International organisations at the moving public–private borderline

Christer Jönsson*

Introduction

The distinction between a public and a private sphere is essential to politics. The public sphere is commonly associated with the state and politics, whereas the private sphere encompasses markets and civil society. Political power and state sovereignty rest on ‘a set of institutionalised authority claims’; indeed the governing bodies of states claim to have, and are recognised as having, the authority to define what is public (and thus political) and what is private (and thus beyond political authority).

The public–private distinction can be seen as one of the ‘grand dichotomies’ of Western thought, subsuming a wide range of other distinctions that shape our understanding and organisation of social life. Rather than essential and categorically separable, the terms of this distinction are relational and their interpretation has varied over time – the result of a prolonged and often conflictual historical process.

For example, warfare and diplomacy – which we today unquestionably include in the public sphere – were marketised and internationalised well into the 19th century. Conversely, there are activities that today are considered primarily commercial, but not long ago were seen to belong to the public sphere. For example, from its inception in the late 1920s through the immediate post-World War II period, international civil air transport was essentially a governm ent enterprise.

In this article I discuss four modes of global governance, along the moving public–private borderline, that have different consequences for international organisations. First, intergovernmental organisations may proactively open up and grant access to private actors. Second, they may become involved in informal networks around specific issues. Third, they may enter into public–private partnerships. And fourth, intergovernmental organisations may be bypassed insofar as private actors take over global regulatory functions.

Background

The private sector has traditionally been held at arm’s length by virtually all parts of the UN system. The UN Centre on Transnational Corporations (UNCTC) was inaugurated in 1974 as a permanent intergovernmental forum to keep a check on transnational corporation (TNC) activity, especially in the developing world. In 1993, the UNCTC was abolished as an independent organisation and its activities were transferred to the UN Conference on Trade and Development (UNCTAD).

The UN Global Compact signifies a profound change insofar as businesses are now seen as partners rather than threats. The travel in that direction began at the 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro and was reinforced at various subsequent summits. From 1997 when he assumed office, UN Secretary-General Kofi Annan consistently emphasised that the challenges faced by the UN could not be tackled without close co-operation with the private sector. Ted Turner’s historic US$1 billion gift to the UN in 1998 was another important stepping stone in the reconfiguration of UN–corporate relations.

Material factors have contributed to the trend: international organisations are notoriously underfinanced and dependent on voluntary contributions; opening up to and working with the corporate sector is then an attractive option. And the realisation has gained ground that the implementation of the ambitious programmes in developing countries cannot rely solely on fragile state structures, the traditional and formal intergovernmental organisation (IGO) counterparts, but needs to involve non-governmental organisations (NGOs) active on the ground.

Important ideational factors also contributed: the new public management (NPM) model of administrative reform, which had gained currency worldwide, blurred the borderline between public and private. It fundamentally made the public sector more dependent on corporate ideas and resources. Market values and norms entered public governance. At the same time, corporate social responsibility (CSR) became a new private management trend and emerged as a regulatory framework that placed new demands on corporations. Business firms, especially those acting on a global scale, were held accountable for an ever-wider range of issues and came to play more political roles.

Access

The opening up of international organisations to private actors is one of the most profound changes in global governance in recent decades. Within a joint Lund–Stockholm research group, we built a new dataset that contains information on formal access for transnational actors to 298 organisational bodies of 50 international organisations during the time period 1950–2010. While the share of organisational bodies with some level of openness to transnational actors was at 20 per cent in 1950, this doubled to about 40 per cent in 1990, and then almost doubled again over the next twenty years to 70 per cent in 2010. Since the fall of the communist regimes in central and Eastern Europe, the
degree of formal access for transnational actors – mainly civil society organisations (CSOs) – has increased continuously in an almost linear way.

This transnational turn in global governance pervades all issue areas, all forms of international organisation bodies, all policy functions and all world regions. International organisations are engaging private actors as policy experts, service providers, compliance watchdogs and stakeholder representatives. In the 1990s and early 2000s, by contrast, NGOs typically outnumbered states at key negotiations dealing with climate change.

The World Bank has undergone significant changes in this respect. Whereas only 21 per cent of all World Bank-funded projects involved NGO participation in 1990, this figure rose to 72 per cent in 2006. The World Trade Organization (WTO), traditionally hesitant to engage directly with civil society actors, now invites NGOs to be observers at ministerial meetings. Even the International Monetary Fund (IMF), by far the most closed of the three economic organisations, has opened up on the margins, consulting with NGOs in association with IMF summits.

