

EXECUTIVE SUMMARY

English summary of book “L’OMS en péril » (WHO in peril) in French, by the author, Yves Beigbeder¹.

In his Foreword, Dr German Velasquez (Senior Consultant for health and development, South Centre, Geneva) refers to the most acute crisis experienced by WHO since its creation: a crisis of credibility, a financial crisis, and a loss of control over its budget, when more than 80% of its resources come from voluntary contributions. Is WHO being privatized with the collusion or under the observation of Member States ? What is needed is a diagnosis, a clear definition of problems. One of the key elements for reform will be the authority given to the Organization under article 19 of its Constitution to “adopt conventions or agreements with respect to any matter within the competence of the Organization”.

In his Introduction, the author also refers briefly to the grave financial crisis of 2011, and to the credibility crisis concerning WHO’s management of the H1N1 flu pandemic in 2009-2010. WHO’s action on this issue has been reviewed by its governing bodies, other intergovernmental organizations, governments and observers. Has WHO maintained its statutory role as directing and coordinating authority on international health work while participating in public-private partnerships ? The other topics reviewed in the book are then mentioned: they do not cover all WHO activities. As an independent author, he has declared the absence of any professional or financial link with the pharmaceutical or other relevant industries, nor with WHO.

The first Chapter recalls the historical origins of WHO: the international conferences and conventions, the Pan American Sanitary Bureau, the Office international d’hygiène publique, the League of Nations Health Organization, and, more recently, the UN Relief and Rehabilitation Administration (UNRRA). The action of the former was necessarily hampered by the lack of reliable and scientific knowledge of the illnesses, and reflected the state of international relations of the time, dominated by European States, the USA and Latin American countries. The major concerns were to defend Europe against exotic pestilential illnesses, while imposing minimum interference with international commerce. These first efforts at international sanitary cooperation provided experience and elements useful to WHO.

The second Chapter deals with the creation and mandate of WHO. The Organisation was created under the influence of three myths: health as a condition to world peace, - the political neutrality of a health organization, and – a public international institution with no links with the private sector. The evolution of WHO was marked in part by the adoption of “Health for All Strategy” in 1978, - the victorious smallpox eradication campaign 1966-1977, the rise of its rivals. In spite of its assets, it was recognized that WHO could not tackle all problems.

The next six Chapters deal with specific issues.

¹ The book may be ordered at the publisher:” Editions de santé, Paris”, - or at Payot or Naville in Geneva, - or amazon.fr.

Public-private partnerships (PPPs)

Dr Gro Harlem Brundtland, elected as WHO Director-General in 1998 opened WHO to the private sector, on the same lines as Secretary-General Kofi Annan had initiated in 1999 a Global Compact between the UN and business, and had encouraged public-private partnerships.

The basic criticisms addressed to PPPs concern the presence of profit-making enterprises treated as “partners” equal to intergovernmental organizations and governments with decision-power concerning health policies. Financial resources of multinational companies and foundations are larger than WHO’s own, placing WHO in a dependent position. Conflicts of interests have been denounced, particularly concerning “independent experts”. Declarations of interests must be required and made public.

A few PPPs involving WHO are quoted: The Onchocerciasis campaign, the Polio Eradication initiative, Roll Back Malaria and vaccine schemes. Analysts and NGOs ask that the comparative advantages and added value of PPPs vs. risks and costs be assessed by independent experts. Others reject PPPs as being incompatible with democratic decision-taking, economic justice and right to health. They plead for adequate public financing of WHO, without having to depend on the private sector.

WHO maintains close and necessary relations with private sector industries, whose power is obvious and whose resources are essential. At the same time, WHO must maintain the major objective of “health for all”, mainly oriented towards South countries. Its governing bodies, and its secretariat, with the assistance of NGOs must ensure the necessary controls to protect the scientific and technical integrity of the Organization.

