GOVERNING THE PUBLIC-PRIVATE-PARTNERSHIPS OF THE FUTURE: LEARNINGS FROM THE EXPERIENCES IN PANDEMIC TIMES

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Summary: When observing countries' responses to COVID-19, conclusions can be drawn on the modalities, successes, failures and governance challenges of partnerships between the public and private sectors during the pandemic. In the United Kingdom, Israel and Austria, these partnerships have contributed substantially to the overall emergency response, albeit with gaps and weaknesses in their structures and processes. These have differed from those of typical public-private partnerships. To be sustainable, partnerships need to be based on key principles of good governance, notably transparency and fairness as well as equity and social justice, all of which may be strengthened both during and post-pandemic.

Keywords: *Public-private partnerships, Governance, Transparency, COVID-19*

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Introduction

Since the onset of the COVID-19 crisis, it has become clear in many countries across the European region that government departments and public sector bodies were not sufficiently equipped to effectively respond to this public health emergency. Private sector capacity has made major contributions and rapid, innovative solutions where private actors working in partnership with the public sector were critical to strengthen some existing services and develop new ones. At the same time, the lack of transparency and inefficiencies also became apparent. In the long term, it is crucial to assess whether the introduction of such partnerships, creates or exacerbates social and health inequalities.[1]

The scope for these public-private partnerships (PPPs) has ranged broadly across health system elements. Examples include collaboration at national and international levels on the research, development and deployment of COVID-19 vaccines; providing personal protective equipment (PPE), medical equipment and ICU surge capacity in

hospitals; developing and implementing applications for surveillance and monitoring; increasing testing and laboratory capacities.

> transparency remains a key safeguard to enable subsequent scrutiny

Many of these partnerships between public and private actors worked efficiently to speed up research by using public funding, to enhance production facilities, to streamline approval and administrative processes and to make planning for future supplies more efficient, but there have also been significant challenges. Relying on such partnerships in the long term could potentially weaken existing public structures, which are commonly the main foundation for public health responses.[2,3]

Governance issues played a critical role in their successes and failures. This paper examines selected examples of PPPs, aiming to enhance the understanding of these arrangements in the context of a public health emergency as well as of the governance aspects that have proven indispensable to these in the response to COVID-19.

Conceptual aspects and principles of good governance of PPPs

PPPs are typically thought of in terms of large infrastructure projects. They are understood as long-term (i.e. running for years or several decades) working arrangements based on a complex contractual commitment "between a public sector organisation with any other organisation outside the public sector".[4] Essentially, they involve the sharing or reallocating of risks, costs, benefits, and responsibilities between public and private partners to provide services.[5] PPPs are argued to have advantages over traditional public sector projects by improving the design of a public service and enhancing its quality, while delivering value for money and increasing the efficiency of public investment,[4] provided that the right institutional capacities and processes are in place. The *governance of PPPs* comprises rules and procedures that define the incentives and requirements guiding the strategies of the various stakeholders that engage in a PPP, including a range of complexities and difficulties in making PPPs work effectively on different levels. Criticism of PPPs puts them in the context of other neo-liberal reforms and the retreat of the state from its social obligations, leading to the commodification of health, inequities and even inefficient systems.[2,6]

There are various models of good governance for PPPs. Drawbacks of PPPs in the absence of effective governance might include unbalanced risk sharing thus high risk for wasting public money, while still being profitable for the private sector. Other concerns might be over creating hidden debts, corruption, and distorting public policy priorities. The United Nations Economic Commission for Europe's guidebook identifies the following core principles for good governance of PPPs:[7]

- *Participation* (involving stakeholders);
- *Decency* (undertaking the partnership without harming third parties);
- *Transparency* (taking and communicating decisions clearly);
- *Accountability* (being responsible for actions and outcomes of partnership);
- *Fairness* (applying rules equally to everyone); and
- *Efficiency* (using human and financial resources without waste, delay or corruption).

