

Multistakeholder Partnerships for Development and the Financialization of Development Assistance

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ABSTRACT

Multistakeholder partnerships (MSPs) for development are being revitalized in the post-2015 era as essential vehicles in financing and realizing sustainable development. This article argues that MSPs for development play a central role as new financial actors in shaping the legal and ideational structures of development assistance, pushing for a financialized development assistance model that relies on the steady multiplication of new financial markets and instruments. The article tracks the trajectory of MSPs and their transition over time into key actors in the financialization of development assistance. After summarizing the key axes of this financialization, the article describes how MSPs have become new financial actors by offering to play a four-in-one role (gap-filling, catalysing, brokering and optimizing) in development financing. To do so, they use private legal mechanisms to create and roll-out so-called ‘innovative’ financial instruments and mechanisms such as up-front incentives and subsidies, frontloading mechanisms, results-based instruments and debt swaps. The resulting financialized development assistance model has amplified the power and influence of MSPs and their private donors over development governance and led to accountability shortcomings by downplaying the possible socio-economic impacts of new proposed instruments and by creating risks of increased development assistance policy fragmentation.

INTRODUCTION

The transnational policy space around development assistance is increasingly being opened up to private actors and public–private hybrids. As governance (as opposed to ‘government’) was increasingly embraced as a solution to global collective action problems, multistakeholder partnerships (MSPs) emerged as a response both to ‘general dissatisfaction on the part of governments, international organisations and NGOs with the agonizingly slow pace of the cumbersome global negotiation process [in the sustainable development arena]’ and to ‘the lack of will and capacity on the part of many governments to engage in binding financial commitments to achieve

global agreements, or to translate such existing commitments into practice' (Martens, 2007: 7).

The defining characteristic of MSPs in development is their hybridization of the public and the private by bringing together donor and developing states, the private sector and civil society (Beisheim et al., 2014; Glasbergen et al., 2007). They are also important drivers of corporate models increasingly being applied to the development enterprise (Martens and Seitz, 2015; McKeon, 2017; Storeng, 2014). MSPs are increasingly sought out to finance global public goods considered central to sustainable development. While many notable examples hail from the health sector such as Gavi, the Vaccine Alliance (Gavi) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund), MSPs span various sectors with links to sustainable development such as education (the Global Partnership for Education [GPE] and Education Cannot Wait [ECW]), nutrition (Global Alliance for Improved Nutrition) and environment (Global Environment Facility [GEF]), among others. A recent example of their ubiquity is the initiative 'Access to COVID-19 Tools (ACT) Accelerator', and the linked Coronavirus Global Response fund, supported by the United Nations' (UN) World Health Organization (WHO), alongside health sector MSPs including the Global Fund and Gavi, to work on diagnostics, therapeutics and vaccines in response to the pandemic, in cooperation with the pharmaceutical industry (WHO et al., 2020).

The heading 'MSP' is a curious one with no universal legal definition in practice, allowing different MSPs to take different legal forms. Any type of partnership between one or more public actors and one or more private actors could potentially be called an MSP, a public-private partnership (PPP) or a trust fund — the latter being the financial legal form through which the financial resources of MSPs are often cumulated and managed.¹ In fact, some authors refer to partnerships such as Gavi and the Global Fund as global PPPs in health (Burci, 2009; Clarke, 2011; Hunter and Murray, 2019). This article uses the definition employed by Gray and Purdy (2018), which usefully distinguishes between the layers of public and private entities within partnerships. Accordingly, the term PPP is reserved for bilateral partnerships where 'business and government join forces' (ibid.: 2) in investment projects, whereas MSPs are partnerships involving three or more types of stakeholders, which might include governments, businesses, NGOs and civil society (ibid.: 3). A similar definition is offered by the

1. Trusts funds of MSPs are often established as Financial Intermediary Funds governed by the World Bank as a Trustee. The World Bank's role includes 'receiving, holding and investing contributed funds, and transferring them when instructed' and may extend to providing 'customized treasury management or other agreed financial services [such as] bond issuance, hedging intermediation and monetization of carbon credits'. See the World Bank website, 'Financial Intermediary Funds': fifitrustee.worldbank.org/en/about/unit/dfi/fifitrustee/overview (accessed 2 November 2020).

Partnering Initiative: '[MSPs] involve organisations from different societal sectors working together, sharing risks and combining their unique resources and competencies in ways that can generate and maximise value towards shared partnership and individual partner objectives, often through more innovative, more sustainable, more efficient and/or more systemic approaches' (Partnering Initiative, 2016: 1).

These definitions highlight the presence of private donors in MSPs, such as philanthropic foundations, alongside the private sector and public institutions. They also point to the underlying governance discourse of accumulating resources and expertise while sharing risks to achieve common goals. This discursive element is important, because as Martens and Seitz (2015) point out, the involvement of private donors in providing global public goods, including through MSPs, may lead to several undesirable outcomes. First, private donors increasingly rely on what Martens and Seitz term 'philanthrocapitalism', whereby they apply business models to human rights and sustainable development objectives. Second, these private actors gain disproportionate influence on agenda setting and policy making. Third, their involvement is found to fragment and weaken global governance. Finally, private donors often lack transparency and do not have mechanisms to ensure accountability towards their beneficiaries (*ibid.*).

MSPs engage as much in the financing of global public goods in their respective issue areas as in their delivery. In light of their relevance to delivering and financing global public goods, MSPs have been an area of inquiry in global governance research, international relations, development studies, economics and health governance. Global governance approaches have been at the front line of analyses and evaluations around MSPs as governance forms and tools. The analyses have included diverse parameters such as legitimacy (Börzel and Risse, 2005), effectiveness (Beisheim and Liese, 2014; Pattberg and Widerberg, 2014), inclusiveness (Kalfagianni and Pattberg, 2013), transparency (Beisheim and Simon, 2016), accountability (Pattberg and Widerberg, 2016) and oversight (Hoxtell, 2016).

Given the overwhelming drive to provide solutions to global development challenges through multistakeholder approaches, it is critical that MSPs are analysed in terms of how they shape development assistance. Currently, there is little reflection on MSPs' roles in financing global public goods and the links to the broader system of development assistance that has itself become increasingly financialized. This article seeks to address this gap by linking existing research to MSPs' role in the financialization of development assistance, and the legal underpinnings of that role.

There are bodies of literature addressing the financialization of development more broadly (Gabor, 2018; Storm, 2018), including through development financing (Garcia-Arias, 2015) and aid (Mawdsley, 2018), as well as in various areas such as health and healthcare (Hunter and Murray, 2019; Stein and Sridhar, 2018), nature (Bracking, 2019, 2020; Sullivan, 2013), land (Ouma, 2014, 2015) and food systems (Clapp and Isakson, 2018),

among others. Development institutions at the national and international level have been identified as important actors in this drive towards financialization (Carroll and Jarvis, 2014; Krippner, 2011; Mawdsley, 2015). Other recent work has tackled the main axes of financialization of aid (Mawdsley, 2018). The present article aims to link existing research on MSPs in global governance to research on the financialization of development. It seeks to make an original contribution to scholarship by identifying MSPs as new frontline financial actors that initiate new financial markets and provide key financial instruments through which the financialization of development assistance occurs. In so doing, the article also uses insights from legal studies to illuminate how financialization of development assistance, driven by the financial motives, markets, actors and institutions (Epstein, 2005) that often come together under MSP settings, is carried out through legal arrangements.

