ONLINE LEARNING ALLIANCE ON HORIZONTAL ACCOUNTABILITY

Strengthening oversight and transparency for better governance in Africa and Latin America

How do states hold themselves accountable? How effective are they in this task? This Learning Alliance explored how formal institutions, the capacities of these formal institutions, and informal institutions shape horizontal accountability. The Learning Alliance compared and contrasted experiences in Latin America and Africa, identifying ways to address shortfalls in accountability.

The ELLA Learning Alliances bring together peers from across the global South – from government, civil society, the private sector, the academic community and the wider development community – to learn from each other, drawing on rigorous, evidence-based research.

Participants of the Online Learning Alliance on Horizontal Accountability came from 39 different countries across 5 continents. Participants learned about and discussed actions directed at strengthening the capacity of legislative and executive bodies to exercise their horizontal accountability mandates based on a comparison of Latin American and African experiences. Comparative analysis between the two regions, facilitated by the moderators, supported this inter-regional lesson learning.

This Online Learning Alliance on Domestic Violence was designed and moderated the Centre for Implementation of Public Policies promoting Equity and Growth (CIPPEC), based in Argentina, and the Organization for Social Science Research in Eastern and Southern Africa (OSSREA), whose central office in Ethiopia. CIPPEC is a pluralistic, independent institution, dedicated to undertaking research to inform public policy by forming links with actors from both civil society and government. CIPPEC research covers three main areas; the state and government, economic development and social development. OSSREA is an African think tank that undertakes research and research capacity development in Eastern and Southern Africa. OSSREA researches the challenges and opportunities of Eastern and Southern Africa in diverse social science issues, including economic, social, political, governance, gender and environmental themes.

1 The lead moderator for CIPPEC was Natalia Aquilino, with the support of Agustina Suaya, Sofia Estevez and Federico Frascheri. The lead moderator for OSSREA was Paschal Mihyo, with the support of Truphena Mukuna and Alemu Testafaye.
Learning Alliance on Horizontal Accountability

The Online Learning Alliance discussions were based on and drew from existing literature, and on new research conducted by the research centres for the ELLA Programme.

- *Horizontal Accountability of the Executive to the Legislature in Africa: A Case Study of Kenya*, authored by OSSREA
- *The Deficits in Horizontal Accountability in Argentina: A Tale of Two Worlds*, authored by CIPPEC

**Content**

The Learning Alliance promoted experiential learning starting with a conceptual definition of accountability and a discussion of the main mechanisms currently in place in Africa and Latin America. Based on the architecture in selected countries of Africa and Latin America, the discussion then focused on factors that promote or constrain horizontal accountability including a review of various mechanisms used by executive bodies to respond to issues raised by legislative bodies on the performance of their executive functions.

The discussion sought to compare good practices and identify lessons from success stories and remedial actions that can be taken to bridge gaps where performance is constrained. Emphasis was placed on the implications of formal institutions (policies, laws and practices) for the enforcement of mechanisms and accountability outcomes; on the incentives and sanctions that are in place to support good performance; and on the impact of informal institutions (ethnic cleavages, kinships, business groups, regionalism, civil society, media, amongst others) on horizontal accountability.

The Learning Alliance ran from May until September 2016 and covered the following 6 topics:

- Topic 1: Understanding Horizontal Accountability: Definitions and examples
- Topic 2: Shaping Horizontal Accountability Institutions: Which factors determine their effectiveness?
- Topic 3: A Menu for Horizontal Accountability Mechanisms: What are the contrasting mechanisms in place in Africa and Latin America?
- Topic 4: Analysing Answerability: How do horizontal accountability mechanisms work within the executive branch?
- Topic 5: Analysing Enforceability: How do horizontal accountability mechanisms work within the legislative branch?
- Topic 6: Assessing the outcomes
Key Conclusions

- Inter-regional comparisons were hard to develop due to differences in horizontal accountability mechanisms and institutional design, as well as information available on them. Despite these differences, horizontal accountability mechanisms are recognised as a key feature for liberal democracies in both Africa and Latin America. Unfortunately, in some cases these mechanisms are not used at all or they are underexploited.

- Corruption, a lack of effective sanctions, interference by the executive branch and weak or recent institutionalisation were all mentioned as the main causes for existing deficits.

- Independence was a key issue identified by representatives from both regions. Oversight bodies which are independent and elected by legislative bodies with clear mandates, powers and adequate resources, such as the one in Costa Rica, can be effective in supporting legislative bodies to exercise oversight.

- Key recommendations for strengthening horizontal accountability include: raising awareness amongst civil society around their rights, strengthening legislative institutionalisation and strengthen legislative capacities
Module 1: Understanding Horizontal Accountability: Definitions and examples

Introducing the Topic

This topic introduced the concept of accountability. Vertical accountability and horizontal accountability were discussed, along with the two basic connotations of accountability (i) answerability - the obligation of public officials to inform about what they are doing, and (ii) enforcement - the capacity of accounting agencies to impose sanctions on power-holders who have violated their duties.

During this topic, participants were introduced to current debates on the topic of accountability and shared their views on why accountability is an important element of contemporary democracies.

The discussion was supported by the following main reference materials:

- CIPPEC, 2016. Introduction to Political Accountability. Summary Note and Narrated Presentation. Both documents present the origins and definitions of the concept of accountability. The nature of political accountability is presented as well as the distinction between vertical and horizontal accountability. The two components of horizontal accountability i.e. answerability and enforceability are conceptualised. Some examples of accountability from across the world are also provided.
- Economic Commission for Africa, 2009. African Governance Report II. Report on the quality of governance in Africa as well as the general state of accountability. Participants were asked to review the chapters on accountability (mainly chapter 5).
- The State of the Union Address as a Wes Anderson Film (Video) and What is the State Opening of Parliament and the Queen’s Speech? (Video). Two brief videos that were shared to provide examples of answerability as practiced in the global North.

To guide the discussion and exchange, the following questions were posted:

1. Which do you think are the most effective vertical and horizontal accountability mechanisms in your own country?
2. What factors do you think help shape the performance of these mechanisms?

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Discussion

Participants did not focus the exchange on concepts, but rather concentrated on discussing existing mechanisms in their countries. The discussion between Latin American and African participants was limited. The Latin Americans dedicated the first part of the discussion to highlighting the fact that requests for information from public officials are a common accountability mechanism used throughout the region, yet often responses to these requests are not forthcoming. The African participants remarked that vertical accountability is more powerful than horizontal accountability, but that the latter has gained prominence during the last decade through the creation of several institutions responsible for oversight.

“(…) the new Kenyan constitution of 2010, opened a wide space for the implementation of these two forms of accountability. It is slowly taking shape with efforts being seen in the acts of different state actors (judiciary, ombudsman, Auditor General, Kenya National Human Rights Commission etc.). Yet, considering the teething problems which the two forms of government are facing in the implementation of devolution, we are bound to see even greater need for horizontal accountability. Utilization of resources by new institutions that have no prior experience has led to serious loss of these funds.”

Alexander Kiptanui, Kenya.

Several points came out of the discussion:

*Which do you think are the most effective vertical and horizontal accountability mechanisms in your own country?*

Many participants provided an account of the main accountability mechanisms in their countries and reflected on their performance.

Mark Lewis (Peru) brought into the discussion Pritchett’s concept of “isomorphic mimicry” when describing accountability in Peru. Isomorphic mimicry is the resemblance of something being performed but not actually being implemented in practice. This is a useful concept for framing the discussion on accountability. Are the accountability mechanisms in Latin America and Africa empty shells or are they more than mere formal structures? Responses to this question emerged throughout the following sessions.

Adriana Arellano (Ecuador) referred accountability in her country, stating that some of the most common mechanisms are the report of the president and information requests made by the legislative. She highlighted party majority and the failure to disseminate the reports made by the Contraloría (National Audit Office) as factors that negatively affect accountability. According to Adriana, vertical accountability is more effective, for example there have been some successful citizen-led initiatives. However vertical accountability usually occurs in a context of confrontation between the government and the media and civil society organisations. Raul Aldaz (United Kingdom) recalled that three Ecuadorian presidents were removed from office before their mandates ended (between the 1990 and
2010. This seems to demonstrate societal interest in government effectiveness and also an inability of government to channel information requests through institutional mechanisms. This situation brings to light the challenge of rooting accountability in society in order to achieve fair institutional performance (from government institutions).

Lucía Reyna (Guatemala) described some of the horizontal mechanisms in Guatemala, stating that there are deficits in performance. In the case of the presentation of an annual report by the president, this works more as a formal ceremony than a proper accountability mechanism. The summoning of ministers by congressional committees is used as a resource to delay the legislative agenda and/or discredit public officials. The National System of Development Councils, which brings together actors from the local to national meso levels to review spending priorities, is one of the more innovative accountability mechanisms, yet it is seldom used.

