHR. (2012). *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁷⁴ Human Rights Council. (2019). *Compilation of oral statements delivered during the fourth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights*, A/HRC/40/48/Add.1 E.5. <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session40/list-reports>

- ▶ Governments must establish independent judiciary systems at global, national and local levels that operate in coherence with Human Rights Law and regulate the activities of corporations.

While concern regarding corporate capture of institutions must remain at the forefront of advocacy and action, some promising actions are being taken amongst civil society, both globally and within national contexts, to curtail and fight corporate capture and exploitation.

In South Africa, environmental defenders and activists successfully advocated for the removal of Shell (Royal Dutch Shell) from operations on the Wild Coast.⁷⁵

In the United Kingdom (UK), civil society is pushing for a UK Due Diligence law, with access to justice for victims to address human rights and environmental violations in UK-based or held businesses across the entirety of their supply chains and operations.⁷⁶

In Bangladesh, garment workers' protests have led to country-wide wage hikes. While garment workers note that wages are still insufficient, the decision marks a move for governments to claim their responsibility and regulatory power in the interest of human rights, rather than profit.⁷⁷

In the Philippines, a bill has been filed in the house with a view to regulate corporate activities. The bill provides protections for Business Process Outsourcing (BPO) employees, particularly as it relates to health and safety, work-life balance, adequate compensation, and rights to benefits and self-organisation.⁷⁸

The Treaty Alliance has mobilised over 1,000 CSOs to influence the Binding UN Treaty and ensure it is rigorous and coherent with international human rights obligations.⁷⁹

In Indonesia, palm oil workers and labour rights activists successfully brought charges against PT London Sumatra (a subsidiary of the big business Indofood) in Indonesia's Supreme Court last year.⁸⁰

Across the entire intergovernmental architecture, the role of corporate actors must be reconsidered and reframed. Rather than viewing corporations as financial partners and stakeholders in decision-making, they must first be subject to measures of regulation, and held accountable to the norms and standards of the UN and Human Rights Law. With political will and action from civil society, governments can and must place the priorities and needs of people and the planet before profit.

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About APWLD

The Asia Pacific Forum on Women, Law and Development (APWLD) is the region's leading network of feminist and women's rights organisations and individual activists. For over 35 years, we have been carrying out advocacy, activism and movement-building to advance women's human rights and Development Justice.

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