The article relies on the analysis of scholarly literature on MSPs from the perspectives of global governance and legal studies, research on financialization from development economics, geography and global health fields, and policy documentation produced directly by MSPs, as well as the analysis of relevant legal agreements and contracts. The article first tracks the trajectory of MSPs and their transition over time into key actors in the financialization of development assistance, by exploring how MSPs have come to serve as hybrid vehicles enmeshing private actors with public entities in the development assistance field. The article then summarizes the key axes of the financialization of development assistance and turns its attention to MSPs as new financial actors. It identifies the different roles MSPs play in development assistance as well as the main financial instruments and markets that MSPs create using private legal mechanisms that drive the financialization of development assistance. It then analyses the consequences of MSPs' roles as new financial actors and of the creation of new financial instruments and markets in development assistance, before offering some conclusions.

THE EVOLUTION OF MULTISTAKEHOLDER PARTNERSHIPS FOR DEVELOPMENT

The turn to private financial contributions to supplement state-based aid is not new. The famous 1969 Pearson Commission report considered aid by private and voluntary organizations to be an important and more agile complement to state-based development cooperation (Pearson, 1969: 188). Multilateral inter-governmental trust funds first created in the 1960s to co-finance development interventions (Bantekas, 2011) evolved in the 1980s and 1990s into multistakeholder funds: MSPs followed from voluntary multistakeholder funding mechanisms created under the auspices of the WHO and the World Bank, in response to communicable diseases. One early

example is WHO's Onchocerciasis Control Programme (OCP) launched in 1974 in partnership with the World Bank and the UN Development Programme (UNDP) to control onchocerciasis in Western Africa (WHO, n.d.). The pharmaceutical company Merck & Co. joined the programme in 1987, which caused a shift in the programme's operational rationale from controlling disease vectors (larvicide through aerial spraying) to treatment by ivermectin (Boatin, 2008). In 1992, the programme was replicated for the Americas through the Onchocerciasis Elimination Program for the Americas (OEPA). The OEPA was a multistakeholder effort from the outset, launched with the participation of countries affected by the disease, the Pan-American Health Organization, the United States Centers for Disease Control and Prevention, the Carter Center, Lions Clubs, the Bill and Melinda Gates Foundation (BMGF) and donations from Merck & Co., the producer of ivermectin (Sauerbrey, 2008). The OCP and OEPA were precursors to other UN multistakeholder programmes such as the Medicines for Malaria Venture, which was set up to develop new anti-malarial drugs through a partnership between the WHO, the World Bank, the US government, the Rockefeller Foundation, the International Federation of Pharmaceutical Manufacturers Association and the Association of British Pharmaceutical Industries (Sandler, 2002: 107).

Entrenching the turn to multistakeholderism, the 1992 UN Conference on Environment and Development (UNCED) (known as the Rio Conference) resulted in Agenda 21 and two major legally binding conventions: the UN Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity. Agenda 21 launched the idea of a global partnership for sustainable development to achieve economic and social goals while protecting ecosystems (UNCED, 1992). Benedek argues that multistakeholderism, as a 'particular form of inclusion of non-state actors' in international law making, has shaped the 'development of international non-contractual law or "soft law"', particularly in ensuring its effective implementation (Benedek, 2011: 205). The turn to partnerships with the private sector in the early 1990s coincided with the roll-out of the Washington Consensus that pushed strongly for financial liberalization, privatization and austerity through policy reforms and conditionality imposed by the World Bank and the International Monetary Fund (Babb, 2013). It has remained a central component of the so-called post-Washington Consensus (Cummings et al., 2020). As Van Waeyenberge (2017) notes, the post-Washington Consensus is essentially 'a transition from one phase of neoliberalism to another' (ibid.: 205) characterized by 'a reorientation of state-market interactions to the benefit of private capital', including by repurposing development cooperation (ibid.: 212). In fact, as Mitchell and Sparke argue, what has followed the Washington Consensus is perhaps not a post-consensus moment at all but a 'New Washington Consensus' whereby 'neoliberal development norms and practices continue to co-evolve in terms of hegemony and changing contextual conditions of implementation' (2016: 725). Within

this New Washington Consensus, ‘millennial philanthropy’ in the form of individual or corporate foundations engage in ‘the productive (if not always deliberate) neoliberal formation of new market subjects’, including through ‘public–private–philanthropy partnerships’ (ibid.: 726, 729)

The adoption of the Millennium Development Goals (MDGs) in 2000 gave partnerships an official status. MDG 8, encouraging global partnerships for development, specified two areas of cooperation with the private sector around access to essential drugs and the sharing of technological know-how (UN, 2000). The launch of the MDGs coincided with the introduction of the UN Global Compact, the UN’s corporate citizenship initiative. While partnering for sustainable development was not encompassed in the Global Compact’s 10 principles, businesses were given a seat at the table as legitimate actors in the sustainable development arena, for better or — as some commentators argue — for worse, allowing companies to ‘bluewash’ themselves through a nominal affiliation with the UN (Baxi et al., 2000). Following the adoption of the MDGs and the increasing recognition that existing volumes of Official Development Assistance (ODA) alone would not suffice to achieve desired developmental objectives, development assistance branched out more forcefully from its traditional confines to include non-state stakeholders. In this context, multistakeholderism continued to gain prominence in development assistance through MSPs that brought together donor and developing states, the private sector, civil society and others (Erdem Türkelli, 2021b).

MSPs, which crystallized the reliance on voluntary contributions from private actors, have continued to flourish since the early 2000s. Partnerships for sustainable development, also called ‘Type II Partnerships’, became a focal point during the lead-up to the 2002 Johannesburg World Summit on Sustainable Development. The Summit resulted in two types of outcomes: type I outcomes in the form of negotiated intergovernmental programmes of action and declaration; and type II non-negotiated outcomes announced on a voluntary basis (La Viña et al., 2003). The premise went that such non-negotiated voluntary outcomes would allow interested parties (including private ones) to supplement public financial resources dedicated to sustainable development by setting up their own commitments and programmes. The Johannesburg Declaration mentioned partnerships in relation to rapidly increasing access to ‘basic requirements [such] as clean water, sanitation, adequate shelter, energy, health care, food security and the protection of biodiversity’ (para. 18), to regional cooperation (para. 23), and to broadened participation in ‘policy formulation, decision-making and implementation at all levels’ (para. 26) (UNWSSD, 2002).

Given the push to accelerate access to goods and services, MSPs were designed to offer a model of cooperation that purposefully defied state-based development cooperation models in their financing procedures and delivery mechanisms. Partnerships were considered at the time as ‘a way for governments and other stakeholders to overcome the impasse of many government

negotiations’ and ‘a direct route toward working with the private sector’ (La Viña et al., 2003: 58). Conversely, the fact that partnerships were supported most strongly by powerful actors, such as the United States, in preventing new international legal obligations from being adopted also raised questions about their genuine implementation value (Bruch and Pendergrass, 2003). Nonetheless, the Johannesburg Summit itself was primarily an inter-state affair and type II outcomes of partnerships were supported by states,² although the participation of representatives from NGOs, regional organizations and businesses was also foreseen. The accent on multistakeholder participation in partnerships was a new feature, which sought to hybridize the private and the public in development assistance. Of course, inclusiveness in the process was not guaranteed: multistakeholderism does not in and of itself result in participatory processes or programming, primarily because the stakeholders tend to be self-selecting and multiple partnerships may involve the same actors with abundant financial resources over a range of different initiatives (Cheyns, 2014; Dentoni et al., 2018).