“In Guatemala, there are several horizontal accountability mechanisms e.g. the presentation of an annual report by the President of the Executive before the Congress deputies to request accountability (…), the possibility of congressional committees to subpoena any of the health, education, finance ministers, etc. (…), delivery of reports by all institutions to the Controller General of Accounts (…) and the National System of Development Council, a system integrating advice from the local level, through meso level, to a National Development Council. The latter should be an accountability mechanism as it integrates community leaders, civil society and the government to review spending priorities. However, the space is hardly ever used for accountability.”

Lucía Reyna, Guatemala

In Latin America, requests for information from public officials are a common accountability mechanism. Although the institutional design of this mechanism varies across the region, a common feature in most countries is the fact that responses are seldom forthcoming. In Ecuador, for example, this mechanism is in the hands of the legislative, which tends to avoid responding to uncomfortable questions. In Argentina, the approval of requests for information by the Chamber, as a condition for the requests to be submitted, results in delays, as mentioned by the moderators.

In the case of African countries, Vitus Adaboo (Ghana) said that in Ghana both horizontal and vertical accountability has been working adequately since 1992. The media and civil society are powerful and demand information, although politicians do not always provide answers. Despite the fact that there are mechanisms that channel these demands, like the submission of questions to ministers and public sittings of the Public Accounts Committee of Parliament, follow up does not take place.

According to Tola Winjobi (Nigeria), the situation is different in Nigeria where vertical accountability is stronger than horizontal accountability. According to Winjobi, the legislative is more accountable to the executive than vice versa, which goes against strong horizontal accountability. The problem is more severe amongst lower levels of government where legislators’ campaigns are sponsored by the executive thereby compromising their independence. Fiscal policy and budget allocations allow the executive to exert control.
over several areas of the administration. On the other hand, NGOs have played a greater role in accountability since 2011 with the passing of the Freedom of Information Act (FOIA).

Mathew Antindi (Namibia) mentioned some horizontal accountability institutions in Namibia, including: the Office of the Auditor General which audits the accounts of all state agencies, parastatals and statutory bodies, the investigating and arresting agencies which have the mandate to address the abuse of fundamental rights and freedoms and to investigate practices of corruption and environmental protection, and the Office of the Prosecutor General which prosecutes in the name of the Republic and the Public Service Commission.

Philip Buchere (Kenya) stated that horizontal accountability is gaining prominence in Kenya and pointed out how the combination of both vertical and horizontal accountability is possible in his country in relation to the budget making process and the County Integrated Development Plans, where civil society can get involved. Kefa Omoti (Kenya) also brought this issue to the discussion. He regarded some of the reforms featured in the 2010 Constitution as positive, even though their impact cannot be assessed yet. Also regarding the 2010 Constitution, Violet Akala (Kenya) highlighted new citizen participation in budgeting and in monitoring the implementation of public-funded projects, programmes, and activities. Buchere added that in order to avoid the coalition of business and politics, strong NGOs and media are necessary to act as a balance, yet the latter is often weak in some African countries. Nonetheless, accountability in Kenya still faces challenges, according to Kefa Omoti and Alexander Kiptanui (Kenya), since the media and civil society are not very empowered and this hinders their ability to exert oversight of the government.

Aloysius Rukundo (Uganda) showed particular interest in diagonal accountability, which includes a) participation of civil society in horizontal accountability mechanisms; b) information flows; c) compelling government officials to respond; and d) capacity to function.

Another important challenge brought up by Roukaya Kassenali (Mauritius) was how to guarantee the independence of the accountability institutions, since they are often appointed by those who they are meant to hold accountable.

In spite of the fact that they are not fully exploited, most countries have a National Audit Office which provides significant information to national MPs and to a Mixed Committee of Public Account. Moreover, Africa is making considerable efforts to achieve sub-national accountability through strengthening county institutions. Participants were eager to mention those organs which have recently been created to provide oversight of the executive, as well as some reasons for deficits in their performance.
What factors do you think help shape the performance of these mechanisms?

Many participants shared their opinions on the factors that shape accountability. Among these, the capacity of state institutions, the structure of the electoral system, the role of the executive and the empowerment of civil society and the media were mentioned.

The low level of institutional capacity in Latin American and African countries, which translates, among other things, in an obstacle to societal participation, is a problem for vertical accountability. Along this line, some participants stressed that strong executives make it hard to develop effective oversight.

Emmanuel Mallya (Tanzania) referred to the role of civil society, saying that when societal control is lacking and electoral manipulation is easy, oversight is severely compromised. Jimmy Bolaños (Costa Rica), referring to the situation in Costa Rica, mentioned the importance of the existence of an independent electoral power to guarantee effective vertical accountability.

The electoral system, which has an effect over the number of parties in the Chambers, was a key issue mentioned by Nonhlanhla Chanza (South Africa). Related to this, Symon Nyalugwe (Namibia) stated that one of the problems in African countries is the lack of powerful opposition parties, not only to hold the executive accountable but also to access power. This seems to be the case in Peru too, as Paolo Sosa (Peru) mentioned. According to him, Peru is a democracy yet there are not political parties and this affects accountability in a negative manner because strong opposition parties might be able strengthen control over the executive.

Aloysius Rukundo (Uganda) stated that one of the challenges for Latin American and African accountability is the independence of media, since governments usually benefit from non-critical media and civil society. These two areas are key to effectively holding the
executive accountable for its actions, and, according to Rukundo, they are working well in Uganda.

According to Julio Castellanos (Guatemala), the existence of a cultural gap is a key factor in shaping accountability. When citizens are unaware of accountability mechanisms, there is simply no demand for effective oversight. The importance of informing citizens about the potential impact of their involvement was brought up by Roukaya Kasenally (Mauritius), who stressed the importance of developing a culture of accountability. In countries where the culture of accountability is strong, citizens are better equipped to exercise their rights. Along this line, Ellen Ntho (Lesotho) deepened this vision by stating that when citizens are informed, they know what they can demand from public authorities and are better equipped to hold them accountable for their performance in office. Moses Hagateka (Uganda) remarked that empowering citizens through information and the role of communication are *sine qua non* conditions for effective accountability.

Additionally, Aloysius Rukundo (Uganda) brought into consideration the gaps between urban and rural access to information and corruption as obstacles to achieving proper accountability.

Moderators aimed to identify whether participants thought cultural or institutional factors were more important when explaining deficits in horizontal accountability. Opinion was divided in both regions. The Regional Evidence Papers produced by the research centres emphasise institutional factors when thinking about horizontal accountability and a slight majority of participants supported this point of view. Independent electoral power, the electoral system, empowered committees and institutional capacities were stressed as key factors. Nonetheless, the importance of independent media and increasing civil society capacities were mentioned as cultural factors for increasing horizontal accountability.
Module 2: Shaping Horizontal Accountability Institutions: Which factors determine their effectiveness?

Focus of the Topic

The implementation of horizontal accountability mechanisms is a cornerstone of contemporary democracies. However, there is usually a gap between their intended aim and their actual performance as the performance of horizontal accountability mechanisms is shaped by several factors. This topic covered the factors that determine the effectiveness of horizontal institutions in Africa and Latin America, and delved into how formal institutions, capacities and informal institutions shape incentives and, consequently, horizontal accountability and its separate components of answerability, enforceability and responsibility, based on examples from Latin America and Africa.

The first learning objective was to compare parliamentary and presidential systems of government to determine whether they deliver different outcomes in terms of horizontal accountability in Africa, Latin America or elsewhere. The second learning objective was to identify systemic and institutional constraints to the capacity and capabilities of parliaments in Africa and Latin America to make governments more accountable.

Constraints to effective horizontal accountability identified by participants include: weak parliamentary power vis-a-vis the uncontrolled and unlimited executive powers of the presidency; the insulation of electoral and supreme audit bodies from effective scrutiny by parliaments; the gap between the perceived and achieved effectiveness of horizontal accountability; the use and abuse of numbers in parliament to suppress effective horizontal accountability; limited technical capacity of parliamentarians for oversight and scrutiny; and weak, poorly aligned and under-resourced institutions.

Building on this discussion, the second topic focused on four major determinants of effective horizontal accountability in Africa and Latin America: i) a comparison between institutional frameworks of parliamentary and presidential systems to identify which has potential for better horizontal accountability outcomes; ii) the capacity of representatives in African and Latin American countries to effectively represent citizens and hold the executive to account; iii) the type of positive and negative incentives that influence capacity for effective horizontal accountability, and iv) the impact of the quality of political parties on the effectiveness of parliament for holding the executive accountable.
The discussion was supported by the following main reference materials:

- **Jose Cheibub, 2016.** *Systems of Government: Parliamenterianism and Presidentialism.* This article points out the differences between parliamentary and presidential systems of government taking into consideration propensity for partisanship/interparty, deadlocks and gridlocks, cooperative or competitive decision making.