Similarly, the Organisation for Economic Co-operation and Development (OECD) highlights three overall processes as critical for successful PPPs:[8]

- establish a clear and legitimate institutional framework;
- ground the selection of PPPs in value for money; and
- manage the budgetary process transparently to minimise fiscal risks and ensure the overall integrity.

In practice many of these directives are hard to fulfil; market failures such as cream-skimming, duplication of services and access problems can be the consequences.

PPPs are context-specific, and a product of policy and political cycles. Indeed, while forms of the private-public mix in health care are emerging in countries, their specific form depends on both the local context and the global changes in the political economy of health. The COVID-19 pandemic has created a unique set of needs and pressures for partnerships between the public and private sectors. Building on examples from three countries, the following sections look at 1) the types of PPP created during the pandemic, and what insights they provide for the role and shape of PPPs during a time when many countries declared national emergencies, and 2) to what extent core governance principles and processes also apply in this extraordinary context. It concludes with an outlook on lessons learned for post-pandemic opportunities.

Examples of partnerships to counter the challenges of the COVID-19 pandemic

There have been PPPs in all areas of the emergency response during COVID-19, focusing on surveillance, public health prevention and mitigation measures, diagnostics, therapeutics and vaccination in countries. The following examples illustrate some of these, to provide an understanding of the scope, aims and outcomes of PPPs newly established during the pandemic.

A) United Kingdom – expanding the supply of PPE

A key area where the UK government sought active cooperation with the private sector was on supply of PPE, for which the COVID-19 pandemic produced an urgent need.[9] In late March 2020, the national government established a new supply structure aiming to rapidly source and distribute PPE from a combination

of existing and new suppliers, whether recommended by government contacts or those who offered help through a government online portal. This supply structure used streamlined procurement procedures, with the competitive dimension of tendering reduced or eliminated, and simplified oversight within government. Arguably, this enabled public payers to act in a more expedient and agile way. At the same time, it is important to consider the extent to which this element of fast-tracked contracts to government-recommended suppliers is commensurate with the notions of transparency and accountability for the disbursement of public funds.

> consideration of good governance principles and mechanisms is pivotal

The process was largely successful, although there have been widespread reports of local difficulties and shortages of PPE. Moreover, although there have been some instances of PPE being purchased which has proved unsuitable for its intended use, the government estimates that this affected less than 1% of the items of PPE purchased.[10] There has, however, been a lack of transparency about the contracts that have been awarded, with many awarded without competitive tendering or not being published within the normal timelines. Concerns about transparency and due process was exacerbated by the creation of a "high-priority lane" for potential suppliers suggested by ministers, Members of Parliament and other officials, which resulted in contracts for a much higher proportion (around ten times) of potential suppliers than those identified through the normal lane.[10] The cost of the PPE purchased has also been significantly higher than before the pandemic, although it remains unclear how much of this is due to the much greater competition for limited supplies, and how much due to the purchasing approach taken.[9]

B) Israel – monitoring waterwaste and post-vaccine surveillance

One example from Israel has been the partnership between the Ministry of Health's (MoH) Central Virology Laboratory with the private company Kando in the area of surveillance and early warning for SARS-CoV-2 circulation through the monitoring of urban wastewater systems. In May 2020, Kando approached the MoH to initiate a sewage surveillance project. The project was piloted, and when the model proved to be effective, expanded to 14 cities in October 2020. In collaboration with two public state universities, Kandu is responsible for taking sewage samples, while the universities perform the virologic testing, analysis, and provide the diagnoses to the MoH. The MoH and universities validate the results and combine them with epidemiological data.[11] [12]

This collaboration was promoted by the "Control Centre of the COVID-19 task force" of the MoH as an attempt to enhance the surveillance of COVID-19 during the outbreak and maintain it for the long term. During the pilot, Kando provided the equipment, charging only for the sampling services. At the time of writing, there are ongoing negotiations to expand the system to the national level.[13] While this collaboration was shaped with the participation of different stakeholders from its initiative, it is important to remember that the context of the pandemic necessitated a less standardised decision making process, and further deliberation is needed to turn this project into a more organised and long-term endeavour.