MSPs were once again proposed as a ‘central means of implementation’ for the 2030 Agenda for Sustainable Development (Ellersiek, 2018: 4). Amongst the Sustainable Development Goals (SDGs), SDG 17 seeks to ‘[s]trengthen the means of implementation and revitalize the global partnership for sustainable development’ (UN, 2015: 26). While SDG 17 includes targets linked to development assistance such as fulfilling ODA commitments (Target 17.2), promoting investments in least developed countries (Target 17.5), technology transfer and capacity building (Targets 17.6 through 17.9), MSPs are specifically listed as means through which to ‘mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the Sustainable Development Goals in all countries, in particular developing countries’ (Target 17.16; UN, 2015: 26–27). Target 17.17 emphasizes promoting different types of ‘public, public–private and civil society partnerships, building on the experience and resourcing strategies of partnerships’ (UN, 2015: 27), clearly intensifying the reliance on partnerships as a means of delivering development assistance. In that vein, the Division for Sustainable Development Goals of the UN Department of Economic and Social Affairs (DESA) launched the 2030 Agenda Partnership Accelerator initiative in 2019 with the dual aims of supporting ‘effective country driven partnership platforms for SDGs’ and ‘building partnership skills and competences’ (UN, 2019). Consequently, the participation of private businesses in agenda setting, programming and financing will likely increase. Beyond the private for-profit sector, private non-profit donors such as philanthropic personal or corporate foundations are also increasingly engaged in providing financing needed to deliver global

2. I am grateful to Prof. Philipp Pattberg for making the connection explicit in his comments during a presentation of the general lines of this research project at VU Amsterdam IVM-EPA on 21 May 2019.

public goods such as healthcare, nutritious food, quality education or environmental conservation. Particularly in these fields, MSPs have been acting as new financial actors and introducing so-called innovative financing instruments into an increasingly financialized development assistance framework. The following section explores the key axes of this framework.

FINANCIALIZATION OF DEVELOPMENT ASSISTANCE: KEY AXES

The post-2015 development financing model is essentially one that banks on the further hybridization of public and private resources through the strategic use of financing from public sources such as ODA to mobilize additional private finance. Although the customary focus of development financing through development finance institutions (DFIs) and international financial institutions (IFIs) had been infrastructure and energy, there has been a striking increase in financial sector investments since the 2008 economic crisis (Kwakkenbos and Romero, 2013). Reiterating Epstein's seminal definition of financialization as 'the increasing role of financial motives, financial markets, financial actors and financial institutions in the operation of the domestic and international economies' (Epstein, 2005: 3), the underlying recipe may be termed the financialization of development assistance. Mawdsley describes the process as one in which '[f]oreign aid is being used to de-risk investment, "escort" capital to "frontier" markets, and carry out the mundane work of transforming objects into assets available to speculative capital flows' (2018: 264).

The financialized development assistance model is based on two premises. The first is that private market-based mechanisms of profit making through financial instruments and transactions can be transposed into the development financing arena without fundamental difficulties. The second assumption is that supporting or 'catalysing' market-based financial instruments and transactions is a good, if not the best, use of public resources for development assistance. This is based on the argument that public aid resources can have multiplier effects, sometimes even exponentially, as repeated in the mantra of the multilateral development banks (MDBs), 'from billions to trillions' (Development Committee, 2015). The value-added that the financialized development assistance model proposes is based on so-called innovative financing approaches, which rely on the design, piloting and roll-out of increasingly complex financial instruments. These so-called innovative financing instruments were first developed during the early 2000s and rolled out mainly through MSPs. The move towards this financialized development assistance model is often undertaken without reflecting on the long-term consequences for development and communities in developing countries (Mawdsley, 2018). In the post-2015 period, new types of financing schemes are presented under three headings: blended finance that 'blends' development cooperation resources coming out of public budgets (ODA)

with commercial financing from private sources; green investment that focuses on environmental pathways assisted by government incentives and ‘green’/‘sustainable’ financing instruments; and social impact investing that links investments to measurable impacts on society (OECD, 2018b).

The rise of financial sector investments in development further entrenches the role of the private sector in development policy making and implementation. Accordingly, the mechanisms of innovative financing perpetuate the discourse that ODA resources should be invested in market mechanisms to leverage more financial resources from the private sector. As Mawdsley et al. (2018: O26) note, ‘governments and corporations are increasingly co-opting the rhetoric and resources of “aid” under the rubric of “shared prosperity” to stimulate and subsidize corporate capitalism’ by ‘the enthusiastic reframing of “the private sector” not just as an object of development, but as an active development partner’. The financialization of inter-state development co-operation has been manifesting itself for some time. For instance, research on health governance has pointed to the financialization of health through MSPs such as the Global Fund and Gavi, and the creation of a pandemic risk insurance scheme, the Pandemic Emergency Financing Facility (Stein and Sridhar, 2018). The repercussions of financialization in healthcare that Stein and Sridhar point out are equally relevant for other types of global public goods and include transparency and accountability deficits linked to the secrecy surrounding private legal arrangements, volatility in financial cycles and moral tensions inherent in the choices made around what types of public goods will be financed and provided and how. These repercussions are even more worrying as the financialization of development assistance is of a ‘magnitude’ and ‘generalization’ previously unexperienced (Gabas et al., 2017: 20). It is against this backdrop that MSPs act as new financial actors and create new financial instruments and markets in development assistance.

MSPs AS NEW FINANCIAL ACTORS OFFERING ‘INNOVATIVE’ FINANCIAL INSTRUMENTS

MSPs have become new financial actors, one component of Epstein’s seminal definition of financialization. An analysis of the so-called ‘innovative’ financial instruments and mechanisms used by MSPs illuminates the ‘four-in-one’ function that MSPs, as new financial actors, offer in development assistance and situates this four-in-one function as the principal means through which MSPs further the financialization of development assistance. This multifunctional offer allows MSPs to brandish their credentials as facilitators of development financing and to continue to propose new financial instruments, all of which lead to the further financialization of development assistance. First, MSPs offer to undertake a gap-filling function in specific issue areas, to address a perceived financing gap in sustainable development.

Second, they portray themselves as frontline actors in catalysing financing from private sources. Third, they situate themselves as brokers between developed and developing states. Fourth, they bring the promise of optimizing financial resources within a given issue area for more efficient and effective interventions. MSPs have thus become central actors in the financialization of development assistance by creating new financial markets and institutions (again, recalling Epstein) through designing and rolling-out innovative financing schemes backed up by private legal arrangements.

This section first summarizes the gap-filling, catalysing, brokering and optimizing functions offered by MSPs. It then dives deeper into how innovative financing schemes are being used to create new markets of development financing, showcasing how MSPs rely largely on a multi-layered architecture of private legal agreements in the same way that '[m]odern finance relies heavily on contract law and on the assurance that private agreements will be legally enforced in a predictable manner' (Carruthers, 2020: 154).

MSPs as New Financial Actors Touting a 'Four-in-One' Function

Gap-filling in Development Financing and Delivery

MSPs have emerged as designated gap-fillers in development financing and delivery, particularly through earmarking and complementary programming. MSPs have become more visible than ever as the discourse from MDBs and other development actors continually highlights the gap between the financial resources needed to achieve developmental goals and the financing available through developing countries' domestic resources, supplemented by ODA. For instance, the 2014 UN Conference on Trade and Development (UNCTAD) *World Investment Report* estimated the 'annual investment gap [in SDG sectors]' at 'between \$1.9 and \$3.1 trillion' (UNCTAD, 2014: 140). Of course, the consistent failure of many donor states to meet their 0.7 per cent ODA target and concerns over aid effectiveness, including whether it reaches beneficiaries (MDG Gap Task Force, 2008), have contributed to outsourcing a gap-filling function to non-state and hybrid entities, including MSPs. The strong emphasis in the 2030 Agenda and the SDGs on partnerships as vehicles to pool financing, expertise and know-how is a clear indication of continued reliance on MSPs and other partnerships (UN, 2019).