- **Chungong, M. D. 2015.** *Stronger Parliaments, Better Democracies.* This article emphasises the inseparability of parliamentarianism and accountability, arguing that without parliaments there cannot be accountability and that accountability is shaped by effective oversight mechanisms, a strong commitment to democracy and political will to apply existing rules and procedures.

- **CIPPEC and OSSREA. 2016.** *Topic 2 Introductory Note. Determinants of Gaps in Horizontal Accountability of Executive to Legislative Bodies in Latin America and Africa.*

- **OSSREA, 2016.** *Shaping Horizontal Accountability Institutions* (narrated presentation). Although Kenya has taken serious steps towards strengthening accountability, there is there is a big gap between established aims and actual outcomes. Formal institutions are often overshadowed by informal ones while at the same time ethnic and other factors hamper cohesion among members as they try to enforce established accountability mechanisms.

To guide the discussion and exchange, the following questions were posted:

1. Does your country operate a presidential or parliamentary system of government? Looking at other countries (in Africa, Latin America or elsewhere), do you think your country would be better off with an alternative system? Why (or why not)?

2. How effective is your parliament/congress in holding the government to account? Based on countries that have more accountable systems, what do you think are the necessary conditions for making governments more accountable?

**Discussion**

The discussion was very lively and it has been a challenge to include all participants’ comments. Below is a summary of the general consensus.

*Party cohesiveness is fundamental in understanding the relationship between governments and parliaments. However, this factor has often been abused in Africa. As most African parliaments serve a rubberstamp role to the executive and as ruling parties in African governments enjoy parliamentary majority, the ruling party legislators are often manipulated to serve unpopular interests of their executives.*

Aloysius Rukundo, Uganda
Democracy and accountability

It was generally agreed that there cannot be effective accountability without genuine democracy. The running assumption was that the stronger the institutions of democracy such as free and fair elections, free press, rule of law and citizen participation, the more effective the mechanisms of accountability are likely to be. According to Emmanuel Mallya (Tanzania), ‘In the so-called developed societies of the North, vertical and horizontal accountability have found their base in the maturity of democratic institutions while in less developed countries like Tanzania the institutional base is very weak and this has had a negative effect on oversight’. The discussion highlighted differences between countries in Africa. For example Motshedisi Boithumelo Sobone (Botswana) indicated that democratic institutions in Botswana are working and the degree of accountability is high. A similar view was expressed by Symon Nyalugwe on Namibia. Roukhaya Kassanally of Mauritius, which has been billed as a beacon of democracy on the African continent, stated that accountability had been strengthened through the democratic institutions of elections and governance in Mauritius. On the other hand, Roukhaya raised the issue of executive dominance of election management bodies as a possible obstacle to election transparency. With regards to the quality of electoral democracy, the majority of participants were of the opinion that for democracy and horizontal and vertical accountability to work officials responsible for performing key executive functions need to be appointed by authorities rather than the executive officials because very few Presidents or Prime Ministers are likely to appoint people who are strong and independent-minded. In addition, there was a feeling shared by Paschal Mihyo the moderator and Philip Buchere that elections and electoral systems are very important in determining the maturity and utility of democratic institutions for purposes of horizontal and vertical accountability. The main conclusion on elections, democracy and accountability was that the more transparent the electoral system, the more likely it is that systems of accountability and constitutional safeguards are to be effective.

Further to the debate on the link between democracy and accountability, there was a long discussion on the issue of constitutionalism, democracy and democratic elections. Apart from Botswana, Mauritius and Namibia where there is a long history of free elections and high degree of accountability due to the existence of strong legal and other institutions, participants from other countries were of the opinion that in spite of strong constitutions, democratic institutions were still weak. Moses Hategeka (Uganda) stated categorically that, “Vertical and horizontal accountability can flourish in countries where democracy is genuinely practiced. African and most other developing countries are practicing what I am terming “cosmetic democracy” whereby the established institutions meant to deliver elected leaders are filled with people appointed by incumbent presidents with the approval of rubberstamp parliaments”. This echoes the worry of Roukaya Kassanally (Mauritius) that even where the legal provisions are strong and elections are regular and free, the sustainability of democracy is doubtful if election management bodies are not independent. To this list of obstacles to genuine democracy Antonetta L. Hamadishi (Zimbabwe) added state bureaucracy, corruption, nepotism and lack of political will in the case of Zimbabwe.
There was consensus that constitutional provision for democratic processes and practices is not enough. A culture of democracy is required. Abdiaziz Mohamed Noor (Kenya) noted that since 1992 his country has embarked on multiparty democracy backed by constitutional provisions and the 2010 Constitution has created more safeguards for democracy and accountability. But he has observed that the country has been “plagued by bad governance, ethnic based politics and tribal clashes, gross violations of human rights, gender violence, dehumanizing poverty and high level corruption.”

**Impact of parliamentary reforms**

Parliamentary reforms have been going on for more than three decades in Africa. However, outcomes are still negligible according to some participants. Reforms have involved term limits yet Aloysius Rukundo (Uganda) thinks that such measures have not increased accountability because, according to him, “In the first place, my observation is that in Africa and particularly sub-Saharan Africa where the institutions of parliament are still weak, parliamentarians are subject to external influences to “rape” their constitutions and change term limits in favor of the incumbent presidents. This has happened to many countries, including my motherland, Uganda.” He added that electoral anomalies operate in favor of ineffective parliamentarians. Elite networks were also identified as a mechanism that is used by the dominant groups to recycle themselves in power, block change and divert attention away from formal mechanisms of accountability. These networks cut across political parties and branches of government making it difficult to achieve the desired outcomes in enforcing accountability. The moderator Paschal Mihyo also added that “in some countries, the current leaders in parliament and government used to belong to the same one and only party during the days of one party rule. Bonds and bad blood that may have been developed during those days seem to spill over into new relations and roles here and there.” Nonhlanhla Chanza (South Africa) concurred, adding that in that South Africa bonds and network developed by the current ruling elite during the liberation struggle are still potent in shaping relations between some of them in government and those in parliaments.

The spillover effect of parliamentary weaknesses to other watchdog bodies was also raised as a problem. According to Antonnetta L. Hamandishe (Zimbabwe), the weaknesses of parliament percolate the whole system of watchdogs. Commissions for human rights and gender also end up being weak because they are appointed by and accountable to parliaments which are already weak. Another reform adopted by Kenya and Rwanda is for Parliament to appoint cabinet secretaries/ministers who are not Members of Parliament. Some participants from Uganda, for example, were convinced that multiple identities for MPs as legislators, account holders, policy implementers, members of the oversight bodies etc. compromised their ability to be fully accountable. In Kenya, the system of appointing cabinet members from outside parliament which has been adopted since 2010 seems to have contributed to openness. Truphena Mukuna (Kenya)
attested to this but also noted other problems that have reduced the significance of this reform. She said she finds the new system a great strength in Kenya and added, “In the new constitution of Kenya, the process of appointing them is well spelt out. This is the same for other executive officers. In as much as there are complaints from time to time alluding to the hand of informality in the appointments, most Kenyans will agree with me that to a large extent, the current process is fair enough and it is enforcing accountability. However, the allegations of informal institutions like ethnicity, regionalism, business cliques, school mates or workmates should not be ignored as a strong force that seems to underplay the good constitution that is human rights based and has seen the establishment of solid institutions for shaping horizontal accountability.” In order to reduce the negative factors that diminish the effect of such reforms, it was suggested by Philip Buchere (Kenya) that all committees of parliament could form a joint committee to oversee the work of all committees and at the same time the role of the media and civil society in scrutinising the work of the committees could be enhanced. Another option is to keep ministers as MPs but remove them from exercising legislative and other parliamentary functions. According to Nonhlanhla Chanza this has been done in South Africa and there have been no cases of conflict of interest.

**Composition of parliament and its impact on accountability**

Democracy based on simple majority rule has contributed to weak parliaments in Africa and this is aggravated by the high number of members of parliament representing ruling parties. It was therefore felt that where the ruling party has a partisan membership in parliament, the executive operates without serious scrutiny. Aloysius Rukundo (Uganda) made this point very clearly. He noted that political parties are the ones which are capable of ensuring accountability in parliament if they properly organised and committed to accountability. According to him, “Party cohesiveness is fundamental in understanding the relationship between governments and parliament. However, this factor has often been abused in Africa. As most African parliaments serve a rubberstamp role to executive, and as ruling parties in African governments enjoy parliamentary majority, the ruling party legislators are often manipulated to serve unpopular interests of their respective executives. This I think could be the reason why in most cases, government policies in Africa are aligned to favor the minority rich, especially those in governments and very successful businessmen/women.”

**Presidential versus parliamentary systems**

Most of the participants expressed the opinion that presidential systems were more suitable than parliamentary systems of governance. Eric Kany (Kenya) indicated that the presidential system introduced in Kenya has a clear separation of power, adequate checks and balances, independent watchdog bodies and allowed all state organs to operate smoothly. Julio Enrique Castellanos (Guatemala) also expressed preference for presidential systems saying, “Personally, I believe more in the presidential system than in
the parliamentarian system. I know very well that accountability is very difficult in both systems, but I still think it is much more favorable to see accountability in the presidential system coming from the founding of the republic and independence of powers than in a parliamentary system where a power contains the other.”

