The Report of the High-Level Panel - Strong and Thought-Provoking, but with Worrying Flaws

The Report of the High-Level Independent Review Panel that the Global Fund released on 19 September is anything but dull. It is easily the most high-profile and frank review that has ever been conducted of the Global Fund. Indeed, it represents, to the best of our knowledge, the first time that any global-level funding institution has commissioned and published such a candid look at itself.

Many of the observations and recommendations in the report of the High-Level Panel (HLP) are worthy of very serious consideration. However, other observations and recommendations raise as many questions as they answer: Some appear to be based on insufficient analysis, and some suggest an incomplete understanding of how the Fund has to operate in partnership with many other players, or of how the Fund was always intended to be different from traditional funding agencies.

And surprisingly, the HLP Report provides no opinions on how serious or widespread fraud is among Global Fund grant implementers, or whether the Global Fund has a greater or lesser problem in this regard than do other major donors.

What we like concerning the Panel's observations

The Panel correctly recognised that the Global Fund is a vital part of health improvement efforts in many countries, and that its failure would bring tragic consequences.

The Panel went on to point out that while "country ownership" is a founding principle highlighted in the Global Fund's 2002 Framework Document, there does not appear to be a shared perception about what the term means in practice. And it noted that in some countries, the Country Coordinating Mechanism

(CCM) has asked for and received more money than the country could use efficiently, thereby creating an incentive for the government to shift its own resources away from the three diseases.

We also agree with the Panel that the group of Global Fund board members representing implementing country governments has little institutional memory and a muted presence; and that the Board should reconsider whether large, quickly growing and powerful economies – such as China, India, Brazil, Russia and Mexico – should be eligible for funding.

The Panel was right to say that there are serious flaws in the LFA system. The Panel pointed out, for example, that the Global Fund has not assigned the greatest amount of LFA effort to the countries with the greatest problems; and that the Fund has generally treated the LFAs as contractors rather than partners. We support the Panel's conclusion that the Global Fund needs to use the LFAs more effectively.

And we think that the Panel was accurate in its assessment of CCMs – correctly acknowledging the accomplishments of the "CCM model," while recognising the model's limitations. Thus, the Panel said that with CCMs, the Global Fund has made ordinary and expected what was unthinkable in dozens of nations ten years ago. On the other hand, it points out that CCMs range from highly functional to completely ineffective; and that in many countries, the real decision-making over what goes into a Global Fund proposal is restricted to governments and insiders on the CCM.

What we like concerning the Panel's recommendations

We like the Panel's recommendations to increase the number and responsibility of fund portfolio managers, to assign the most-experienced of these to work on the most difficult and risky countries, and to reinforce the "country team approach" (although more work is needed on this last point, because the country team approach appears at times to have slowed down, rather than speeded up, decision-making).

Among the other recommendations that we support are that the OIG should continue its vigorous targeting of fraudulent use of grant funds, but that it should produce its reports more quickly and behave with greater sensitivity and diplomacy when conducting audits; that the OIG should primarily focus on grants from Round 6 (2007) onwards; and that the OIG, the Secretariat and the Board need to work together more effectively.

We also like the recommendation that the Global Fund should introduce a more iterative grant application process. The Panel proposed a detailed two-stage process. The concept is good (and is one that the Secretariat had been working on for some time). The details, as suggested by the Panel, require more discussion. Whatever process is implemented should not become overly bureaucratic and cumbersome.

What worries us concerning the Panel's observations

Perhaps our most serious concern with the general approach of the HLP Report is the fact that different options for reform are not discussed. We would have expected to see, at least for the most important issues discussed, some options presented and explored (i.e., pros and cons for each), and then a considered view on which of these the Panel recommends.

At the outset of the HLP Report, the Panel observed, first, that austerity among the donors makes the Global Fund more vulnerable now than at any time in its history, and second, that "the halcyon days of ever-increasing budgets for global health are over." We agree with the first observation. However, with regard to the second, the fact that donors are not currently increasing how much money they give for aid in general, or for health in particular, does not automatically rule out their increasing their pledges to the Global Fund.

The Panel developed and made extensive use of a matrix that classified every country according to "risk" and “burden.” Unfortunately, the Panel made a rather basic error in its formula for computing burden, as a result of which the HLP Report showed that Namibia is the country with the greatest burden in the world and that Lesotho has a lower burden than Malaysia. This error involved mistakenly assuming that as a country’s poverty level goes up, its “burden” goes down rather than up.

We question the Panel’s view that the Voluntary Pooled Procurement (VPP) process is effective. We have heard reports that the VPP is getting slower and slower; and that small countries with small orders do not get good service and have a very hard time communicating with the VPP.

We also question the Panel’s view that an insufficiently rigorous scrutiny of budgets in proposals allows for padding, easily exploited post-approval. This may have been true in the earlier years; but we suspect that now it is rarely, if ever, true.

What worries us concerning the Panel’s recommendations

We have concerns about several of the recommendations in the HLP Report. Below, we describe our major worries. (Note: Aidspan has also prepared a more detailed critique of the recommendations in the HLP Report, available here.)

The Panel significantly exceeded its mandate and, in the process, spread itself too thin.