Another partnership in Israel is the epidemiological evidence collaboration agreement between the Israeli Government and Pfizer, signed in January 2021. The partnership aims to measure and analyse epidemiological data arising from the rollout of Pfizer's COVID-19 vaccine, primarily to determine whether herd immunity is achieved after reaching a certain percentage of vaccination coverage in Israel and to conduct high level post-marketing phase IV surveillance for efficacy and side effects.[14]

The agreement followed relevant regulatory requirements of the health system, including patient's rights and privacy protection laws. Following privacy concerns in the population once the agreement was made public, details were partially published on the MoH website. It resembles Israeli standard clinical trial agreements between public research entities and private drug manufacturers. According to the agreement, in early January 2021 Israel purchased from Pfizer sufficient doses to offer inoculation to its entire population in a short period of time, with Pfizer guaranteeing adequate supply. The MoH provided Pfizer with aggregated and anonymised epidemiological data to study population immunity reached through the vaccine. Data analysis and the publication of results were conducted jointly and published in academic peer review journals.[15]

The two parties had been working on the agreement since early in the pandemic, and the government took the initial risks of this vaccine not being approved or effective. The agreement enabled Israel to vaccinate in record time, contributing to reducing COVID-19 mortality and morbidity.[20] Pfizer gained data that facilitated the completion of phase IV of the COVID-19 vaccine trial. Several NGOs and think tanks in Israel have raised other concerns such as who owns the data and who will gain from this, and similar contracts between non-profit public health funds and pharma companies.[16]

C) Austria – contact tracing

When the contact tracing app *'Stopp Corona'* was released in late March 2020, Austria became one of the first countries in Europe to offer a contact tracing app for COVID-19 cases. The app was developed independently by the Austrian Red Cross, in a partnership with the private consulting company Accenture as the project management lead. Funding for developing and operating the app was initially provided by the private

UNIQA foundation. The app was presented to the Austrian government for endorsement. The Austrian MoH included it in the government's wider COVID-19 containment strategy and, following a government decision in July 2020, decided to take over the funding until the end of 2020.

The app has been downloaded 1.4 million times (as of mid-April 2021), representing around 15% of the country's population.[17] In comparison, a similar app in Germany has been downloaded by around one third of its population (ibid.). The ongoing technical development of the app is decided by the *'Stopp-Corona-Plattform'*, which includes representatives from different civil society stakeholders (e.g. government, health and social care, data protection, faith groups). The Red Cross remains in a decision-making position, and Accenture as the project manager. This set-up aims to improve the transparency, degree of inclusiveness, and public's approval of the project, hence increasing the use of the app, after issues regarding the public trust in the data protection and storage as well as on the voluntary nature of the app were identified as some of the major barriers to uptake.[18]

Learnings, shortcomings and challenges of PPPs during the COVID-19 pandemic

As these and other examples show, different partnerships between the public and private sectors have contributed to containing, mitigating and suppressing COVID-19. While evidence on their effectiveness is not yet available, many have demonstrated the potential for outcome-focused, creative ways of mobilising skills, funds and capacities to help achieve public health goals.

These partnerships have mostly not followed the typical model of PPPs as described in the introduction. Tension between the necessity to partner and act swiftly, while attempting to fulfil good governance requirements such as equity, competition and transparency, has shaped different practices during the pandemic. First and foremost, the time horizon for these arrangements has been very different to conventional PPPs: they were established and performed rapidly during the weeks and months of the emergency response, instead of over years and decades. Consequently, these partnerships have not typically been formalised through the complex contractual arrangements that often characterise PPPs (even in the field of research and innovation funding). Rather, they have been put in place through accelerated exceptional procurement procedures, often reducing or eliminating standard processes (e.g. tenders) without following other validated governance conventions.

