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Submitted by:

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RE: Call for inputs: Human Rights Council resolution 52/8 on promoting human rights and the Sustainable Development Goals through transparent, accountable and efficient public service delivery

Achievement of the SDGs and the 2030 Agenda require not only availability of the services necessary to deliver on those goals but also the commitment and infrastructure to get those services directly to the population. Accessible, affordable, quality health services and good working conditions for health workers are central to achievement of SDG3 Good Health and Well-being and is also necessary for everyone to enjoy the highest attainable standard of physical and mental health as provided in Article 12 of the ICESCR.

This input is submitted by a researcher part of the [Mapping Privatization](#) project, coordinated by People's Health Movement–North America. The project aims to identify the relationships between private companies, corporate board members, private equity investors, and private actor relationships to government to better understand the global proliferation of privatization, commercialization, and financialization of health. Unraveling this web of actors will better allow for efforts at regulation, enforcement, and accountability measures for private actors engaged in public health services delivery.

In the United States, unregulated financialization of health care services is outlandishly increasing health care costs and decreasing access. In particular, private equity investment in the health care sector puts the corporate drive for short term profits directly in conflict with individual and community health needs. The use of complex corporate hierarchies and limited liability corporations prevents holding decisionmakers accountable.

Regulation of private actors in public service delivery: health care

The lack of regulation of private actors in health care has created an environment fertile for commercialization and financialization of health. Hospital corporations, private equity actors, and nonprofit providers make decisions about health services delivery based on metrics not aligned with providing accessible, affordable, quality healthcare or SDG3. Rather, they lean into commercialization and financialization of health care through which reap extraordinary financial benefits.

So far, our investigation has shown that a major challenge of regulating private actors in public service delivery is getting a clear understanding of who the regulated party should be. For example, developing laws to regulate a single privately-owned health care facility does not ensure

that the ultimate owners are the subjects of regulation. This may pass any compliance burden to providers themselves and punish actors who are essential parts of service delivery rather than the private entity itself.

Promising policies, legislation, promising practices, or strategies and national, regional or local processes

United States senators proposed a [comprehensive package](#) of regulations to regulate private equity in the United States to curtail the damage private equity investors cause to consumers, workers, and communities. Promising steps that may be applied with regard to public services, including public health services are:

- requiring private investment funds to share responsibility for any liability incurred by the companies they control
- banning outsourcing of jobs and investor dividends for two years after a company is acquired to combat extractive behavior
- requiring private equity firms to prioritize worker pay (pension, severance) in bankruptcy

Two other proposals in the United States Congress included provisions that would address the challenge of determining who would be the subject of regulation. The [Healthcare Ownership Transparency Act](#) and the [PATIENT Act of 2023](#) both included disclosure requirements for ownership of hospitals and other healthcare facilities owned by private companies or investment firms.

A single policy or regulatory approach is unlikely to be sufficient to contain the behavior of private actors in health care nor endow public authorities with the necessary oversight or enforcement power. With regard to private equity in health care, Julia Costich of the University of Kentucky School of Law suggests a layered strategy that ultimately renders the healthcare investment environment less attractive, especially to private equity firms. Dr. Costich suggests:

- curbing abuse of limited partners, usually institutional investors, by general partners who aim to maximize investment returns
- limiting tax benefits and/or loopholes that private equity investors enjoy
- requiring a minimum duration of investment which would discourage shorter term investments aimed at increasing earnings of the entity.

Public health services delivery promotes human rights

Over the past several decades, the entrenchment of private actors in healthcare delivery has deepened with the ease of commercializing healthcare and using healthcare facilities as financial instruments for incredible profit and return on investment. Achieving SDG3 requires that health services be publicly delivered and overseen to ensure quality and accessibility for everyone.

The movement Our Future is Public [recommends](#) three strategies aimed at rethinking the current approach to public services, which can serve as a vehicle for achieving human rights for all. Their challenge to authorities in local and national levels and also world leaders requires dismantling of the current balance of power in relation to essential resources and a human-rights based approach that ensures civic participation in decisionmaking. They put forth specific guidelines concerning health:

- Governments must center justice and principles of human rights (rather than market logic) to dismantle the damage caused by the privatization and commercialization of health systems
- An equitable rebuilding of health systems equitably requires decolonization of the power structures and institutions that determine health at national levels and in the global health architecture.
- Policy and associated accountability mechanisms must be developed and implemented collectively, with public participation, to ensure equity
- Meaningful efforts towards [financial justice](#) can deliver the financing necessary for strengthened public health systems.

Private actors engagement in public services has lead to a deterioration of people's ability to enjoy human rights and are being revealed to be a setback to achievement of the SDGs and the 2030 Agenda. Clearly identifying private actors for the purpose of regulation and enforcement procedures and taking concrete steps to transform current power relations that impede public ownership and equity in service provision are necessary to move towards achievement of the SDGs and human rights for all.