Oddly, even though the HLP Report and its 19 annexes cover 154 pages, nowhere does the Report include, even in summary form, the three-page Terms of Reference (TORs) that the Fund’s Board specified. Those TORs gave the Panel a relatively constrained mandate, which was to review the Fund’s “risk management, financial and fiduciary control and oversight mechanisms.” (The TOR’s are available in Annex 1 of the Board’s decision to establish the panel.)

But the Panel went considerably further, and ended up making recommendations on everything from how the Board’s committees and their work should be completely reconstructed to how mobile phones should be used by grant implementers for data-tracking. The Panel has not made a convincing case that the Global Fund needs to redesign such a broad range of its procedures at the same time as it is fixing problems related to financial controls and oversight. Many of the Fund’s grant implementers are getting tired of the constant changes in Global Fund procedures.

As a result of exceeding its mandate, the Panel did not do as good a job as it could have in the core areas specified in its TORs, and it made many recommendations in areas where it appeared to lack expertise. In some areas, it failed to show the evidence on which it based its recommendations.

As a further consequence, some of the Panel’s recommendations do not appear to have been fully thought through. For example, the Panel suggested that fund portfolio managers should spend 40% to 50% of their time visiting the countries for which they are responsible. This suggestion appears to have been a last-minute effort by the Panel to come up with a compromise between those who supported the idea of the Global Fund developing a staffing presence at the regional or country level and those who opposed it.

Another example is the recommendation that when national drug procurement, storage and delivery systems do not meet “international standards,” the handling of these tasks should always be outsourced to non-national – which almost inevitably means, Western – institutions. This recommendation was much criticised because it would result in establishing parallel systems instead of building the capacity of national systems. (To its credit, the Panel backtracked on this, but only after the report was released.)

Yet another example of something not fully thought through is the recommendation to place a small team of full-time professional employees in the Chair’s home-country office, reporting to him or her and serving as the main channel of communication between the Board and the Fund Secretariat. This recommendation means that the professionals in question would change countries every two years with the change of the Board Chair. There would also be a risk of tensions between those professionals and senior staff in the Secretariat.

The Panel was not clear about whether and how risk should influence grant amounts.

The recommendations in the HLP Report are very unclear regarding whether and how risk should be a factor in determining how much funding each country should receive. The Report said that “based on [risk]…, the Global Fund’s Board [should] establish an allocation of funding according to categories of programs and/or countries and/or interventions.” This is very vague. If it means that high-risk countries not only should be subjected to higher levels of oversight, but also should be eligible for less money than other countries, we have a problem with that – particularly in cases where high risk countries also suffer from a high disease burden and have limited other sources of funding, and thus could achieve a high impact with Global Fund grants.

Some of the Panel’s recommendations could result in the Fund becoming more of a traditional, top-down donor agency.

The Global Fund was set up to promote “country ownership,” in which countries use partnership-based CCMs to determine priorities and to oversee grant implementation. The Fund has always chosen not to base its staff in the countries where the grants are being implemented, in part because of a fear that this would increase costs and negatively impact the spirit of country ownership.

By contrast, traditional donors operate in a relatively directive and top-down manner – deciding how much money they will spend in which countries on what issues, and then, within each country, how the money should be administered and by whom.

The Panel’s primary focus was on how to reduce the risk that grant funds will be mis-used. As a result, and perhaps inevitably, the Panel proposed that the Global Fund become much more assertive. There are certainly times when this could be appropriate in the context of oversight and of enforcing performance-based funding. But the Panel also proposed a more assertive role in other contexts. For instance, the Panel recommended that, for each group of countries, the Global Fund specify a maximum amount of funding even before proposals have been submitted by those countries. (This is essentially how the World Bank divides up allocations from its International Development Association funds.) The Panel also suggested that the Fund set budget ceilings for individual components of individual grants after concept papers have been submitted and before proposals are finalised. These actions would move the Global Fund away from having grants that are country-led and demand-driven, and could cause the Fund to become more of a traditional, top-down donor agency.

Some of the Panel’s recommendations could result in the Fund becoming less effective.

We are concerned that the Global Fund’s new-found obsession with risk, and some of the Panel’s consequent recommendations, will lead to Global Fund procedures becoming too rigid, and to Secretariat staff becoming micro-managers as they nervously attempt to minimise and even to eliminate risk. This process has already started. For instance, before PRs or their SRs can carry out any Global Fund-financed training sessions, they now have to create, and obtain approval from the Secretariat for, training plans that are sometimes hundreds of pages long. This makes a mockery of the statement in the Fund’s Framework Document that the Fund should use a “simplified, rapid, innovative process with efficient and effective disbursement mechanisms, minimizing transaction costs.”

This year, PR and SR staff have often told us that they find the Global Fund more difficult to deal with than most other funding agencies. They complained that they find themselves devoting more attention to compliance than to implementation and impact. We worry that this will lead to increasing numbers of frustrated PRs, SRs and partner agencies, and their employees, withdrawing from, or declining to offer themselves for, Global Fund-related work. All this will reduce the Global Fund's effectiveness.