Secondly, the private sector's innovation supply push played a more important role in the demand formulation than usual. This overburdened government actors, who are used to procurement when public demand is already clear. Many MoHs were overstretched with filtering innovative ideas while figuring out what the public sector demand in the crisis situation may actually be.

Thirdly, rather than seeking calculated risk sharing with the private sector, governments have frequently acted during the pandemic to take on additional risk themselves, in particular through investing large amounts of funds with a much higher uncertainty regarding the returns and outcomes as well as the value for money involved than has been the case pre-pandemic. COVID-19 has created a high-risk environment, where the private sector has borne entrepreneurial risk in search for returns from public contracts, while the government has accepted risky procurement and partnerships. Neither parties have had the necessary time and resources to deliberate and formalise risk-sharing in long-term PPP contracts.

On the one hand, the speed and flexibility with which many PPPs have been established and functioned during the pandemic have made a valuable contribution to overall response efforts. On the other hand, the reduced procedures and increased acceptance of risk by the public sector raise questions of equity, privacy, and value for money, and hence whether such models are appropriate and sustainable in non-pandemic times. While simplification of procedures is understandable and necessary during an emergency period, transparency remains a key safeguard to enable subsequent scrutiny, and this transparency has been widely lacking during the pandemic. This deficit of public information in many countries on the exact features of these PPPs hinders any assessment of how well they have performed, how fair the processes were that put them in place, and the value they represent. Beyond evaluating their immediate effects, follow-up should also assess their long-term sustainability, impact on capacity in the public sector, and their influence on health inequities and social justice.

Prospects for sustainable, well-governed PPPs post-pandemic

The pandemic created a unique set of circumstances, and we should be cautious in drawing lessons for PPPs more generally. Nevertheless, this period has shown the ability of both sectors to collaborate towards meeting shared goals under heavy time pressure and uncertain legal conditions. The full degree of success is yet to be assessed, requiring continuous monitoring and evaluation. However, early insights are already available regarding both successes and concerns, as highlighted by the country examples and below.

One key area concerns how outcomes were achieved during the pandemic through innovative solutions and flexible forms of collaboration between public and private partners. This contrasts with the notoriously complex and time-consuming character of traditional PPP contracts, and aligns better with perspectives on how hybrid spaces of collaboration between public and private sectors can help to facilitate innovation.[19]

PPPs will remain an important component of the arsenal underpinning governments' strategies throughout the recovery phase of the pandemic as well as for future threats. For instance, the G7's new partnership on pandemic preparedness includes governments, international organisations and industry.[20] The PPPs of the future may combine the best of both worlds: a long-term perspective and shared risk, as well as fast reaction times in case of crises. Further evaluation is needed to

assess the potential of such fluid forms of partnerships – what these are, what they can achieve for the public good and under what conditions. Equally important is to see that the public health sector is funded in sustainable ways that enable strong public health systems to emerge and react to emergencies.

In order to maintain public trust in such partnerships, consideration of good governance principles and mechanisms is pivotal. While streamlined processes are appropriate during an emergency phase, and there may be value in more flexible forms of cooperation, transparency remains of immense value in enabling the subsequent scrutiny that can help to maintain trust and support learning. The decisions made by public and private actors during emergency periods can have a direct and long-term impact on equity in a country, and these innovative partnerships may become a model for the future. Considering influences on social and health equity is crucial as well as understanding who is carrying the risks and who is gaining from such arrangements. Transparency is thus not only a value in itself shaping organisational performance, but is linked to other key principles of good governance, such as participation, accountability, efficiency and fairness. Its shortfall can lead to the failure of a PPP and result in a loss of trust by the public, undermining overall efforts of a government's emergency response.

As European countries are emerging from the height of the pandemic, there is an opportunity to learn from the novel PPPs that have emerged during this emergency period, both to improve performance, and safeguard against inequities, and to ensure the public's trust in governments working with the private sector. These lessons can also help to reshape governance frameworks for PPPs for the future, both for peacetime and for pandemic preparedness.

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