Global health & nutrition governance and the politics of conflicts of interest

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Context

**The health, food & nutrition environment has been changed as part of neoliberal global restructuring**

Since the 1992 Rio Conference on the Environment & Sustainable Development, UN agency leaders have actively promoted closer UN-business relationships, converting to a Public-private ‘partnership’ paradigm.

- **Concrete public-private partnerships (PPPs)**
- **& multi-’stakeholder’ initiatives (MSIs)**

Now summarized as **MSPs = key implementation tools of the 2030 SD agenda**
Accompanied by Politics of conflicts of interest (Cols) From «normalisation» to blurring of concept

- Concerns of Member States that close partnership-interactions would increase Cols were dismissed as «constraints» to «more flexible» ways of working (a.o. in the Jeffrey Sachs chaired Report on Macroeconomics & Health in 2001)
- Where pressure resulted into work on Cols policies, Col concepts were redefined… for example:
In 2018: 3 key documents with problematic CoI conceptions

**2014:** Engaging in the SUN Movement: Preventing and managing conflicts of interest - Reference Note – Gates funded; national level

**2016:** WHO Framework for Engagement with Non-State Actors (FENSA) – basis for training of WHO civil servants on CoI identification in collaboration with NSAs

**2018** WHO Draft approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level (CoI tool) – national level
Pseudo-consultations on tool

Expert opinions which would have led to revision of the FENSA conceptualisation were not taken into account
What was not taken into consideration?
Law Prof. Ann Peters stressing the need to avoid confusing «conflicts of interest» (Cols) with what others often call «conflicting interest»

«The conflict we are dealing with is an intrapersonal [intra-institutional] conflict arising within a human or an institution which is entrusted with such [fiduciary] decision making.
It is not a clash between different actors.»
Remember the KEY difference:
WITHIN versus BETWEEN
e.g. according to the Institute of Medicine IoM (2009)

"Institutional conflicts of interest arise when an institution's own [secondary] financial interest ... pose risks to the integrity of the institution's primary interests and missions."

But FENSA maintained as definition (2016)

«An institutional conflict of interest is a situation where WHO’s primary interest as reflected in its Constitution may be unduly influenced by the conflicting interest of a non-state actor...» para 24
SUN & WHO documents

• Blur distinction between conflicts of interest (= conflict WITHIN an individual or institution)

• and risks of undue influences due to «vested», «conflicting», interest of a «non-state actor» (= conflicts BETWEEN)

• Consequently blur distinction between:

  Col identification & regulation and risk assessment

  Diverts attention from a key Col question:

  Do public interest actors give opportunities for undue influences for «voluntary» funding?
SUN & WHO documents legitimize problematic roles for private sector actors in their interaction typologies e.g. FENSA

Provision of **innovative «ressources»** (NB: FENSA excludes staff secondment of Private Sector actors, but not of venture philanthropies)

«**Participation**» in all kinds of public decision making processes

«**Implementation** of WHO policies»

«**Advocacy**» e.g. to change behaviours
What could be done immediately

• to ensure that FENSA & the CoI tool are strengthened as a public interest safeguards and do not become frameworks of undue entanglements?

• FENSA = «enabling framework for multi-stakeholder partnerships» draft ‘concept’ behind WHO General Programme of Work
• If citizens, civil servants & health professionals knew the latest reflections of legal CoI experts
• they would not need not turn into experts on CoI
• They could use a «reasonable person perspective» because «perceived» conflicts of interests are taken very seriously in CoI regulation (public trust/legitimacy)
• They could raise perceived conflicts of interest, by relying on popular knowledge as reflected in sayings, parables, slogans
A legal definition of CoI: Fiduciary duties as well as loyalty obligations

"A conflict of interest exists where an individual has an **obligation to serve a party** or **perform a role** and the individual has either:
1) **incentives** or
2) **conflicting loyalties**, which encourage the individual to **act in ways that breach his or her obligations.**"

Prof. Marc Rodwin, Journal of Health Law and Policy, 2017
Conflict of interest = Conflict WITHIN

Financial conflict of interest
Split loyalty: Wearing two hats
Divided loyalty: You cannot serve two masters
Financial relations: Sponsorship & investment in health & nutrition arena = partnership?

Corporations = partners who share «same values» with WHO, «not the enemy»

The hand that gives is always higher than the hand that takes.
There is no such thing as a free lunch
Only in a mouse trap the cheese is for free
Small presents maintain the friendship
What may be given in return?

• Public resources diverted into initiatives defined by others? Wasting public funding?
• WHO’s regulatory role? (commerciogenic illhealth & deaths?)
• WHO’s constitutional mandate as guardian of human rights to health, adequate food & nutrition? WHO to become part of a «multi-stakeholder governance» system & broker of MSPs?
What strings are attached?
You do not bite the hand that feeds you
MS-discourse:
No difference nature actors, fiduciary mandates, power?

Some have bigger “STEAKS” to fry...
Replace stakeholder-partnership image
You should not invite the wolf into the sheep enclosure
Good shepherd image would help regain public trust & staff morale
«Partnership paradigm is intellectually dishonest»
Staff interview 1999

WHO should not broker partnerships with companies & promote preferential «inclusiveness»
But urgent need to replace «principle» of «trust» by «vigilance» &
«feed the watchdogs»
Need of immediate revision of policy documents to allow to «identify, assess, and adequately address CoI in the food and nutrition arena»*

Remind public agencies & UN Member States of the OECD Guidelines for on Managing Conflict of Interest in the Public Service (2003)
Core principles which public officials should observe when dealing with CoI matters

• «Serving the public interest
• Promoting individual responsibility and personal example;
• Engendering an organisational culture which is intolerant of conflicts of interest
• Supporting transparency and public scrutiny»
Duty of leadership

«create an organisational culture where dealing with conflict-of-interest matters can be freely raised and discussed»

Look at methodological problems & gaps in proposed WHO General Programme of Work resulting from aligning with partnership SDG. E.g. addressing ‘commericiogenic’ malnutrition’

Correct Col understanding to allows to:

Recovering ‘arms-length distance’

Stopping the influx of corporations & conflicted actors to public decision making tables

Argue for full public funding of WHO & build on reality not on a harmful partnership fairytale