**Budget allocation and control of expenditure**

Budget allocation and control of expenditure differs from country to country. In Kenya, South Africa and Uganda, for example, parliaments allocate, re-allocate, withhold and scrutinise expenditure. Factors reducing the influence of parliament include insufficient time to discuss budgets, supplementary appropriation bills that come into effect between budget sessions, and in some cases the failure of ministries to provide accounts on time. Parliamentary Accounts Committees are also constrained by delayed submission of accounts, failure of executives to attend meetings and failure to act upon recommended measures on time. Assessing the Ugandan situation Aloysius Rukondo said that, “The Ugandan parliament, for example, has the Public Accounts Committee (PAC) whose primary role is to examine audited accounts on appropriated funds and public expenditures of the central government and other organs and agencies of government. While the PAC helps to hold civil servants accountable, it seems not to perform well in checking the political players, yet they are the ones that manage the biggest part of the country’s budget. As a consequence, only the “small fish” are netted as the “big fish” swim freely in the waters.”

**Conclusions**

Legal mechanisms and institutional frameworks for legislators to hold the executive to account exist but lack of political will to put personal and elite interests aside and use those powers as intended is the main problem faced in both Africa and Latin America. This was summed up by Lucia Margarita Reyna Soberams (Guatemala) when she said, “the Guatemala Congress has the capacity to hold the executive accountable ...but the powers are not used for the intended purposes.” On the whole, it would be fair to conclude that much has already been done and yet so much is still to be done to build a culture of democracy and accountability in Africa.
Topic 3: A Menu for Horizontal Accountability Mechanisms: What are the contrasting mechanisms in place in Africa and Latin America?

Focus of the Topic

The third topic of the Learning Alliance reviewed the main horizontal accountability mechanisms in Kenya and Argentina. In addition to discussing the institutional architecture of these mechanisms, the moderators led reflection on the historical contexts and political processes that led to their creation.

The focus was on contrasting the political context and systems in the two regions, focusing on the two case study countries of Argentina and Kenya. While the political contexts are different in several important respects, Kenya and Argentina have both introduced parliamentary reforms to their presidential systems. Some of these reforms were aimed at limiting the power of the President, seeking to strengthen horizontal accountability mechanisms.

This topic allowed participants to:

- Discuss the evolution during the last two decades of the presidential systems in Kenya and Argentina, comparing the parliamentary reforms that were introduced in each case;
- Debate the characteristics of the parliamentary reforms to the presidential systems, comparing the two cases, to identify the advantages and disadvantages of each reform;
- Gain an overview of the contrasting horizontal accountability mechanisms in place in Africa and Latin America with a special focus on Kenya and Argentina.

The discussion was supported by the following main reference materials:

- OSSREA, 2016. **Summary Note** and **Narrated Presentation**, *A Menu for Horizontal Accountability Mechanisms*. These materials present the main horizontal accountability mechanisms in place in Kenya and Argentina. In order to understand the importance of context, both materials describe the history of both countries focusing on the political processes that led to the development of horizontal accountability mechanisms in both contexts.
- Shugart, M.S. 2005. **Comparative Executive-legislative Relations: Hierarchies Vs. Transactions in Constitutional Design**. This document analyses the importance of constitutional design in determining the relationship between the executive and legislature. This is important for understanding the broader application of horizontal
accountability under different systems and how different mechanisms evolved in different parts of the world.

- Murray, C. 2012. *Kenya’s 2010 Constitution*. This document provides an account of the process that led to the new constitution. The paper also reflects on what the new constitution demands from the leaders of the country, and how it proposes to reshape the balance of power between the executive and the legislative.

To guide the discussion and exchange, the following questions were posted:

1. How have changing power and institutional configurations influenced the evolution of horizontal accountability mechanisms in your country? How does this compare to the case of Argentina or Kenya?
2. What lessons can we draw from Argentina, Kenya and other countries about how to take advantage of changing power relations to strengthen horizontal accountability mechanisms?

Discussion

The two questions posted translated into two major themes in the discussions: consequences of history and existing regulations in Africa.

"The two case studies of Argentina and Kenya made interesting reading (...). It seems systems have become better with time. If that is the general rule then there is hope that perhaps younger democracies might also follow suit. However, what is quite clear is that the Executive in a number of cases deliberately crafts weak HA institutions because it cannot manufacture dinosaurs that will haunt it in future. So the creation of weak institutions is quite deliberate."

Peter Makaye, Zimbabwe

**Importance of historical and political processes**

The way African history evolved and the fact that it has been experiencing a wave of constitutional reforms since the 1990s, which include horizontal accountability mechanisms, made the discussions in the third topic similar to the discussions in the second module.

As a matter of fact, the history and comparative development of both countries was mentioned as a key factor for explaining the development and performance of horizontal accountability mechanisms. In both regions there have been significant advances from weak or non-existent horizontal accountability mechanisms to their creation and strengthening. However, Latin American countries gained independence earlier than the African ones, and therefore democratic institutions have had a longer period to evolve. As Aloysius Rukundo (Uganda) stated, changing power relations results in gradual, but not instant, transformations in horizontal accountability. Thus, an agreement was reached about the fact that African countries have made some accomplishments in such a short period of time.
**Existing regulations are not enough**

Both in Latin America and Africa, even though horizontal accountability institutions and mechanisms have been created performance is poor. Participants provided examples from across the African region.

Daniel Chigudu (Zimbabwe) explained that the Constitution in his country was reformed two years ago, but operationalisation is still to be seen. According to Emmanuel Joseph Mallya (Tanzania), Tanzania reviewed its Constitution in 2011 in order to meet societal concerns. Among other things, the new Constitution was expected to enhance government accountability to citizens through parliament. However, the whole process dragged on for four years and then stalled. To this day, it is not known when this exercise will resume or whether it will yield the expected results.

The advances included in the 2010 reform of the Kenyan Constitution are acknowledged by many actors. Nonetheless, the mechanisms have not been effectively implemented, like Boaz Maloba (Kenya) says, *"The institutions are in place but they are toothless."*

The reasons for this are multiple and opened a hot debate among the participants. Some believe that it is related to the lack of political will and/or corruption of governors. Others stressed that citizens detach from their responsibilities after voting, a negative aspect of current ways of embracing democracy. Others believe that this apathy is a product of the influence of powerful and that Western countries prefer inactive majorities in African countries.

*"In South Africa (the president) gives the SONA Address, appears 4 times a year to respond to questions (...). Obviously members of his party have moved always to protect him but Parliament has not been a safe space for him. Over the years we have been talking about the need to have a parliamentary committee that will provide oversight over his office. The ruling party has always been against this idea."*

Nonhlanhla Chanza, South Africa

However, some positive aspects were highlighted. The lack of capacity was contrasted by some points of view, like Philip Buchere (Kenya), who explained that the State of the Union Speech acted as a way to respond to accusations made by some members of the government about corruption suspected by the Anti-corruption Commission, which ended up with some reassignments. Moreover, as Violet Akala (Kenya) stated, *"Parliamentary oversight was the driving force in impeaching some of the Governors of the County Assemblies."*

Aloysius Rukundo (Uganda) pointed out the existence of some institutions and commitments by some African countries to strengthen horizontal accountability mechanisms. Among these, the New Partnership for Africa’s Development was mentioned, which sponsors the African Peer Review Mechanism (APRM). The objectives of the APRM are related to fighting corruption and enhancing transparency. According to some of the
subscribers, the mechanism is far from achieving its goals. Not because it has not produced good reports, which it has, but because of lack of implementation, as Vitus Adaboo Azeem (Ghana) argued. Other mechanisms are the Open Government Partnership in South Africa and the Integrated Financial Management System (IFMS), an IT-based budgeting and accounting system that manages spending, payment processing and reporting for governments and other entities as explained by Aloysius Rukundo.

**Possible roads to improvement**

Module 3 was rich in recommendations and conclusions. Regarding possible solutions to these obstacles, both institutional and cultural aspects emerged.

Separation of powers and limiting presidential terms, institutional non-partisan or opposition-led organisms, were all identified as necessary for developing effective horizontal accountability. Philip Buchere (Kenya) remarked that when power relations are reconfigured, new institutions are created and then legislations play a pivotal role.

On the other hand, a change in culture in order for the mechanisms to work effectively was mentioned by Emmanuel Mallya (Tanzania). The civil education aspect has been expressed several times as a key factor for raising awareness amongst civil society about what they can demand from their representatives. Likewise, training is required in order that good enough technical questions are raised by parliamentarians to the executive.

Finally, the capacity of civil society to pressure government was noted as a relevant and new variable for improving accountability, which is possible through education, powerful and contestant mass media and progressive parties.