Functional demand is a powerful explanation of this pattern. Maximising functional advantages of non-state actor involvement, international organisations offer meaningful access to the limited range of actors whose inputs they consider particularly beneficial.

The general pattern is that non-state actors provide decisional input in the form of expertise, monitor compliance by member states and take part in the implementation of programmes.

Access varies across issue areas. International organisations in such policy domains as human rights, development and trade offer extensive opportunities for non-state involvement; those dealing with finance and monetary issues and security and defence issues remain more closed. There are also differences as to who gets involved: economically powerful TNCs tend to have most access points and resources for influence.

Meanwhile, civil society involvement in international organisations is often portrayed by NGOs themselves as well as by researchers as contributing to the democratisation of these bodies. Such claims to represent and speak on behalf of the people of the world in global governance go far beyond the more modest role of CSOs in domestic democratic societies. They engage in interest articulation rather than interest aggregation, to use terms that my fellow political scientists and I were taught in the 1960s. Yet the opportunities for civil society actors to take part in global policy-making are on balance unequal, select, circumscribed and shallow. (Moreover, the NGO actors on which we pin so many hopes frequently have weak democratic credentials themselves.)

**Networks**

Networks represent a mode of organisation that is characterised as informal, non-hierarchical and non-territorial. But they often emerge in the shadow of, and tend to be useful complements to, formal structures. Networking in the intergovernmental context is facilitated by the fact that many individuals move among...
appointments, jobs within their home governments and positions in the private sector, universities and NGOs.

Prominent examples of networking among states, NGOs and international organisations include the processes leading to the creation of the International Criminal Court and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction (Ottawa Treaty) as well as the campaign for improving access to HIV/AIDS drugs. In the latter case, the campaign eventually mobilised support from the World Bank, the UN Development Programme (UNDP), the World Health Organization (WHO), the Commonwealth Secretariat and many others: it engaged a loosely linked network of NGOs and IGOs around a common cause.

Effective informal networks then are generally associated with flexible and effective problem solving. As in this example, they are often triggered by private initiatives. The flip side is that networks may suffer a corresponding lack of transparency; agency and power tend to become anonymous and the difficulty of pinning responsibility to individual actors is magnified.

**Public–private partnerships**

The proliferation in recent decades of partnerships spanning the public–private divide in such areas as human rights, public health, environmental protection and development represents a new and growing mode of global governance. Collaboration in partnerships is commonly depicted as a win-win situation; it can further both public and private interests. While differing in degree of institutionalisation, existing public–private partnerships (PPPs) constitute more formalised co-operation than networks.

### GAVI

GAVI was established in 2000 with a US$750 million donation from the Bill and Melinda Gates Foundation. It was a joint initiative by Bill Gates and the leaders of WHO, UNICEF and the World Bank. Its goal was to increase the level of child immunisation in poor countries through funding the deployment of vaccines and providing incentives for developing new vaccines. GAVI is governed by a board, where two-thirds of the voting members represent partner institutions and stakeholders, and one-third are unaffiliated individuals appointed in their personal capacity. Pharmaceutical companies are represented on the board.

GAVI has been successful in raising the levels of child immunisation at an unprecedented rate. By 2009, some 50 million children had been protected with basic vaccines and more than 200 million with new and under-used vaccines. By its own estimates, GAVI has contributed to the prevention of 3.4 million future deaths. GAVI has been less successful in encouraging the development of new vaccines and reducing vaccine costs. The Bill and Melinda Gates Foundation has contributed more than $1.5 billion over 15 years, which makes it the largest single donor, accounting for 28 per cent of GAVI’s total funding. However, few other private donors have followed the foundation’s example and national governments remain the majority of donors.

### The Global Fund

The Global Fund was established in January 2002 as a grant-making organisation with its secretariat in Geneva. It functions in a way similar to research councils or foundations in the academic realm insofar as proposals are subjected to peer review, grants are awarded to a fraction of the applicants for a limited period of time and renewed grants are contingent on documented performance. At the insistence of some G8 countries, especially the USA and Japan, the Global Fund was to stand apart from and operate outside of the UN system, which was considered inefficient and bureaucratic. In its ten years of existence, it has disbursed over $9 billion to grant recipients.

The hybrid character of the Global Fund is reflected in the composition of its board. It consists of five types of constituencies: donor states, recipient states, civil society, private sector, and bilateral or multilateral agencies. Three civil society representatives (one North, one South, one affected communities) and two representatives from the private sector (one company, one foundation) sit on the board. The Bill and Melinda Gates Foundation, as a major contributor, has the foundation seat on the board. Interestingly, representatives from WHO, the UN Joint Programme on AIDS (UNAIDS) and the World Bank belong to the non-voting group, an unusual position for intergovernmental organisations.