While traditional sources of development assistance may be subject to donor or recipient government priorities, MSPs arguably allow dedicated funding to be earmarked for one issue area, whether it be immunization, fighting communicable diseases, providing primary education or protecting biodiversity. Furthermore, development financing through MSPs may be channelled into specific settings such as conflict-affected countries, where many donors are reluctant to provide bilateral support due to difficulties

of demonstrating positive short-term impact and results. MSPs may choose strategically to fill financing gaps in such politico-geographic contexts, to create complementarity with existing development financing efforts. After the World Bank-led Education for All – Fast Track Initiative was restyled as the GPE, for instance, the organization revised its mandate to focus primarily on financing access to primary education in conflict-affected countries (GPE, 2019a).

The gap-filling function purposefully facilitates the flow of private financial resources from philanthropic organizations, corporate foundations and for-profit corporations into sectors that deliver global public goods. This function becomes particularly important in emergency situations when normal financing routes are unavailable and in tackling issues that necessitate transnational approaches. However, MSPs' gap-filling functions do not automatically translate into success in increasing state-based aid for developing countries because aid packages tend to remain constant while being redistributed over different initiatives (IEG, 2011). Raising additional funds from the private sector may nonetheless be possible in particular issue areas such as healthcare and education where financing of projects and programmes go hand in hand with delivery (IEG, 2011; OECD, 2015). For this reason, the gap-filling function of MSPs often overlaps with the premise of their catalyst role in leveraging private financing.

Catalysing Financing from Private Sources

Catalysing financing from private sources in complementary 'voluntary funding for development' has been on the development agenda since the 1960s. The complementarity function of MSPs in leveraging private financing was underscored during the Johannesburg Summit by the United States and other developed countries as substitutes to increasing ODA budgets (Bruch and Pendergrass, 2003: 861). The centrality of catalysing private financing for development is repeated in the Addis Ababa Action Agenda, the 2030 Agenda and all financing instruments linked to the UNFCCC such as the GEF and the Green Climate Fund. The MDB catchphrase 'from billions to trillions' imagines a model in which investing public resources in the order of billions will generate investment from private sources in the order of trillions, based on the claim that each dollar invested by MDBs generates between two and five dollars of additional resources from private sources (World Bank, 2015). Yet, because there are no requirements to ensure that private actors keep their voluntary commitments, the need for 'a clear and strong international legal and institutional framework within which [MSPs could] operate' was already evident to observers early on (Bruch and Pendergrass, 2003: 865) but has not materialized.

Blended finance mechanisms are the ongoing trend in maximizing any catalysing effect of financial resources dedicated to sustainable

development. Blending is not new. According to surveys carried out by the Organisation for Economic Co-operation and Development and the Association of European Development Finance Institutions in 2015 and 2017 (OECD, 2018a), 167 facilities using blended finance were launched between 2000 and 2016 with a combined financial value of US\$ 31 billion. Such facilities use MDBs and DFIs as intermediaries. MSPs may also function as ‘pooled vehicles’ or pooled funds, to be exact, in which private and public sources are blended at the intervention level (*ibid.*: 97). One example is the GPE Multiplier launched in 2017 with a US\$ 300 million budget. Every US\$ 1 disbursed by the GPE Multiplier is intended to leverage an additional US\$ 3 of funding from other sources, including multilateral funding institutions or the private sector (GPE, 2019b). One interesting feature of the multiplier is that the allocation may be ‘invested as a grant or used to lower the interest rate on concessional lending, for example from [MDBs] or bilateral donors’ (*ibid.*).

On the environmental front, the GEF has been cooperating with UNDP in building a market for ‘ocean finance’, including by ‘catalysing private finance’ for nearly three decades (UNDP and GEF, 2012). In 2018, the GEF provided a US\$ 5 million concessional loan to the ocean conservation blue bond issued by the Republic of Seychelles, to cover a part of the interest payments of the blue bond (GEF, 2018). This blue bond issuance, further facilitated by a US\$ 5 million guarantee from the International Bank of Reconstruction and Development (IBRD) arm of the World Bank Group (GEF, 2018), was a step in furthering the reach of ‘ocean finance’ markets, by promising ‘blue returns’ (Jeffries, 2019). The GEF loan and the IBRD guarantee reportedly contributed to ‘a reduction of the price of the bond by partially de-risking the investment of the impact investors, and by reducing the effective interest rate of 6.5% for Seychelles to 2.8% by subsidizing the coupons’ (World Bank, 2018).

Furthermore, MSPs like the GEF, GPE, Gavi and the Global Fund have been acting as new financial actors in leveraging private financing through the creation of new financial markets such as frontloading mechanisms for vaccines and educational services; this is explored in greater detail in the section ‘Building New Financial Institutions and Markets’, below.

Brokerage between Developed and Developing States

Buy-downs and debt swaps have become a central arena in which private donors and hybrid actors like MSPs undertake brokerage between developing countries on the one hand and MDBs or donor countries on the other. Buy-downs and debt swaps were first used in the health field through the initiative of private donors, particularly led by the BMGF. The Investment Partnership for Polio used US\$ 50 million of philanthropic funding from the BMGF, Rotary International and the UN Foundation to buy-down

US\$ 120–140 million in loans from the World Bank’s International Development Association arm, to be used in polio eradication (BMGF, 2003).

The revival of debt swaps in the mid-2000s and again post-2015 with the Debt2Health Programme of the Global Fund, in which the BMGF is an important player, has given the Global Fund strengthened brokerage status. The Global Fund Debt2Health initiative saw Germany cancel Indonesia’s € 50 million debt and Pakistan’s € 40 million debt in exchange for the two countries making investments that corresponded to half of their debt to Germany into the Global Fund. A similar deal was struck between the Global Fund, Australia and Indonesia for AU\$ 75 million of Indonesia’s debt (Global Fund, n.d.; Taskforce on Innovative International Financing for Health Systems, n.d.). In 2017, Spain joined the initiative, signing accords with Cameroon, the Democratic Republic of the Congo and Ethiopia, agreeing to cancel debt amounting to € 36 million in exchange for health investments totalling € 15.5 million in these countries (Global Fund, 2017). The trilateral nature of the debt swap legal agreements between the creditor, the debtor and the MSP formalizes the brokerage role of MSPs. The MSP is a legal party to the agreement and a beneficiary of the counterpart payment that the debt conversion agreement foresees (Brookings, n.d.).

Despite the promise of debt swap instruments as a way of unlocking additional development financing, they were already problematized as early as 2008. According to Cassimon et al. (2008), debt swaps may in fact be costlier to developing countries overall, at least in the immediate term. The divergence between the dominant narrative of the effective debt swap and the realities on the ground are traced to ‘the partly fictitious nature of the financial transfers, insufficient scale to trigger off systemic economic changes, and inappropriate conditionality clauses’ (ibid.: 1189). Debt swaps as introduced by the Global Fund into the global health agenda in 2007 were therefore considered by some to be the resurrection of a previously unsuccessful 20-year-old strategy, presented as an ‘innovative financing instrument’ (Pallares, 2017) after nearly a decade of hiatus.