The most important reflection from this topic was that horizontal accountability mechanisms in Argentina and Africa are far from being completely effective. Nonetheless, significant advances have been achieved. The Learning Alliances moderators and participants noted that civil society has a key role to play in enhancing full horizontal accountability in the future. Furthermore, the government and the opposition require training on how to use horizontal accountability mechanisms effectively and also around why better accountability would translate into evidence-based and better policymaking.

The number of Latin American participants was low from the beginning, but reduced from this module onwards.
Topic 4: Analysing Answerability: How do horizontal accountability mechanisms work within the Executive branch?

Focus of the topic

This topic reviewed horizontal accountability from the perspective of the executive branch. Latin American and African experiences were reviewed with a particular focus on the content, utility and impact of answerability mechanisms in Kenya and Argentina.

Deficits in the performance of mechanisms in both regions were discussed with aim of tracing the causes and the institutional arrangements that have led to their development. An additional aim of the discussion was to identify lessons from Kenya, Argentina and other countries in order to extract general knowledge around how answerability mechanisms work in developing countries, the factors that determine the level of development of these tools, and what can be done to make them work better. The analysis was geared towards generating recommendations for policy actors around how to improve the current situation.

The discussion was supported by the following main reference materials:

- Van Cranenburgh, 2009. *Restraining Executive Power in Africa: Horizontal Accountability in Africa’s Hybrid Regime*. Article presenting an overview of African regime types and the limits on restraining executive power, institutionally as well as through party politics, with particular attention to the lack of separation between the legislative and executive in most African countries and the great powers assigned to presidents.
A webinar was also held which discussed the main findings of studies undertaken by OSSREA and CIPPEC on the performance of the answerability component of horizontal accountability.

To guide the discussion and exchange, the following questions were posted:

1. What lessons can we draw from Argentina, Kenya and other countries to explain the deficits in the performance of answerability mechanisms in developing countries?
2. What measures would increase the answerability of heads of government to legislative bodies in your country or region?

Discussion

The role of the Chief of Cabinet and some specifications

The discussion began with a brief explanation of the role of the Chief of Cabinet (CoC from now on) by Aloysius Rukundo: “It was introduced by the 1994 constitutional reform as an instrument to counterweigh the power of the president. The chief of Cabinet is obliged to visit either Chambers of Congress, one and then the other, at least once a month, in order to inform on the latest actions of the government.”

Comparing the position with that of a Prime Minister, some confusion regarding the ability, power and intention to check the President was clarified by Latin American partners. Andrés Mejía (United Kingdom) explained that “there is much variation across Latin America on what the role of the CoC is – I f there is one at all.” Concerning Argentina, the CoC is an agent of the executive since the incumbent is selected and removed by the unique decision of the President, thus transforming the figure into a minister loyal to the President. The situation is slightly different in Peru, where the Premier is nominated by the President yet Congress must ratify the selection. This figure facilitates communication, coalition making and conflict resolution between the executive and Congress and their role “is not to hold governments to account.” Andrés Mejía also stated an interesting division between “Separation of Powers” and “Separation of Purpose” and explained that while “the first one refers to the classic division into separate government branches so that they keep control over each other” there are sometimes various parties with similar objectives “which can in turn hinder or reduce incentives for horizontal accountability in both Presidential and Parliamentary regimes.” Regarding the mechanism, he clarified that there is no enforcement; “there is no legislation or binding agreements clarifying what happens” if
the CoC does not show up, b) if the CoC or executive does not thoroughly or satisfactorily answer a query, or c) does not launch an investigation once a presumption of corruption has been raised. Daniel Chigudu (Zimbabwe) asked whether the fact that the CoC is selected by the President affects whether the President is actually held to account. Federico Frascheri (Argentina) answered that there are two problems regarding the issue, ña) CoC does not attend or is not able to present the report (on less than 40% of opportunities the report was presented) and b) There is no clear procedure about how these sessions should develop, and this translates into lack of order or analysis of questions. Moreover, the main mechanism in Latin America to threaten Presidents is impeachment, thus the CoC is bridged.

Aloysius Rukundo (Uganda) made some further clarifications about the situation in Uganda, Ghana and South Africa, as well as Argentina, Brazil and Chile and rhetorically asked why the system did not work if the mechanisms existed. The answers came both from the institutional and the cultural point of view.

**Institutional systems**

Vitus Adaboo Azeem (Ghana) described how the system works in her country. The President presides the Cabinet and the most important laws must be approved by this organ. Nonhlanhla Chanza (South Africa) explained a decisive factor in South Africa for the lack of answerability: a multi-party system, resulting in the lack of a strong opposition to force the government to account. She added that ñThe office of the President is the only department that doesn’t have a corresponding parliamentary committee that scrutinizes its work.ète

Aloysius Rukundo (Uganda) mentioned that some countries which preserved some of the positive indigenous values and institutional systems, such as Botswana and South Africa, score higher on good governance and accountability than the countries that just left the colonial systems. Despite the differences, a key problem according to this participant is lack of enforcement.

Corruption arose as an important issue during the conversation. Aloysius Rukundo (Uganda) explained that the State of the Nation in Uganda mainly focuses on this point. According to him, there are some contradictions in that, ñAfrican presidents have been praised for presiding over the theoretical growth of anti-corruption infrastructure but criticized with the same measure for lack of political will to put the infrastructure in action.ète Nonhlanhla Chanza (South Africa) stated that the answer is to strengthen democratic institutions such as the prosecuting authorities, Ombudsman, Auditor General, Attorney General, among others. This notion was reinforced by Emmanuel Mallya (Tanzania), who mentioned that the ñEthics Secretariat, Commissions Rights and Good Governance and other parliamentary committees should have more power and independence to achieve their objectives.ète He is skeptical about the role of answerability mechanisms because they work as a way to show off by the executive and legislators have few opportunities to achieve their roles effectively, ñQuestion and answer sessions end up being procedural
rather than serious scrutiny of the executive’s behavior by parliament. Vitus Adaboo Azeem (Ghana) recommended harsh sanctions for those found guilty of corruption, such as demotions, transfers and firing of public officers from their positions, and prosecutorial actions leading to seizures of illegally acquired wealth.

Evidence was a topic discussed briefly during the exchange, but we consider it a key point. Aloysius Rukundo (Uganda) said that in Kenya there are problems with data collection and processing. Moreover, there is limited access to information which makes it hard for the Parliamentary Accounts Committee to cross check information, resulting in low quality questions. Kefa Mose Misuko Omoti (Kenya) answered that there are teams of experts working for the Parliamentary Service Commission which produces interesting information, but the problem is that members of parliament do not use it.

Paschal Mihyo (moderator) introduced the issue of communication. He said that it is important to consider both internal and external communications. In terms of internal communications, “Even in households and communities, indirect communication with elders or leaders is the norm and people find it better to use intermediaries to get their needs instead of demanding them as rights. In Africa, when some legislators become more assertive they are said to be confrontational and dialogue deteriorates into nasty exchanges and dodgy responses.”

Philip Buchere (Kenya) divided his analysis between the internal and external factors. Regarding internal factors in Kenya, he stated that “answerability suffers from communication deficits at the internal level in the sense that cabinet secretaries are not members of parliament, thus the respective chairpersons of the relevant parliamentary committees have to respond on their behalf before the Cabinet secretaries are called in to respond to queries” which has been negative for answerability. In terms of external communications, he stressed the role of mainstream media which sometimes distorts real issues about what the executive is being held to account for with misinterpretations. This can be resolved by building the capacity of media staff for covering parliamentary business.

Some other recommendations

Briefly, some other recommendations taken into account during the exchange were: avoiding legislative and executive fusion; that the CoC should be selected by the opposition party or a representative from the judicial branch or the courts, as exemplified in Chile; and that legislation governing the legislative-executive exchange should be strengthened so that the latter can answer the first (for example through a revision of parliamentary standing orders to provide for timelines).
The cultural aspect: sociological and anthropological factors and ideology

This topic was raised by Paschal Mihyo (moderator), who stated that Latin American citizens see themselves as actors entitled to claim and demand answers from government. This contrasts with Africa, where inhabitants see themselves more as subjects. Moreover, he believes that in Latin America there is a greater distance between citizens and MPs as well as between executive and legislative branches. Examples of these situations are linked to vertical accountability: people punish poor performers through the ballot box in Latin America and there is effective change in government. Philip Buchere (Kenya) mentioned that in Africa penalties are not based on economic performance but firstly on ethnicity, then about "How well the proceeds of corruption spread to the supporters developed". The lack of consideration of economic performance, health, food security and public education is a result of a lack of culture of accountability among the middle class.