The 1990s and early 2000s witnessed an unprecedented willingness among international organisations to enter into PPPs. In health, for example, within a few years around the turn of the millennium, some 70 global partnerships were established. In short, PPPs can be seen as vehicles for collective action to overcome both political failures and market failures. For international organisations, PPPs solve problems of scarce resources and eroding legitimacy; for international business actors, they identify and legitimise investments and pledges those actors would not venture to make without assurances from the public sector.

Global partnerships have existed long enough now to become objects of critical scholarship. First, researchers remind us that, while ‘partnership’ is an endearing term it is also an imprecise one. It shrouds elements of power and influence in a discourse of co-operation and shared responsibility. Second, public–private partnerships are seen to sustain the neoliberal global order. Whether that is considered a good or a bad thing depends on the ideological leaning of the observer. Third, global partnerships tend to reinforce rather than redress the North–South imbalances in global governance. The most influential partners, whether representing civil society or business, come from the rich North.

Fourth, the vast bulk of funds for PPPs have come from governments, not from the private sector. For example, business contributions to the more than 300 so-called Type II multiple-stakeholder partnerships registered under the UN Commission on Sustainable Development account for less than one per cent of total funding.

A fifth problematic aspect is that while these hybrid modes of governance may derive legitimacy from producing useful results – so-called output legitimacy – they raise thorny questions of accountability. In the public sector, civil servants are accountable to
governments, which, in turn, are accountable to voters in democracies. In the private sector, management is accountable to shareholders. IGOs are formally accountable to member states. But the question of ‘accountable to whom?’ has no unequivocal answer when applied to PPPs.

Three PPPs in the public health sector which have gone further than most in addressing these general problems are the Global Alliance for Vaccines and Immunization (GAVI); the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund); and UNITAID.

Private regulation

GAVI, UNITAID and the Global Fund are indicative of the ongoing search for innovative financial mechanisms for development. They also illustrate a gradual downgrading of the role of traditional IGOs. This brings me to the fourth and final mode of global governance where IGOs become bypassed altogether.

The private sector has become increasingly involved in regulatory activity in global governance. Non-state actors co-operate across borders in order to establish rules and standards of behaviour accepted as legitimate beyond their own circles. Non-state actors not only formulate norms, but also often have a key role in their enforcement. In the literature, this is treated under different labels such as ‘transnational private governance’, ‘regulatory standard setting’ or ‘private–private partnerships’. They all point to the tendency that soft law, in the form of standards or codes of conduct, is being produced by actors outside the public realm.

The major bond rating agencies are examples of private authority trespassing into the public sphere. Emerging from relative obscurity in the 1990s, they have acquired a global reach: assessing the credit-worthiness not only of corporations, but of sovereign governments as well. Yet they remain anonymous institutions, essentially above the reach of regulation by others. It is also significant that the International Organization for Standardization (ISO), which was formerly regarded as the UN’s standards organisation, now labels itself an NGO. Moreover, ISO no longer restricts itself to standardising physical things, but also works on business practices, environmental standards and even social issues.

In 2002, the International Social and Environmental Accreditation and Labelling Alliance (ISEAL) was founded. It is an association of transnational organisations designed to develop codes of good practice that emphasise social justice and environmental sustainability in agriculture, fishing and several other sectors. Among the members of ISEAL are such well-known private standard-setting organisations as the Forest Stewardship Council (FSC), Fairtrade International, the Marine Stewardship Council (MSC) and the Rainforest Alliance.

More than 60 per cent of fish from US fisheries, 75 per cent of Norwegian fish exports, and roughly one-third of fish from New Zealand fisheries are today either certified or in assessment by the MSC. However, less than nine per cent of all fisheries certified by the MSC are situated in developing countries. About two-thirds of the world’s seafood is consumed in Asia where few consumers discriminate between certified and noncertified products. While having a positive environmental impact in developed countries, the certification programme may result in higher depletion rates in noncertified areas where the price of fish is cheaper.

Regulatory standard setting and social and environmental reporting by firms are often the result of a dynamic interplay between CSOs and transnational firms, without the involvement of states and IGOs. CSOs have put pressure on firms to take greater social and environmental responsibilities; firms have taken steps to avoid blaming and shaming or to turn their own good behaviour into a brand advantage. These examples also illustrate two problematic aspects of contemporary private regulatory initiatives. They are characterised by fragmentation and overlap. For example, there are today more than 400 eco certificates or eco labels operating worldwide. And they tend to reinforce existing global inequalities. Stringent standards hit operators in the poor South much harder than those in the rich North.