What we think is missing

Even the most careful reader of the HLP Report is unable to conclude how serious or widespread fraud is among Global Fund grant implementers, or whether the Global Fund has a greater or lesser problem in this regard than do other major donors.

The whole sequence of events that ended with publication of the HLP Report started with an Associated Press story on 23 January 2011 that, despite being based only on OIG findings in a small number of countries, had the dramatic and unproven headline "Fraud Plagues Global Health Fund." As a result, when the Panel was established, we assumed that it would be asked to estimate the extent to which fraud does indeed exist among implementers of Global Fund grants.

In fact, the TORs asked for something less ambitious, which was for the Panel to "assess the risk of fraud and misappropriation in the current Global Fund portfolio." But in our opinion, the Panel did not achieve even this. The Panel limited itself to specifying some factors that might suggest that a country is at risk of fraud, and based on those factors, to ranking countries in a range from "lower risk" to "extreme risk."

Nor did the Panel assess the extent to which the OIG's findings represent, on the one hand, intentional fraud, and on the other hand, weak record-keeping which was in violation of grant requirements but from which nobody personally profited.

More significantly, the Panel did not attempt to assess whether the Global Fund suffers any more from fraud on the part of its grant implementers than do other major funders. As a result of this omission, people who have only read the press reports might conclude that, among donors, the Global Fund is especially negligent when it comes to detecting or responding to fraud. Yet, the reality is quite different. In many ways, the Global Fund is an exemplar of transparency and of determination to tackle fraud head-on. The donor countries know this, but they may still be tempted to use the HLP Report as an excuse to cut back on their pledges to the Global Fund.

The Panel paid scant attention to the whole aid effectiveness agenda and the Global Fund's role within that.

The Global Fund is fully committed to the principles of the Paris Declaration (as are all donor countries and almost all developing countries), and is a signatory to the International Health Partnership initiative. Both of these initiatives are designed to maximise aid effectiveness. The agreed principles include that donors should harmonise among themselves their policies and practices, and that donors should align their programmes with those of implementing countries. Yet there was nothing about aid effectiveness, harmonisation or alignment in the HLP Report.

Many of the problems that implementing countries experience regarding data quality, procurement systems, and financial management and oversight can only be reasonably addressed through a systemic approach involving multiple players from inside and outside the country; they cannot be addressed by each donor insisting on the country putting in place systems just to satisfy that particular donor. The lack of reference to the problem of fragmented (often donor-driven) systems is a serious omission by the Panel, and the Panel's go-it-alone prescriptions will not help the Fund maximise lives saved.

Conclusion

The HLP Report was produced at a time when the Board and a rather shell-shocked Secretariat were desperate for a plan that everyone could coalesce around. Furthermore, the Board was under great pressure to act, because some donors were delaying the release of their 2011 contributions until they saw the Report and how the Global Fund reacted to it.

After a few days' thought and one day's discussion on 26 September, the Board agreed that almost every recommendation in the HLP Report represented an appropriate path forward. The simplistic nature of that decision was unfortunate, although it is understandable under the circumstances.

The Board also resolved that by 31 October, the Chair and Vice-Chair, the Secretariat, and the OIG must agree on and send to the Board a draft "Consolidated Transformation Plan" (CTP), with a final draft to follow by 10 November. And the Board said that the CTP must reflect not only that large portion of the HLP Report's recommendations that the Board had just endorsed, but also the Plan for Comprehensive Reform (which the Board endorsed in May 2011) and the results of some other reform initiatives.

This is an extremely aggressive timeline. Furthermore, the task will be technically daunting, because these various initiatives look at the issues through very different lenses and make recommendations that at times conflict with each other.

For all these reasons, blind adherence to the HLP Report's recommendations would be a mistake. Instead, the CTP should implicitly propose accepting some of the recommendations in these various documents, modifying or fleshing out others, and rejecting or replacing yet others. During the five weeks until the CTP is voted on at the 21-22 November Board meeting, the Global Fund will sorely need firm and insightful leadership from the Chair and the Executive Director.

2011 has not been a happy year for the Global Fund. Nevertheless, the Global Fund should be grateful to the High Level Panel for delivering a report that provided a wake-up call that could not be ignored.

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This Commentary was jointly written by Aidspan's Bernard Rivers, David McCoy, and David Garmaise. Comments should be addressed to bernard.rivers@aidspan.org. The Commentary is based, in part, on a detailed critique of the Panel's recommendations, available here.

The High Level Panel's report, "Turning the Page from Emergency to Sustainability," was described in GFO Issue 158. The Global Fund Board met on 26 September 2011 to decide how to proceed with the report's recommendations (see GFO Issue 159).

The Panel was led by Festus Mogae, former minister of finance and then head of state of Botswana, and Michael Leavitt, former U.S. Secretary of Health and Human Services. The other five members were two from developing countries (a former senior official in the African Development Bank, and a former senior official with Citibank and Banco Santander Brasil), and three from Western countries (the Chair of the Panel of External Auditors of the U.N., the Chair of Interpol's International Group of Experts on Corruption, and the Inspector General of Finance in a French government ministry). The Panel's support team has eight members from the U.S., one from Canada and one from the U.K.

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