"We could also examine the sociological and anthropological factors that shape power and communication in African and Latin American settings. The first issue is the extent to which citizens on both sides of the Atlantic consider themselves as citizens rather than as subjects and the extent to which they consider themselves as being entitled to demand and get answers from their rulers and leaders. I think LA citizens feel more as citizens and entitled to demand answers." Paschal Mihyo, Ethiopia

Finally, it is important to mention that ideology was mentioned as a factor. Aloysius Rukundo (Uganda) suggested that capitalist-based parties are less eager to account and lack transparency, spending resources behind Parliament's back and answering retrospectively. This was contrasted by Andrés Mejía (United Kingdom), who said that there are accountable-friendly governments on both the right and the left. Nonhlanhla Chanza (South Africa) said that in her opinion, it depends on the leader's personality more than party ideology; on how committed they are to democratic governance and their values around accountability, transparency and openness. She exemplified with cases from South Africa where different leaders from the same party focused differently on the issue.

Some misunderstandings regarding the role of the CoC were identified during the beginning of the exchange, which was clarified by the moderators with data and explanations of how the people in the position act when they come to power, most of the time this is not according to what is stated in the Constitution. It was highlighted that the position of CoC caught African participants' attention and occupied an important part of the virtual exchange. Corruption and ethics were identified as two of the main driving forces behind ineffectiveness of the system and which explain the questions the executive has to answer when oversight is carried out by the legislative. It is important to say that cultural aspects emerged as an important factor for understanding when and how incumbents provide answers, and also when and how civil society demands these answers. This issue was broadly mentioned in the Regional Evidence Paper and was identified as a key factor during discussions, despite the significant relevance of institutional aspects.
Topic 5: Analysing Enforceability: How do horizontal accountability mechanisms work within the Legislative branch?

Focus of the Topic

In Topic 5 participants worked on one horizontal accountability mechanism (answerability), and built on knowledge from Topic 3 which centered on the constitutional and institutional architecture of horizontal accountability in Africa and Latin America. The fifth topic focused on enforceability and its operational aspects, mainly on mechanisms for securing enforceability and effective horizontal accountability.

The topic opened up a discussion on the ability of legislative branches to hold the executive accountable for its actions, contrasting experiences from Latin America and Africa. The analysis focused on comparing two sets of mechanisms: questions by notice in the case of Kenya and Congressional information requests to the executive in the case of Argentina; and the capacity of parliamentary accounts commissions/committees in performing oversight of public accounts in both countries. This topic allowed participants to:

- Review the institutional architecture of both sets of mechanisms in Africa and Latin America;
- Engage in a debate about how these mechanisms are shaped by formal institutions, the capacities of these formal institutions, and informal institutions;
- Discuss ways to enhance the effectiveness of these mechanisms.

The discussion was supported by the following main reference materials:

- OSSREA. 2016. *Extract from the Research Report of OSSREA on Horizontal Accountability of the Executive to the Legislative*. The extract highlights findings of the OSSREA research team on why questions and answers, member motions and ministerial statements fail to get enforced in Kenya.
- OSSREA, 2016. Presentation on *Analyzing Enforceability: How do horizontal accountability mechanisms work within the Legislative branch?* The presentations give a step-by-step narrative of research findings by the CIPPEC and OSSREA teams.
- Daily Express. *President Antony Caramona’s Address when Opening the 4th Session of the Tenth Parliament of Trinidad and Tobago June 25, 2016*. Drawn
from the Caribbean, the speech outlines what it takes to give parliament the clout it needs to hold the executive accountable.

- A webinar was also held on this topic which discussed the question, ‘How do horizontal accountability mechanisms work within the Legislative branch?’

To guide the discussion and exchange, the following questions were posted:

1. Based on your experience, discuss how formal mechanisms work that enable the legislature to make the executive answerable and with what results in your country or region.
2. What institutional design issues should be taken into account to improve enforceability of mechanisms aimed at accountability?

Discussion

"Those who finance the election of members of parliament have the tendency to allocate themselves political powers and indeed influence what goes on in Parliament (Congress). In Kenya, financiers end up as contractors of government projects and therefore have an interest in the nature of questions asked by parliamentarians and the responses provided by the executive." - Kefa Omoti, Kenya.

The discussion was very lively and focused more on Africa than on Latin America. Many similarities were identified between enforcement mechanisms and the challenges to attaining desired accountability outcomes. The main challenge is that politicians who finance their way into parliaments ensure they control the allocation of resources and the budget and the levers of ensuring accountability.

The main points of the discussion are summarized below.

**Constitutional frameworks and effective use of powers by parliamentarians**

It was noted that the foundations laid down by constitutions in Kenya, Nigeria, South Africa and Zimbabwe, for example, provide for adequate oversight powers on the part of legislative bodies. But the level of success in using these powers is conditioned by the extent to which the selection of MPs is independent of members of the executive bodies who also hold positions in political parties that vet those who can stand for elections. This may influence the extent to which MPs can effectively and objectively use available powers and opportunities to secure accountability. According to Nonhlanhla Chanza, sometimes in South Africa, when parliament seeks enforcement of its decisions, it is accused of violating the principle of the separation of powers. The problem seems to emanate from the lack of capacity on the part of executive officials to distinguish between government and governance. When parliament seeks to exercise oversight over governance, members of the executive think it is getting involved in issues of governing. In Zimbabwe the confusion is institutionalised by the subordination of parliament to the executive bodies. According to Daniel Chigudu from Zimbabwe, "In Zimbabwe, there..."
seems to be either a misunderstanding from the executive or a blatant disregard for the powers of the other arms, most notably the legislature. What is more telling is the fact that issues in Parliament are discussed at political party events which itself is a violation of legislators’ absolute Parliamentary privilege protecting them from victimization. There is growing concern that the executive is usurping the powers of Parliament, thereby reducing it to be a paper tiger – one that appears powerful but is in fact insignificant. The practice in Zimbabwe reflects some elements of contempt of Parliament. According to Emmanuel Joseph Mallya from Tanzania, the general problem in Africa is that heads of state rule by decree, constitutional provisions are selectively applied when they suit the executive and opposition parties are severely marginalised.

**Executive respect for and contempt of Parliament**

The statement by Chigudu of Zimbabwe quoted above is indicative of the problem of contempt of parliament demonstrated by some executive officials in Africa. In the case of Malawi it was noted by Stanley Chituk that the executive expects parliament to tow its line and when it tries to flex its muscle it is openly side-lined or ignored. Tola Winjobi from Nigeria narrated a story of a minister of petroleum affairs who, when summoned by the Nigerian Parliamentary Accounts Committee, refused to appear and told the committee to seek permission from the President to interview her. This amounts to impunity encouraged by the highest executive level. In Kenya, instances of MPs refusing to appear before parliament or its committees were described in the OSSREA Regional Evidence Paper used as background material for the discussion. Kefa Moti of Kenya added that this refusal or contempt has also been occurring at county level with governors ignoring summonses from the County Assemblies. In Kenya the problem is aggravated by the dispersion of powers between Senate, the National Assembly and County Assemblies. This problem was explained by Kefa Moti who explained that when a constitution allows multiple bodies to exercise similar oversight powers it reduces the effectiveness of oversight. In this vein she observed that in Kenya, ‘Where the Constitution allows the Senate to oversee the County Governments, it also provides an avenue for the County Assemblies to do the same. This overlap of accountability delays rates of response and provides an avenue for outright defiance by Governors’. At national level, the Kenyan Constitution confers power of oversight of County Governments on Senate as well as on the National Assembly. This also reduces the effectiveness of accountability due to County Governors refusing to accept summonses from the Senate. Amplifying on this Boaz Maloba from Kenya noted that, ‘The Senate oversees national revenue allocated to county governments but can only make recommendations that undergo scrutiny and approval by the National Assembly. The Senate summons the county bosses to question them on accountability issues and make recommendations for appropriate action. In most cases the recommendations have been made, the desired action has never been taken. Often most county bosses ignore summonses made by the Senate to appear before it’.
Therefore to function well the frameworks have to be respected by both arms of the state. The fight against impunity by civil society organisations can also help. In South Africa, such impunity has been confronted successfully by strong and vocal civil society organisations which have managed to put pressure on members of the executive to appear before parliament. Nonhlahla Chanza gave an example of how such pressure forced the Minister of Defense in South Africa to back down on her refusal to appear before Parliament on the ground that she was not the accounting officer of the Ministry. In South Africa, civil society bodies can go to court to seek a declaration seeking the enforcement of decisions of any arm of the state if implementation or compliance is blocked by the other arms. The moderator drew the attention of the participants to a court decision in Colombia which nullified a labour legislation passed by parliament which it found to be unconstitutional. Costa Hofisi from South Africa also said that although executive bodies were struggling to water down accountability, courts still offered some hope that not all will be lost. In his words, 'In South Africa, enforceability of accountability is sacrificed on the later of political expediency just like what is happening in most African countries. This coupled with empire building, patron clientilism, partisanship and blind loyalty makes the situation untenable. However, the judiciary is featuring prominently as evidenced by the recent constitutional court judgment'. He was referring to the Supreme Court Judgment which compelled President Jacob Zuma to pay back money illegally used to refurbish his residence after he had ignored the decision of Parliament ordering him to return it to the government. The potential role of the judiciary was also emphasised by Herman Musahara from Ethiopia and Kefa Omoti from Kenya who agreed that the judiciary has the potential to support enforceability of policies where parliament fails. Andres Meija Acosta stressed the potential role of the courts by saying they can play a dual role. In his words, '(1) The Judiciary can play an important DUAL role to hold the Executive and / or the Legislature accountable. It can do this DIRECTLY for example by holding one branch directly to account. (Over the weekend the Judiciary in Brazil has played a key role accusing former President Lula of obstruction to justice). But the Judiciary can also play an INDIRECT accountability role by upholding for example requests from Parliamentary Committees (PACs) to investigate wrong doings of the Executive thus contributing to its sanctioning strength'. Tola Wanjobi cautioned that in Nigeria there have been instances where court rulings were ignored by the executive. This prompted Hassen Hussein from Ethiopia to suggest that the judiciary has to be fully independent of either the executive or the legislative arms of the state if judicial intervention is to be effective, and in many African countries this is not yet the case.