Optimization of Development Financing

MSPs have been credited with having an optimizer effect by ‘[a]dvancing more integrated, efficient and effective approaches to financing’ (Hazlewood, 2015: 4). The World Bank Group notes that innovative financing comprises not only initiatives seeking to leverage additional funds but also those that purport to render development finance flows more efficient and more results-oriented (World Bank Group, n.d.). MSPs argue that innovative financing can ‘[lower] transaction costs by reducing fragmentation and duplication ... and [provide] more predictable multi-year funding commitments’ (Hazlewood, 2015: 4). A similar rationale, relying on business ‘creativity and innovation [being applied] to solving sustainable development

challenges' more effectively is often presented in support of partnering with the private sector (UN, 2015: para. 67). These wide-ranging claims have allowed market-based philanthropic actors to 'take the [financial] logic of leverage into all partnerships' and to concentrate development assistance efforts on the 'most cost-effective development and delivery mechanisms' by using MSPs (Mitchell and Sparke, 2016: 734, 741).

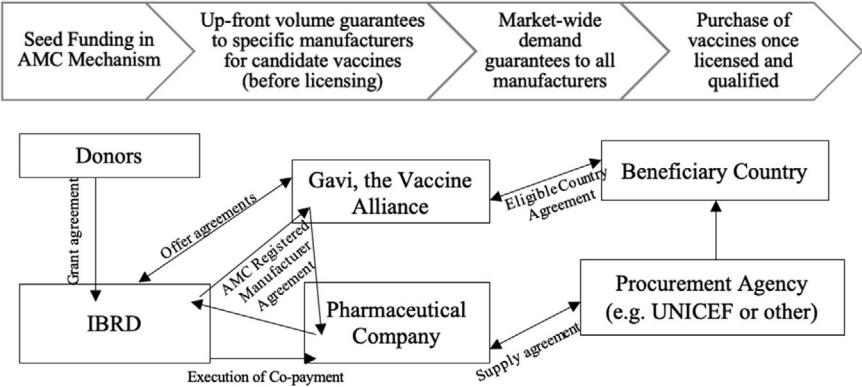
There are clear advantages to accumulating issue-based funding and having the flexibility to use this funding free from political pressure, thus preventing it from being diverted to more popular 'flavour of the month' issues (Erdem Türkelli, 2021a). In addition, multi-annual funding backed by voluntary contributions resolves the issue of legitimate spending priorities: the contributors allocate the funds specifically for that purpose and there is some predictability in ensuring the longevity of development interventions. Of course, in areas such as education, healthcare, gender equality and well-being that require longitudinal and sustained programming, MSP interventions can be advantageous if they can provide long-term financing, particularly in the form of grants. The caveat is that donor countries and developing country partners do not have to pledge allocations to the MSP on a permanent basis. As many MSPs pool resources first and use that pool for their programming, regular replenishments of contributions are needed. Yet, these contributions may not always materialize, 'creating an uncertain future both for developing country partners that come to depend on MSP resources as well as for rights-holders destined to be the beneficiaries of MSP programs and projects' (Erdem Türkelli, 2021a: 179).

Even within pooled financing, donors often choose to earmark their funding to concentrate on specific programmes, regions or populations (Graham, 2017). Despite optimization claims, the effectiveness of MSPs is hard to ascertain. For instance, 'lack of data and the complexity of attributing results to interventions make it still difficult to establish that the [GPE] has made a palpable difference in education outcomes in its partner countries' (Antoninis, 2015: 110). Earmarking allows donors 'to trace what their aid is buying at the country level' (Winters and Sridhar, 2017: 2); on the other hand, it may work against optimization objectives if the interventions do not foster a strong harmonization among donors and coordination with beneficiary countries. Hence, while promised as a benefit of their new financial actor status, the optimization function of MSPs is highly conditional upon factors surrounding the delivery of programmes and projects.

Building New Financial Institutions and Markets through 'Innovative Financing' Instruments

MSPs have been a primary site for the roll-out of so-called innovative financing instruments, particularly in the health sector (Atun et al., 2017). Some of these instruments, such as the International Finance Facility for

Figure 1. The AMC Mechanism and Main Legal Agreements



Source: Figure produced by the author, based on an analysis of Legal Agreements under the AMC for Pneumococcal Vaccine available from: www.gavi.org/investing-gavi/innovative-financing/pneumococcal-amc/manufacturers/supply-agreements

Immunisation (IFFIm), have emerged as new financial institutions. Others have contributed to building new financial markets in areas within the purview of development assistance. Private law arrangements form the backbone of the creation of new markets and institutions by MSPs. New financial instruments launched through MSPs require an increasingly complex and multi-layered legal architecture, dependent on agreements that bind the participating parties but operate largely outside of international public law commitments, such as human rights treaties or inter-state development cooperation agreements. Sponsored by MSPs, innovative financing instruments have taken different forms: up-front incentives and subsidies, front-loading mechanisms, results-based instruments and debt swaps.

Up-front Incentives and Subsidies

MSPs have been helping to create new markets through up-front incentives and subsidies from public and private donors to the private sector. These instruments have been used particularly in the provision of vaccines to developing countries through Advance Market Commitments (AMCs). Figure 1 provides an illustration of the AMC mechanism, based on the AMC for pneumococcal vaccines. The AMC for pneumococcal vaccines was launched in 2009 with a US\$ 1.5 billion subsidy from the BMGF and five donor states (Canada, Italy, Norway, Russia and the UK). It aimed to correct a ‘market failure’ due to ‘perceptions of insufficient demand or market uncertainty’ impeding the development of new pneumococcal vaccines against disease strains encountered in developing countries that were

resistant to existing vaccines (World Bank, 2009: i). In fact, several years before the launch of this AMC, the Center for Global Development had clearly spelled out the purpose of such interventions as *Making Markets for Vaccines* (CGD, 2005). Incentivizing private investment in vaccines needed in developing countries was considered contingent upon the creation of a market (ibid.).

The AMC mechanism for pneumococcal vaccines provides up-front private sector incentives and subsidies for the production of vaccines to be delivered to developing countries. Private legal arrangements between the different entities involved — such as the donor states, Gavi, the World Bank as a trustee, and vaccine manufacturers — are the backbone of the AMC. To benefit from the scheme, manufacturers first conclude an AMC-registered manufacturer agreement with Gavi and the World Bank (Gavi, 2018). Gavi's AMC donor funds for the purchase of pneumococcal vaccines are recorded in the World Bank's financial statements as designated assets, 'with a corresponding liability to provide the funds to Gavi for the purchase of pneumococcal vaccines' (ibid.: 38). The Gavi, through its AMC mechanism, then enters into supply agreements with manufacturers to fast-track vaccine development by increasing production capacity and uptake through predictable and affordable pricing. The pharmaceutical companies that first enter the newly created market get up-front volume guarantees. Even after a vaccine becomes available, the AMC market remains open; any manufacturer with a qualifying vaccine can introduce a bid to supply a part of Gavi's Strategic Demand Forecast (Cernushi et al., 2011). The AMC-registered manufacturer agreement between Gavi and the IBRD arm of the World Bank Group, on the one hand, and the manufacturer, on the other, is governed by the laws of England and Wales (Gavi, 2011) — a preferred jurisdiction to govern private contractual agreements due to its flexibility, often in favour of commercial transactions (Bhatt, 2020). As is often the case with investment agreements, dispute resolution is based on negotiation or, in the event of non-agreement, arbitration through the Permanent Court of Arbitration in the Hague (Gavi, 2011).