The H1N1 flu pandemic crisis

WHO has been accused by the medias and other intergovernmental organizations of having overestimated the risks of the illness under the influence or pression of the pharmaceutical industry and “independent experts”, themselves accused of close links with the industry.

After a reference to the H5N1 Avian Flu, the object and scope of the revised International Sanitary Regulations of 2005 show the obligations of States Parties and the heavy responsibilities of the WHO Director-General in declaring a pandemic. The decisions taken by WHO in response to the pandemic have been criticized in an inquiry by the Council of Europe, by the British Medical Journal and the Bureau of Investigative Journalism, followed by a resolution of 2010 by the Parliamentary Assembly of the Council of Europe and a resolution of 2011 by the Parliament of the European Union. Critical reports by France’s National Assembly and Senate were based mainly on the Flynn report of the Council of Europe.

The WHO Review Committee of May 2011 rejected most of the criticisms of WHO management of the crisis while identifying serious defaults and proposing improvements. WHO’s confusion concerning the definition of pandemics was acknowledged but WHO was exonerated from charges that commercial interests had

influenced advice given to WHO or decisions taken by WHO to declare the pandemic. However, serious doubts remained about potential conflicts of interests of experts in WHO advisory groups. A lack of transparency and poor communications were also to be blamed.

The financial crisis and reforms

WHO's financial crisis of 2011 has started a reform process. In March 2011, the UK Department for International Development only gave an "adequate" rating to WHO and recommended that the Organization improve its cost effectiveness and report better on the impact of its country interventions.

For 2010-2011, WHO's regular budget financed by Member States' set contributions amounted to only 17.3% of the Organization's total resources. The remaining 82,7% was to be financed by voluntary contributions from governments, other intergovernmental organizations, foundations, pharmaceutical companies, thus causing a loss of control over WHO's priorities and programmes. WHO's dependency on those external contributors amounts to a partial privatisation of WHO.

A reform plan of May 2011 submitted by the Director-General and approved by the World Health Assembly made general recommendations but did not specify which programmes should have priority over others. Dr Chan proposed to hold a World Health Forum in November 2012: specifics should be provided to the Executive Board session of January 2012.

Informal consultations have shown differences of approach between North and South on WHO governance and financing. Among these, increasing the normative role of WHO would be in the interest of South countries but is opposed by North industrialized countries and their industries. Increasing governments contributions to the regular budget is not a likely prospect.

The pharmaceutical industry and essential medicines

The first list of essential medicines was published by WHO in 1977. It is revised every two years. Its purpose is to provide to all populations access to essential medicines, and to ensure that these are safe, effective and of good quality, and that they are prescribed and used rationally. The World Health Assembly adopted in 1986 a revised drug strategy, but no attempt was made to initiate an international code of commercial practices concerning essential medicines. In 1988, the Assembly adopted the "WHO Ethical Criteria for Medicinal Drug Promotion". These are not an international regulation, but only general principles to be adapted by governments. A voluntary Code of Pharmaceutical Practices has been developed by the International Federation of Pharmaceutical Manufacturers' Associations.

A better access to essential medicines and vaccines is a necessity for developing countries. This requires price reductions and an extension of research and development of drugs to fight illnesses which are neglected by the industry. WHO and NGOs should continue to support these programmes and the respect of ethical criteria in the production and distribution of medicines. However, the industry, supported by

the industrialized countries, reject all interventionism and all international regulations. Whatever the difficulties, WHO should remain as the defender of health for all and the promoter of better access to essential medicines, including generic medicines, and price reductions.

This Chapter also lists several programmes or initiatives concerning the research of malaria medicines, accelerating access to antiretrovirals at reduced prices, drugs for neglected diseases, the WHO prequalification project.

Intellectual property and the right to health

Since 2001, in the domain of intellectual property and patents' protection, WHO has a new intergovernmental partner, the World Trade Organization (WTO). WTO is not a UN organization and its mandate, to promote free trade through intergovernmental agreements, is different from WHO's, and sometimes in opposition with WHO.