**Accountability within presidential and parliamentary systems**

During the discussion, issues were raised as to whether presidential systems of government deliver different accountability outcomes from parliamentary systems. Eric Kany from Kenya was absolutely convinced that a presidential system works better provided it is built on clear separation of powers with adequate checks and balances and independent watch bodies. Lucia Margarita Reyna Soberanis from Guatemala was of the
opinion that the main determinant of effectiveness is willingness to exercise powers provided for in the constitution. She said, ‘The Guatemala Congress has the capacity to hold the executive accountable, but the powers are not used for the intended purposes’.

Paolo Andre Soasa Vilagarcia from Peru does not think outcomes depend so much on the design of the system but on how it works. He noted that, ‘Some experts classify Peru as semi-presidential. But institutional design is not the only important thing. The functioning of these mechanisms diverges depending on the characteristics of the party system. In this regard, I think Kenya and Peru are more similar. This is due to the absence of clearly defined programmatic platforms and excessively personalized politics’. It was further noted by Nonhlanhla Chanza from South Africa and Symon Nyalugwe from Namibia that in these countries where the system of proportional representation is used in parliamentary elections, members demonstrate greater loyalty and allegiance to their political parties and do not feel so much bound by the wishes of their constituents.

Transparency among MPs and the media

Stories of Members of Parliamentary Committees asking for bribes from ministers or negotiating with them to include their kickbacks in proposed budgets surface from time to time in several African countries. Transparency seems to be low across many countries in the region. Antonella Lovejoy Hamandishi of Zimbabwe indicated that state bureaucracy, corruption, nepotism and lack political will combine to make accountability difficult to achieve in Zimbabwe. Kefa Omoti from Kenya noted legislative processes can be used by MPs to extract bribes from members of the executive. He asserted that there were instances in which MPs went round government ministries seeking bribes so as not to ask questions on particular matters before the house. He also indicated that most of the questions that were sent to the executive by Parliament between 2006 and 2009 bordered on intimidation and harassment. This was also confirmed in the case of Nigeria where it was alleged that MPs negotiate for funds to be added to budgets in order for them to pass the budgets and later the money is paid to them. Corruption within the judiciary further complicates the problem of enforceability of decisions of the parliamentary committees and, as was noted by Aloysius Rukundo, there is corruption within the media which is the other institution that could help in the fight for greater accountability.

Effectiveness of questions and answers as mechanisms for enforcement

Collusion between Members of Parliament and those of the executive sometimes leads to questions and answers calculated to protect the ruling elites. Examples were given from Ethiopia by Muluadam Alemu. In the case of South Africa it was noted by Nonhlanhla Chanza that until recently citizens did not take an interest in parliamentary questions and answers because some members were asking leading or what a participant from that country called ‘sweetheart questions’. Chanza noted that, ‘There are many instances in the South African Parliament where members of the ruling party have been accused of asking sweetheart questions of the executive. There are also instances where parliament’s
presiding officers have been accused of blocking certain questions from being asked by the opposition members’. Such questions make the public lose interest in these mechanisms, but when the questions are focused and answers demanded, the public becomes more interested.

It was also felt that collusion and alliances based on ethnicity and other social ties tended to affect the quality of debates, questions and motions. Boaz Maloba indicated this was very common in Kenya based on ethnic affinity and notions of regional or ethnic solidarity. According to Nonhlanhla Chanza, bonds and networks developed during the struggle against apartheid in the past shape relations between members of parliament and those in the executive, thereby diluting the nature and outcomes of debates questions and motions.

Moses Hategeka introduced the issue of censure motions. In the background paper of OSSREA, this mechanism was portrayed as weak because of the same reasons that make questions and answers and other motions ineffective. Moses Hategeka attributed this ineffectiveness to the excess power of the top people in the executive to intimidate MPs and when prosecution of violators is recommended, their immense capacity to order the processes to stop or to be prolonged until they get forgotten over time. Censure was found to be time consuming and procedures were seen to be too complicated such that they were rarely thought of as a mechanism for answerability. Therefore, while in almost all countries parliaments have powers to investigate and take clear measures, such as recommending removal or prosecution of violators of process or procedures, these powers have not been given room to take effect.

Moses Hategeka from Uganda said, “Our Parliament has the power to censure ministers found guilty of corruption and power misuse. Our sixth parliament was so vibrant and had MPs who were totally dedicated to fighting corruption in the executive branch of government, it censured two cabinet ministers and a deputy cabinet minister, who they investigated and found to have misused public resources in their ministries for their personal benefit……and at the height of bribery and corruption scandals in our oil and gas sector, the parliament summoned the President to explain his alleged role in it.” But the exercise ended with the president appearing before parliament and no more was heard about the issue. While in the case of Uganda parliament managed to flex its muscle, Nonhlanhla Chanza was doubtful if such a process could take place in her country because parliament relies on intermediation between it and the President through the Leader of Government Business.

Explaining the seriousness of the challenge, Stanley Chitukwi from Malawi said that when parliamentarians are very closely allied to members of the executive, censure measures cannot be effectively used. Daniel Chugudu suggested that there is a need for a holistic approach which addresses alliances, ethnicity and other factors that promote collusion between legislators and members of the executive. In addition Philip Buchere and Boaz Maloba from Kenya, along with Tola Winjobi from Nigeria, Nonhlanhla Chanza from South Africa and Aloysius Rukundo from Uganda, all agreed that their countries’ constitutions vest enough powers in their parliaments to censure presidential appointees and seek their
removal. But they concluded that presidents in their countries have power and enough influence to mobilise support for those censured to retain their positions.

Conclusion

**Key factors behind low level of enforceability of mechanisms**

Seven key factors shape the outcomes of enforceability of mechanisms. First is the party system. As noted in the discussions and emphasised by Paolo Andre Soasa Vilagarcia from Peru, it does not matter whether a country is using a parliamentary or presidential system of government. The party system is more effective in shaping relations between the executive and members of parliament. For example, where the head of state is at the same time the chair of the party in power, such a person has a lot of power and free expression by members of the ruling party can be highly constrained. It was also noted in the case of Ethiopia, Kenya, Nigeria and Uganda, that there is a tendency for Members of Parliament to be more accountable to political party funders and interest groups that fund their election campaigns than to their constituents. Furthermore, it was noted by contributors from Kenya and Tanzania that relations between political parties in parliament revolve around the need to take or retain power. This encourages partisanship on both sides of the houses and the arrogance of power on the part of governments with significant majorities in parliament. It becomes a disincentive to transparency and answerability.

Second is excessive concentration of power in the hands of the executive and the people presiding parliamentary discussions and debates. When and as normally is the case, they belong to the same political party, they control parliaments jointly with the heads of the executive. As Nonhlanhla Chanza from South Africa observed, ‘MPs who are very vocal on the floor or in the oversight committees are not given room to speak’ or when they return to parliament after elections, they are put on obscure committees.

Third is a combination of greed and the commercialization of politics. From election campaigns to participation in legislative activities, most MPs are motivated by personal gain. This problem was summed up well by Symon Nyalugwe of Namibia in the following words, ‘In many African governments, where politics has become business and many join ruling parties for self-enrichment, the legislature can make the executive answerable only if their motive is guided by principles of good governance and not self-aggrandizement. It is only through holding the executive accountable that true democracy can be realized’.