A new AMC mechanism through the Covax Facility was launched to respond to the COVID-19 pandemic (Gavi, 2020). The premise is that an up-front incentive will allow pharmaceutical companies to scale-up manufacturing capacity for COVID-19 vaccines and improve accessibility in low- and middle-income countries. Aiming to raise US\$ 2 billion using ODA from donor states directly or through 'concessional finance allocations from [MDBs]', the private sector and philanthropic foundations, the Covax AMC promises to 'give manufacturers confidence to invest in scale-up of manufacturing capacity for vaccine candidates in advance of their licensure and create economies of scale' (ibid.: 4). However, given the already clear global demand for a COVID-19 vaccine with an anticipated market value of US\$ 10 billion annually, the need to create additional financial instruments for up-front subsidies to the pharmaceutical sector is questionable (Kollewe, 2020).

In addition, an AMC per se does not guarantee accessibility for developing countries. In fact, ‘it is likely that the 92 ODA-eligible countries accessing vaccines through the AMC may also be required to share some of the costs of COVID-19 vaccines and delivery, up to US\$ 1.60 – US\$ 2 per dose’, despite the mobilization of ODA resources within the Covax AMC (Berkley, 2020). Furthermore, concerns abound as to whether AMC mechanisms are able to effectively foster competitive vaccine markets and negotiate favourable vaccine prices for developing countries. This has not been the case for the AMC for pneumococcal vaccines, which provided up-front subsidies predominantly to two multinational pharmaceutical companies (Pfizer and Glaxo-Smith Kline) without succeeding in sufficiently reducing the vaccine prices requested by these companies (Medecins Sans Frontières, 2020). Partial solutions like the AMC may also curtail debate on more structural solutions for access to COVID-19 vaccines such as the suspension of intellectual property rights or requiring ‘non-exclusive licences and technology transfer’ to be able to address production shortfall (Usher, 2020), particularly if the vaccines in question have been developed with public funding in the first place.

Frontloading Mechanisms

Frontloading mechanisms seek to provide a sizeable volume of development financing into an issue area in the immediate to short term, notwithstanding the fact that the intervention programmes may continue to run into the medium to long term. The first such innovative financing frontloading mechanism was IFFIm, launched by Gavi between 2005 and 2009 as a new financial institutional setup. IFFIm used donor pledges from Australia, France, Italy, The Netherlands, Norway, South Africa, Spain, Sweden and the UK over 10 to 25 years amounting to US\$ 6.5 billion to issue ‘vaccine bonds’, where a part of the pledged funds was purposed as repayment to bondholders (Gavi, 2019). Gavi dubs the IFFIm’s vaccine bonds ‘a socially responsible investment opportunity’ with ‘extremely good returns’ and high ratings from credit rating agencies (ibid.). These vaccine bonds seek to leverage long-term donor commitments to borrow in the short term from capital markets for immediate use in immunization projects (Dousté-Blazy, 2009). Another objective is to render vaccine markets more predictable for the pharmaceutical industry by outlining the long-term level of financial commitment in vaccines (NASEM, 2017).

The pledges from donors to IFFIm, unlike pledges in MSP replenishment conferences, are ‘irrevocable and legally binding’ (Gavi and IFFIm, 2019: 16). There is of course a conditionality attached to the payment of these legally binding donor commitments. In case ‘a programme country ... enters into protracted arrears with the International Monetary Fund’, donor payments are then reduced by the rate at which these countries are

Figure 2. IFFIm and Private Legal Agreements

Private Legal Arrangements underpinning IFFIm				
Accession Letter to Finance Framework Agreement (between the donor, IFFIm, Gavi & the World Bank) lays out the roles and obligations of each party in a formal agreement	New Grant Agreement (between the donor & Gavi) donor commitment to grant payments to Gavi - agreed grant payment schedule, which Gavi then assigns to IFFIm	Deed of Assignment (between IFFIm & Gavi) assigns rights, benefits, title and interest in and under the new grant agreement to IFFIm	Notice of Assignment & Acknowledgement (between the donor & Gavi) perfects the deed of assignment	Grant Payment Administration Agreement (between the donor, IFFIm & the World Bank) sets out the procedural & administrative matters governing grant payments

Source: Figure produced by the author, based on Gavi and IFFIm (2019: 14–15)

represented in the portfolio (*ibid.*). Existing donors making new pledges conclude additional grant agreements, deeds and notices of assignment, and grant payment administration agreements. The World Bank plays a trustee role in the IFFIm as it does in various other funds collected and delivered through MSPs. These multiple private law agreements are first prepared in draft form by the Gavi and the World Bank, then reviewed by the donor’s external counsel to ensure ‘that it has the capacity, authority and the necessary approvals to enter into the documents’, and by IFFIm’s lawyers to confirm ‘that the documents are binding and enforceable’ (Gavi and IFFIm, 2019: 15). Figure 2 gives an overview of the various bilateral, trilateral and multilateral private agreements involved.

Frontloading mechanisms are also being established in education. The proposed International Financing Facility for Education (IFFed) seeks to frontload US\$ 1 billion in guarantees, to be used to leverage private financing of up to US\$ 5 billion in its first five years, with an eventual target of US\$ 10 billion (Education Commission, 2020). IFFed’s focus will be on non-concessional financing to lower-middle income countries, thus covering countries that ‘graduate’ from concessional aid from MDBs and grants under the GPE to ‘short- to medium-term grant financing for particularly difficult situations [in emergencies and protracted crises], such as from the [ECW] fund’ (Education Commission, 2018: 19). Already supported by the European Commission, The Netherlands and the UK (Alba and Mathiasen, 2020), IFFed will use donor contributions as guarantees to securitize bigger credit portfolios from MDBs to be disbursed to education projects and programmes in developing countries, alongside direct donor grants. What the new fund under IFFed effectively creates is a new financial institution for frontloading development assistance to education. Yet, even commentators who believe in fostering ‘mechanism[s] to monetize

education outcomes [to] make education more investible for governments [with] quicker *fiscal* (not just social) returns' (Barder and Rogerson, 2018; original emphasis) have expressed scepticism about the need to create new financial instruments for objectives that may be achieved through existing mechanisms. In addition to questions around efficiency or fitness for purpose, there are financial risks for MSPs when they use frontloading mechanisms, including 'currency and interest rate risks, swap counterparty risk, donor payment risks, foreign exchange and credit risk' (World Bank, 2013: 38). These financial risks compound accountability challenges with respect to how limited financial resources are used in achieving their desired and defined objectives (Erdem Türkelli, 2021a).

Results-based Instruments

Results-based financial instruments such as social impact bonds, that have previously been used in donor countries including the UK, the United States and Canada, are beginning to make an entrance into the development field (Dey and Gibbon, 2018; McHugh et al., 2013). Now rebranded as 'development impact bonds' (DIBs), these instruments seek to create new financial markets through development interventions. DIBs are being adopted by GEF, the leading MSP in the environmental arena. One example is the recently approved Wildlife Conservation Bond (WCB) that will channel private investment into black rhinoceros conservation (GEF, 2020). The product development phase of the WCB was undertaken with support from the GEF which will cooperate with the World Bank as the implementing agency (GEF, 2020; World Bank, 2020: 10). The bond aims to 'catalyse a new frontier in innovative finance by attracting new risk investment into the conservation field' and 'allow for institutional investors to participate in a sector not historically considered' (World Bank, 2020: 7).