Conclusion

What, then, can we conclude from this quick journey along the public–private borderline? First, the growing role of private actors – for-profit as well as non-profit – in global governance must be taken seriously. For the UN system and other intergovernmental organisations, this entails opportunities as well as dangers. Openness toward and co-operation with private actors hold the promise of strengthening the resource base and enhancing the legitimacy of UN agencies. The other side of the coin is that they run the risk of pursuing the agenda of private actors rather than that of their member states.

A second conclusion is that the growing role of private actors and the blurring of the public–private borderline have contributed to a fragmentation and duplication of global governance arrangements. Multiplicity and competition may have certain benefits; for

UNITAID

Efforts to develop innovative mechanisms to finance health development have continued. France and Brazil, in particular, have taken initiatives to improve access to medicines for the world’s poorest people. Along with Chile, Norway and the United Kingdom, they created a partnership in 2006 called UNITAID, which is designed to collect funds through levies on airline tickets to finance medicines against HIV/AIDS, tuberculosis and malaria. As of this writing, UNITAID has 29 member countries, nine of which are implementing the airline levy. Norway allocates part of its tax on CO2 emissions from aviation fuel to UNITAID. In addition, a number of member states make voluntary contributions and the Bill and Melinda Gates Foundation provides financial support. WHO, UNICEF and the Global Fund are implementing partners. UNITAID’s secretariat is located at the WHO headquarters in Geneva and its governing structure is largely modelled on the Global Fund.

Although the airline levy is quite small and the number of participating countries is limited, UNITAID was able to purchase medicines with almost $600 million from 2007 to 2010. Through its strategic market intervention, UNITAID has been successful in decreasing the price of medicines for HIV/AIDS, tuberculosis and malaria by 50 per cent to 70 per cent, depending on products and market niches. Thus, it has contributed to increasing the supply of drugs and diagnostics in developing countries.
example, encouraging experimentation, enabling multifaceted approaches to complex problems and allowing for fine-tuning in specific situations. But multiplicity and competition can be costly and may reduce the effectiveness of regulatory schemes.

Overall, as Kenneth Abbott and Duncan Snidal conclude, there remains a significant ‘orchestration deficit’ that represents a challenge and an opportunity for international organisations.\(^4\)

There are roles here for UN and other intergovernmental organisations to make sure that established international normative templates, such as the Universal Declaration of Human Rights and International Labour Organization (ILO) conventions, ameliorate problems of decentralised regulation. Finally, if we are moving from a world society divided into states to a world society divided into sectors, the question arises as to what legitimate authority may mean in a functionally differentiated world.

The Academic Council of the United Nations System inaugurated the John W. Holmes Memorial Lecture Series in 1989. Mr Holmes joined the Canadian Department of External Affairs in 1943 and participated in the planning of the United Nations. He later served as head of UN Affairs in Ottawa and as under-secretary of the Department of External Affairs. In 1960, he began a second career in teaching and scholarship, based at the Canadian Institute of International Affairs and the University of Toronto.

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**CHRISTER JÖNSSON** is professor emeritus of political science at Lund University and a member of the Royal Swedish Academy of Sciences. He directs the Lund–Stockholm Transdemos research programme, financed by the Riksbankens Jubileumsfond (Bank of Sweden Tercentenary Foundation). He served as chair of the Academic Council on the United Nations System (ACUNS) Board of Directors from 2009 to 2012.

**ENDNOTES**

1. For several centuries, mercenaries were the foundation of European military power. And until the early 19th century, diplomacy was an aristocratic pursuit; diplomats who had a sense of belonging to a single ‘cosmopolitan fraternity’ or ‘aristocratic international’ could easily change from one monarchic employer to another.

2. Besides WHO, the UN Environment Programme (UNEP), the Food and Agriculture Organization (FAO), the UN Educational, Scientific and Cultural Organization (UNESCO), UNDP and the UN Children’s Fund (UNICEF) are other UN agencies that have initiated a large number of partnerships.

3. The MSC was created in 1997 as a response to the worldwide decline in fish stocks. It originated as an agreement between Unilever, at that time the world’s largest buyer of frozen fish, and the World Wide Fund for Nature. Its fishery certification programme and seafood eco label recognise and reward sustainable fishing.