Fourth, is lack of independent bodies such as prosecutors, courts and transparency bodies which can take action without being influenced by members of the executive. As was noted in the discussions, such institutions do not exist in many countries of Africa.
Fifth is the overlap of powers of the sub-branches of the legislature. Kenyan participants pointed out instances of County Governors repeatedly refusing to appear before the Senate to account for resources allocated to their respective Counties, arguing that the only body with oversight powers in respect to County Government is the County Assembly. This is because while the Constitution allows Senate to oversee the County Governments, it also provides an avenue for the County Assemblies to do the same. This ambiguity and overlap delays responses and provides an avenue for outright defiance by Governors. In Kenya this is aggravated by the fact that decisions of Senate have to be approved by the National Assembly which makes Governors defy Senate at will. However, such defiance is possible if it is supported by the Leader of Government Business in the House in question or by senior party or parliamentary leaders in such a body. In the case of Zimbabwe, such defiance was attempted by a Minister but she was forced to appear before the Parliamentary Accounts Committee by senior leaders of her party in parliament. Therefore if the Chief Whip or the Leader of Government Business in parliament support the enforcement mechanisms, the outcomes are likely to be higher.

Sixth, lack of sanctions provides incentives for low accountability. What makes the National Accounts Office and the Mixed Members Committee system more effective in Argentina than the Parliamentary Accounts and Public Investment Committees in Kenya for example, is that in the case of the former, its decisions lead to action by prosecutorial and judicial authorities while in Kenya there are no provisions for Parliament to send recommendations directly to such bodies. It was noted that in Uganda, the Public Accounts Committee has been vigilant and managed to recommend action to the Director of Public Prosecution (DPP). However the office of the DPP has been slow because it is not sufficiently resourced to handle such cases expeditiously. In the case of Kenya, it was noted that the Office of Director of Public Prosecution (DPP) has been failing to take action following such recommendations by Parliament. It was therefore recommended that it should be made mandatory for the DPP to take action on such recommendations. In addition it was noted that in Kenya and other African countries, the mere fact that the Public Accounts Committees are chaired by a member from the opposition makes the executive feel that their reports are calculated to damage the image of the party in power. In addition, a participant from South Africa indicated that even if the committee is chaired by a member from the opposition party such a member needs to be skilled, competent, independent and incapable of being captured by the ruling party. In South Africa it was further noted that officials in the DPP’s office have been accused of integrity problems because they get involved in party politics. Therefore integrity and political neutrality on the part of prosecutorial bodies is crucial. The same was said of Kenyan and Nigerian parliaments.

Seventh is the issue of capacity. Most MPs in Africa do not find time to familiarise themselves with current practices in legislative action and oversight. Some of the problems, such as partisanship and socio-metric affinities which influence their daily behaviour as legislators, are compounded by their lack of knowledge and exposure to issues of good governance and leadership. Philip Buchere, Truphena Mukuna and Boaz
Maloba from Kenya put a lot of emphasis on training MPs and their secretariats about parliamentary governance and the roles of parliaments in promoting transparency and national integrity. Stanley Chitukwi (Malawi) raised the issue of access to information, which is limited for many MPs leading to decisions that are not evidence-based or to asking questions on which information is already available. In the case of Malawi, Stanley Chitukwi raised the problem of legislative drafting saying that some of the laws applied in Malawi have been copied from Zimbabwe where they are not effective. Emmanuel Mallya broadened the capacity issue to citizen education and the importance of building the capacity of civil society to demand their rights, to make their political representatives accountable for their activities and answerable for their failures. He advocated for massive civic education programmes in this respect.

Overall, it was clear from the contributions from Kenya, Liberia, Nigeria, South Africa and Tanzania that the outcomes of available mechanisms for answerability and enforceability are incrementally getting better, albeit slowly. The contributions from Nigeria compare the 6th, 7th and 8th parliaments and acknowledge qualitative changes. In Kenya appreciation of the new dispensation was clear from all participants and suggestions for consolidation of achievements through capacity building and awareness creation have been made. Ethiopia and Zimbabwe seem to be at the bottom of the pyramid in terms of outcomes arising out of the answerability and enforceability mechanisms, but there is indication that if current obstacles are addressed, the quality of accountability outcomes will also increase.
Topic 6: Assessing the outcomes

Focus of the Topic

The objective of the final topic was to take stock of the key points that arose from the learning process and look for areas of improvement with regards to horizontal accountability at national and regional levels.

The discussion focused on:

- Key lessons learned for Africa from Latin America and for Latin American from Africa
- Areas of improvement on various aspects of horizontal accountability with emphasis on answerability, enforceability and balancing between formal and informal mechanisms of accountability
- To what extent the Learning Alliance has contributed to better understanding of horizontal accountability generally
- What elements were not captured in the discussion, which deserve further attention
- What new areas of research should be addressed regarding enhancing the accountability of the executive arms of government to parliamentary bodies

The discussion was supported by a Summary of All the Topics in the LEA.

To guide the discussion and exchange, the following questions were posted:

1. Based on the Summary of All Topics, the discussions of the Learning Alliance on horizontal accountability and your own experience, what are the lessons learned for Africa from Latin America and vice versa? (Please provide your top three thoughts on this).
2. What in your view could be done to improve accountability on a) enforcement of mechanisms; b) answerability of executive bodies; c) incentives for accountability and d) balancing formal and informal mechanisms of accountability? (Please provide your top thought on each).

Discussion

Participants highlighted some aspects that should be taken into consideration by various actors to improve horizontal accountability. The views are are summarised below.

Institutional aspects: capacity, sanctions, implementation, independence

Institutional capacity was identified as one of the main factors for improving horizontal accountability, which highly depends on how the existing institutions promote and protect human rights standards besides fulfilling the principles of good governance. Strengthening
the capacity of secretariats of legislative bodies, the judiciary and executive bodies in various areas affecting horizontal accountability requires training and re-training. But training per se will not solve all problems without changing institutions and dominant mindsets.

In order to achieve this, support for legislative bodies should cover adequate remuneration and compensation for members of the legislature, adequate administrative, technical support for research and IT, and increased budget transparency, which can be accomplished by information dissemination for citizens and non-governmental actors.

On the other hand, sanctions are top ranked. Proper executive reporting mechanisms and sanctions for improper reporting should be institutionalised. To achieve more accountability there must be legally sanctioned punitive actions against the culprits irrespective of position, economic muscle or affiliation.

Another important topic is implementation. Mechanisms being in place are one thing, but implementation requires an attitude and behavior change. Transparency and accountability are matters of ethics that require a minimum threshold of behavioral transformation among individuals, institutions and organisations in terms what they want to achieve. Transformation, if it has to take root sustainably, must be enforced through legislation and monitored periodically to gauge conformity in line with set ethical principles whether in public or the private sector.

Independence and clear separation of powers is a fourth institutional factor. As well as the traditional division of the three branches, there is also a need to strengthen institutions of supreme audit in terms of autonomy, financial, human and other resources and media institutions. The latter can be strengthened by media houses assigning special correspondents to parliaments.
The final reflection is that both regions are a long way from accomplishing desired goals. Both the participants and the moderators agreed that more research is needed on the extent to which constitutions are conducive to effective accountability in Africa and Latin America. Capacity building and management, stronger sanctions for non-compliance and the challenge of enforcing citizenship are some of the aspects identified during the discussions and from the conclusions made by participants when asked about challenges ahead and new areas of research.

Conclusion

The first aspect to be highlighted is that the Learning Alliance has been a very enlightening experience for all the participants, including the moderators. People from different countries were able to learn about horizontal accountability mechanisms, extend their knowledge about the topic and how horizontal accountability is performed in both regions.

As for the exchanges, it was noted that a considerable number of participants read the proposed materials and the Regional Evidence Papers. Moreover, the dialogue showed that participants’ opinions varied throughout the exchange by identifying good practices from other countries. Unfortunately, participation by Latin American participants gradually reduced and made inter-regional dialogue difficult to sustain. This dialogue was hard to develop, since it seemed that African participants talk more to each other and did not always engaged with Latin American peers or answer the questions that the Latin American people did. However, they were particularly permeable to clarifications made by experts about the actors from the western side of the Atlantic.

It is difficult to make any comparisons between African and Latin American countries, and even among African countries themselves. Their electoral systems have evolved differently; some are more competitive, some less; some are already vibrant and active democracies – as seems to be the case in South Africa – and some are walking the road. Yet the vast majority of African countries share a common feature: the importance of accountability is widely recognised and participants identified that their countries have already taken big leaps to strengthen oversight as an important aspect of liberal democracies. African Constitutions have included these mechanisms in the wave of reforms that has been taking place since 1990’s. It is also very important to say that participants from both regions – Latin America and Africa - identify that the mechanisms actually exist, but they are either not used or severely underexploited. Corruption, lack of effective sanctions, executive interferences and vague or recent institutionalisation were all mentioned as the main causes of weak horizontal accountability. Recommendations for the included: the need to empower civil society to recognise and demand their rights, strengthen legislative institutionalisation and to modify the electoral system. The importance of these initiatives was discussed throughout the Learning Alliance discussions.
Finally, all participants stressed the need to continue with this line of research in order to understand the deficits in horizontal accountability. Important steps forward have been achieved, but consistent and permanent efforts are required to ensure that legislators and members of the executive place accountability on their agenda, enhance accountability and, hopefully, improve the quality of life of citizens.