Colloquially called the 'rhino impact bond', the WCB will be a US\$ 150 million SDG bond that will be issued by the World Bank with a five-year maturity.³ While investors agree to forgo coupon payments, their principal is guaranteed. The GEF also guarantees so-called conservation success payments up to the amount of US\$ 13 million if the project achieves its pre-set conservation targets (World Bank, 2020). Although an additional catalyst effect to attract philanthropic grants had been foreseen, the 'sources and amounts' of such philanthropic capital remain 'unconfirmed' (GEF, 2020).

The possible replicability of rhino impact bonds for other species brings about concerns of 'nonhuman natures and nature dynamics ... being financialised through monetisation and marketisation' (Sullivan, 2013: 199, endnote omitted). Dempsey and Suarez (2016: 654) conclude that

3. Any bond that explicitly seeks to link capital investments to the achievement of SDG targets is now deemed an SDG bond.

‘returns-generating, profit-oriented, biodiversity conservation finance ... [is] an emergent but halting, precarious, and still largely promissory global economic sector’ that does not, as yet, translate into effective liquid conservation markets. Nonetheless, as Bracking (2020: 217) observes, ‘financialization has occurred when a rhinoceros, for example, becomes the asset underlying a species bond, where the supplier is paid interest by the purchaser, or borrower, on the initial capital exchanged, if the animal remains alive’.

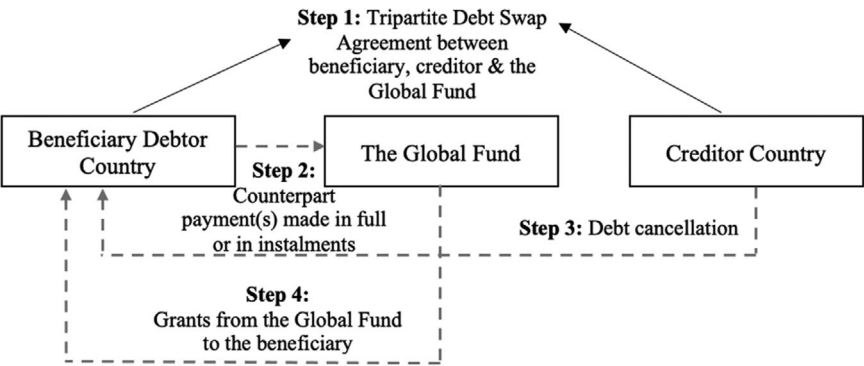
Buy-downs and Debt Swaps

As hinted at above, debt swaps, which first emerged in the 1980s and 1990s when NGOs such as the World Wildlife Fund and Conservation International bought the commercial debt of indebted countries in secondary markets at highly discounted rates, are now re-emerging as innovative financing solutions. Debt swaps experienced a surge in the early 1990s thanks to the Paris Club clause which ‘allow[ed] official public debt to be used in swap transactions with social, economic or environmental finality [reference omitted]’ (Cassimon et al., 2011: 142). Polio buy-downs facilitated by important philanthropic donors such as the BMGF, Rotary International and the UN Foundation, and the Debt2Health swaps brokered by the Global Fund, have promised new financial instruments

The Global Fund’s Debt2Health swaps, which have led to pledges of US\$ 142.4 billion and contributions totalling almost US\$ 136.7 billion, have been facilitating the cancellation of debt by creditor countries (Global Fund, 2020). To achieve this, the indebted developing country makes a counterpart payment to the Global Fund, which is then reinvested in that country’s domestic healthcare system in fighting HIV/AIDS, malaria and tuberculosis (Filipp, 2008). Legally speaking, the debt swaps are governed by tripartite contracts between the Global Fund, the creditor and the borrower countries and are to be concessional for the borrower country (Global Fund, n.d.). Each tripartite debt swap necessitates a separate international agreement with specific conditions. Technically, borrower countries have flexibility in terms of ‘counterpart payments’ in exchange for debt relief; they can disburse the amount as a one-time payment or schedule it in instalments corresponding to the debt repayment schedule to the creditor (ibid.). Figure 3 offers an illustration of the Debt2Health swap structure.

The trilateral configuration of debt swaps between creditor, indebted country and the Global Fund does not create a new financial market for debt but rather a new financial instrument in service of the MSP itself, which allows the Global Fund to tap into additional financial resources. The COVID-19 pandemic has already led to calls to use debt swap instruments for health in ways that attract ‘commercial creditors and impact investors’ in addition to creditor donor states (Hurley, 2020), which would ostensibly create new financial markets for debt. New debt markets can also be created

Figure 3. Debt2Health Swap Structure



Source: Modified from Kazatchkine (2009: 64)

through debt-for-nature swaps if undertaken directly by states as part of agreements on discounted debt buy-downs negotiated with creditors. That model re-emerged on the world stage in 2018 with Debt-for-Nature swaps by Seychelles in a plan that the country reportedly devised in partnership with GEF, the Nature Conservancy and UNDP (World Ocean Initiative, 2020).

MSPs offer to fill financing gaps, catalyse further financing for and broker on behalf of developing countries, and optimize development financing as new financial actors. When MSPs sponsor and advocate for the use of new financial mechanisms and instruments, such as up-front incentives and subsidies, frontloading mechanisms, results-based instruments and debt swaps, both their status as new financial actors and the new instruments they use create consequences linked to the financialization of development assistance.

CONSEQUENCES LINKED TO THE FINANCIALIZATION OF DEVELOPMENT ASSISTANCE THROUGH MSPs

MSPs have emerged on the world stage as partnerships between public and private entities that promise to accelerate efforts towards achieving sustainable development by providing additional economic resources and concerted efforts in specific issue areas and sectors. Once relying mostly on commitments from public and private donors, MSPs as new financial actors on the global stage now seek to compound the resources at their disposal, using so-called innovative financing mechanisms and institutional set-ups to create new financial instruments and new financial markets. In their four-in-one configuration in gap-filling, catalysing, brokering and optimizing, MSPs serve as conduits of a financialized development assistance model whereby the financial economy has become the quintessential means to debut,

roll-out and seek to intensify funding for development. There are overarching consequences firstly of MSPs acting as new financial actors, and secondly of the new financial instruments and markets that they seek to create.

The Consequences of MSPs as New Financial Actors

MSPs and other pooled funding mechanisms have allowed private donors to wield more influence and progressively acquire more bargaining power vis-à-vis not only developing countries but also international organizations (Graham, 2017; Reinsberg, 2017; Sridhar and Woods, 2013). While private donors promise more optimized financing solutions to developmental needs through MSP-based mechanisms, the voluntary nature of the funding introduces an inherent element of financial unpredictability (Sridhar and Woods, 2013). Furthermore, the instrumentalization of law further compounds the powerful position of private and hybrid actors such as MSPs relative to the governments and public in developing countries. Legal agreements allow MSPs to entrench the already unequal power relationships between donors and recipients of development assistance particularly by employing financing prospects as conditions and bargaining chips to extract privileges and immunities.

One poignant example is the ability of MSPs to broker agreements, giving them privileges under domestic laws equivalent to those enjoyed by international organizations. Some of the more powerful MSPs such as the Global Fund and Gavi were established as charitable or non-profit organizations but have been able to negotiate international organization status with tax exemptions and immunities. In April 2019, the Global Fund's new Privileges and Immunities Agreement (P&I Agreement) came into force, giving the institution and its personnel legal immunity as well as exemptions in ratifying partner countries⁴ (Global Fund, 2019). The Global Fund management had already begun to argue for immunities in 2009, noting the risks of taxation and currency restrictions, of litigation and related compulsory measures such as search and seizure of assets,⁵ risks to staff in the form of legal proceedings, detention and other political risks (Global Fund, 2014). The Board-approved P&I Agreement gives the Global Fund a wide measure of immunities and privileges including immunity from litigation, search and seizure alongside tax exemptions not only for goods and services but also for 'funds introduced into, acquired, or used in a country as part of, or in

4. These are Eswatini, Ethiopia, Georgia, Liberia, Malawi, Moldova, Mozambique, Rwanda, Senegal and Togo. The Global Fund had earlier negotiated privileges and immunities under domestic law in Switzerland, Uganda, the United States and Zimbabwe.