In 2001, the Declaration on the TRIPS² Agreement and Public Health (The Doha Declaration) affirmed the right of Member States of WTO to overcome the monopolies on patents when necessary to assure access to medicaments to the whole population. A new decision of WTO of 2003 specified when countries can import drugs produced elsewhere under compulsory licencing.

The Chapter describes in detail the case of compulsory licences issued by Thailand in 2006-2007, the opposition of the pharmaceutical industry, the USA, the European Union and Switzerland, - and the support of NGOs. The positions of WHO and of UNAIDS regarding the implementation of the Doha Declaration follow.

WHO's position of encouraging dialogue by States with the industry is criticized by NGOs. WHO should take position more openly on the TRIPS flexibilities. It should offer technical assistance to Member States, at their request, to facilitate the use of compulsory licencing. The Organization could encourage South-South partnerships to put together political, technical and financial resources of these countries. WHO should play a more active and visible role to remind governments and the pharmaceutical industry that the right to health must have priority over the demands, even if legitimate, of intellectual property and over the profit motive.

The industry and international regulations

The ILO has adopted 188 Conventions, while WHO has only adopted one, the Framework Convention on Tobacco Control, and one regulation, the International Sanitary Regulations. WHO has generally favoured issuing recommendations or resolutions, not legally binding, which it has no obligation to control nor sanction.

The negotiation and adoption of the International Code on the Marketing of Breast Milk Substitutes in 1981 were submitted to contradictory pressures by the industry and by national and international NGOs, a traumatic experience for the WHO secretariat (the USA voted against the Code). The Code is only a recommendation,

² TRIPS : Trade-Related Aspects of Intellectual Property Rights.

often ignored or by-passed by the industry. The NGO Coalition IBFAN controls and reports on the implementation of the Code by the industry and on national legislation.

Negotiations on the Framework Convention on Tobacco Control started during Dr Brundtland's term of office. It was adopted by consensus by the World Health Assembly in 2003 and entered into force in 2005. It showed the importance and relevance of economic determinants to health.

WHO had to limit itself to recommendations concerning the limit on free sugars in a healthy diet when faced with the vigorous opposition of the sugar industry. WHO has adopted in 2010 the "Global strategy to reduce harmful use of alcohol": alcohol was finally joining tobacco as the new formal "enemy" of WHO and public health, with the difference that only the excessive use of alcohol was condemned, not alcohol as such.

Should WHO make more use of its regulating powers ? Progress can only be obtained progressively. There are enormous obstacles: the free-trade advocates who reject any international regulations, rich States who want to keep international organizations under their control, the power of transnational industrial and commercial groups, the present state of structural weakness and financial dependency of WHO.

WHO managers have the difficult task of maintaining the objectives of the Organization and of promoting the right of all peoples to health. International regulations are an essential tool for this action.

Conclusion

WHO, as the only public health institution at the global level, has great assets. It represents the interests of all South and North countries and must find compromises between the exigencies of rich countries and the needs of poor countries. It has a strong mandate in the areas of regulation, surveillance of epidemics and fight against illnesses. Only WHO can convene the most competent specialists in the world in the scientific domains of its mandate, ask them to issue reports and recommendations which are recognized by countries' political leaders and scientific groups, and carried out by health services and laboratories. Only WHO has the mandate and capacity to develop, establish, and promote international standards with respect to food, biological, pharmaceutical and similar products. Its strength resides in its scientific and technical competence and its experience in fighting illnesses. It has a power of influence.

WHO should recover its position as the "directing and co-ordinating authority on international health work". Its present leaders will need to redefine a vision, which will conciliate the interests of the North and the South, restore confidence in the Organization, find regular financing, and ensure that "health for all" remains as WHO's objective and that the right to health is recognized.

Yves Beigbeder
November 2011