5. These were noted as dissuading the Global Fund from opening bank accounts in countries where it provides financing.

conjunction with, funding provided under a Global Fund grant’ (ibid.: 2). In addition, the Global Fund’s new Framework Agreements with host countries stipulate that ‘[f]ailure to provide [tax] exemptions or reimbursements [of taxes already levied] could result in withholdings of disbursements or deductions of grant amounts’ (ibid.: 3). The beneficiary state is thus compelled to provide tax exemptions and legal immunities in exchange for development assistance. As Clarke noted a decade ago, powerful MSPs can end up exerting ‘public power’ over global public goods such as health or education, which also means they are ‘increasingly capable of adversely impacting the rights of individuals’ (Clarke, 2011: 84). Already lacking in monitoring and accountability (Erdem Türkelli, 2021a; Winters and Sridhar, 2017), their newly negotiated immunities and privileges will move MSPs further away from the reach of existing domestic and international legal and political avenues of accountability.

The relatively more powerful position of MSPs as new financial actors in development assistance vis-à-vis developing countries is compounded by the brokerage roles they have come to play. Acting as brokers between states in ad hoc settings such as debt swap negotiations raises questions over MSPs’ legitimacy and legal accountability as middlemen, particularly because there is no public oversight of their activities. Although there might be a benefit to the indebted country of debt swaps if the discount rates are favourable, having to go through the MSP as an intermediary and having to earmark the discounted debt into particular interventions planned by the MSP constrains the policy space available to the indebted country. Given that many developing countries are currently facing sovereign debt crises (UN, 2020), debt swaps brokered through MSPs may multiply. A 2020 Policy Brief by UN DESA notes, for instance, that ‘[f]or countries which are highly indebted but do not have unsustainable debt burdens’, ‘debt-to-Covid/SDG swaps ... modelled on experiences from debt-to-health and debt-to-climate swaps’ could be considered (UN DESA, 2020). Such proposals compound concerns about the brokerage role of MSPs, particularly given that funds committed to health or other public goods in exchange for debt reduction have first to be paid into MSPs. There is an acute risk that resorting to debt swaps may obfuscate other more fundamental and structural proposals such as debt cancellation.

Another challenge with respect to MSPs acting as new financial actors in development assistance is finding avenues to tackle the deep-seated role of private actors, including for-profit enterprises and corporate or philanthropic foundations, in development policy making and implementation, at the expense of public policy making and citizen participation. In this respect, the so-called Gates model in healthcare has been the subject of critique (Storeng, 2014), noting that the BMGF’s status as second biggest donor at the WHO has swayed the organization to spend ‘a disproportionate amount of its resources on projects with the measurable outcomes Gates prefers’ (Huet and Paun, 2017). The COVID-19 pandemic has once again shown

that a predominantly private sector-informed approach that nonetheless relies on sponsorship through public financial resources becomes the go-to option in response to global crises necessitating rapid financial responses. The proposed solutions to the pandemic ultimately work to create market-based mechanisms geared towards further incentivizing the private sector. Yet, public financial resources continue to play key roles in enabling research and development into vaccines, therapeutics and diagnostics, including through the Covax AMC that deploys ODA from donors (Gavi, 2020). Despite this fact, even large pharmaceutical companies that received public subsidies have not committed to providing the COVID-19 vaccine at cost, creating concerns around profiteering (Wu, 2020).

The Consequences of New Financial Instruments and Markets Created through MSPs

MSPs have been at the forefront of promoting and expanding the reach of innovative financing mechanisms which lie at the heart of the financialization of development assistance. The discourse surrounding these mechanisms accentuates their proposed benefits while limiting discussion of the perceived risks mainly to financial risk, downplaying the very real socio-economic impacts such financing instruments may create. Because innovative financing mechanisms often rely on an array of private legal agreements concluded with multiple donors, that are simultaneously in force but may or may not have harmonized terms, there is an increased risk of fragmentation in development assistance policy. The 2019 report of the UN Inter-Agency Task Force on Financing for Development, which argues for the promised benefits of financial innovations, blended finance and financial technology (fintech), concedes that the development financing landscape is ever more complex and lacks an adequate regulatory structure. Specifically: ‘[f]inancial regulation ... does not incorporate environmental, social and governance risks ... [but] create[s] incentives in the financial system, including for lending and investments that advance, or hamper, achievement of environmental and social goals’ (UN IATFFD, 2019: 142).

The increasingly commanding position that financial institutions and modalities occupy in development both at the national and international levels has resulted in the ‘domination of financial criteria in the attribution of funds’ (Gabas et al., 2017: 20). Such technification can mask the existence of divergent interests and policies of different development actors, such as those of public actors tasked with protecting the public interest and those of private financiers (Gabas et al., 2017). The resulting situation endangers public accountability both to beneficiaries in developing countries and taxpayers in donor countries whose taxes fund public resources seeking to catalyse or leverage financial sector interventions (Erdem Türkelli, 2021a). Policy makers, regulators and the broader public both in donor

and developing countries should be acutely vigilant of the consequences of inadequate oversight and the resulting accountability shortcomings linked to the financialization of development assistance. They must also be alert to other consequences of the financialization of development assistance, including the ability of private or hybrid actors to exert a disproportionate influence on global developmental agendas by promising rapid financial responses to meet public needs, and the risk of new financial actors instrumentalizing legal agreements in ways that increase their own power. The main policy challenge ahead is to regulate, prevent and mitigate adverse social, environmental and governance impacts linked to innovative financing schemes that buttress the financialization of development assistance.

CONCLUSIONS

Proposed as one of the key means of implementing the 2030 Agenda and the SDGs, MSPs play central roles as new financial actors in shaping the legal and ideational structures of development assistance. MSPs have become frontline financial actors that initiate new financial markets and provide key financial instruments through which the financialization of development assistance occurs. This financialized model relies on the steady multiplication of new financial markets and instruments that increasingly dominate the development assistance arena in ways that expand the reach of capital into frontier markets and hitherto untapped sectors (Mawdsley, 2018). In this model, MSPs offer a ‘four-in-one’ proposition: filling financing gaps in issue areas critical to sustainable development, catalysing or leveraging financing from the private sector, brokering between developed and developing states in buy-downs or debt swaps, and optimizing development assistance by fostering cost effectiveness. This offer is rolled out through a complex and multi-layered architecture of private legal agreements that underpin the new financial instruments and mechanisms such as up-front incentives and subsidies, frontloading mechanisms, results-based instruments, and debt swaps. The resulting financialized development assistance model in which the financial economy becomes central to funding development has had adverse consequences. First, the model compounds the power, reach and influence of private donors and MSPs vis-à-vis both developing countries and international organizations. Second, it creates accountability shortcomings (Erdem Türkelli, 2021a) by downplaying or obfuscating medium- and long-term socio-economic impacts that may originate from the use of new financial instruments, given the lack of effective oversight mechanisms. Third, it runs the risk of exacerbating fragmentation in development assistance. Further research is needed to critically appraise the increasing power of new financial actors in development policy making and over developing states, particularly with respect to the roles of legal instruments and structures, and technification processes.

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