Legal Empowerment and Social Accountability: Complementary Strategies Toward Rights-based Development in Health?

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Summary. — Citizen-based accountability strategies to improve the lives of the poor and marginalized groups are increasingly being used in efforts to improve basic public services. The latest thinking suggests that broader, multi-pronged, multi-level, strategic approaches that may overcome the limitations of narrow, localized successes, hold more promise. This paper examines the challenges and opportunities, in theory and practice, posed by the integration of two such citizen-based accountability strategies—social accountability and legal empowerment. It traces the foundations of each of these approaches to highlight the potential benefits of integration. Consequently it examines whether these benefits have been realized in practice, by drawing upon five cases of organizations pursuing integration of social accountability and legal empowerment for health accountability in Macedonia, Guatemala, Uganda, and India. The cases highlight that while integration offers some promise in advancing the cause of social change, it also poses challenges for organizations in terms of strategies they pursue.
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1. INTRODUCTION

Recent debates about transparency, accountability, and responsiveness of governments to citizens have been focusing on ways in which citizen-led accountability strategies can work to improve services for the poor and marginalized. Early reviews of existing evidence on the success of citizen-led accountability were mixed: similar approaches in different settings seemed to sometimes be successful and at other times not (Gaventa & McGee, 2013; Joshi, 2013a). Contextual conditions clearly mattered—and several reviews pointed to the limited generalizations that could be made from existing studies (Lodenstein, Dieleman, Gerretsen, & Broerse, 2013). More recently, a rethink of the evidence suggests that a more systemic perspective is needed, that goes beyond narrow tool-based, "tactical" approaches to broader, multi-pronged, multi-level, "strategic" approaches (Fox, 2015; Halloran, 2015). The rationale for this is clear: public accountability failures are not accidental—they occur due to embedded power structures and political dynamics that are systemically anti-accountability. To address these, "countervailing power" is required: rooted in pro-accountability coalitions that cut across states and social groups; that bridge different levels; and that integrate efforts across several domains.

While there is now some agreement about the need, there is little documentation about how such integrated approaches might operate in practice. What are the drivers of multi-pronged, multi-level strategies? What are the practical and conceptual issues they raise for civil society organizations and social movements that adopt them? What prongs appear to be key, and why? What challenges and opportunities do they pose? When do they work and how? Do the different approaches reinforce each other, if so, under what conditions?

This paper seeks to answer one piece of the puzzle of understanding multi-pronged approaches—by a close examination of the combination of two specific "prongs" that can work across levels—the combination of social accountability (SA) and legal empowerment (LE) approaches. The two approaches have much in common—a strategy of awareness-raising and mobilization, an orientation toward state-granted rights, and a concern with improving services, creating active citizens, and establishing sustainable changes in governance structures. A number of organizations are employing the strategies implicit in these approaches to shape their ongoing work. There is now a nascent literature that aims to assess and understand the relevance of these approaches, albeit separately (Fox, 2015; Goodwin & Maru, 2014). More recently, a small number of organizations are explicitly combining these approaches in an attempt to increase the scale and traction of their work (Open Society Foundation [OSF], 2014). As an exemplar of the recent interest in multi-level, multi-pronged approaches, these recent and relatively few experiences of integration of SA and LE require a closer examination. With this task in mind, this paper aims to build our understandings of how

these two approaches relate to one another—in what ways are they complementary and where are the challenges? When does the combination lead to one approach bolstering the other?

The task is approached here through two distinct starting points. On the one hand, I trace the theoretical roots of both SA and LE, specifically to unpack areas of commonality and difference. On the other hand, I analyze the evolution and strategies of organizations that are attempting to implement these approaches on the ground, to understand what challenges and opportunities the combination offers in specific contexts. Thus, the paper attempts to combine thinking about the conceptualization, evolution, practice of the integration of SA and LE approaches with empirical evidence from the field. Further, while the ideas presented in this paper are broadly applicable to a range of public goods, the focus of this paper is healthcare. The advantages of such a focus are twofold: it allows us to ground the discussion in the specific characteristics of a sector; and it also allows us to draw on the areas where experimentation has been the most prolific.

The empirical evidence underpinning the paper comes mainly from five organizations in four countries that are among the very small number of organizations using a hybrid approach—Association for Emancipation, Solidarity and Equality of Women (ESE) and Health Education and Research Organization (HERA) in Macedonia; Centro de Estudios para la Equidad y Gobernanza en los Sistemas de Salud (CEGSS) in Guatemala; Center for Health Human Rights and Development (CEHURD) in Uganda; and Nazdeek in India.[1] The author visited all the organizations (with the exception of Nazdeek), reviewed the written documentation, interviewed staff, government officials, and personnel from other relevant organizations, and conducted field visits in country. This was not by any means an evaluation of the work of these organizations—rather it aimed to explore the process of integration and raise some key issues that are relevant to understanding how two particular prongs of a multipronged approach might work in tandem.

The paper is structured as follows. The second section, which follows this introduction, lays out the evolution, conceptual underpinnings, and core features of each of these approaches. In the third section, I take up the issue of integration, showing the commonalities and challenges of SA and LE and highlight potential synergies and expectations. The fourth section then shifts focus to look at the empirical evidence, and briefly describes the work of the five organizations that are implementing an integrated strategy. This sets the stage for highlighting some of the key issues that emerge from a review of the experience, which are laid out in the fifth section. In the sixth and final section, I conclude with some observations on what such an integrated approach might mean for both theory and practice.

Before proceeding however, it is essential to clarify terminology: what is meant in this paper by "integrated" approaches?[2] By integrated approaches, I mean integration in two dimensions: approaches that could involve vertical integration—strategies that link efforts across local, subnational, national, or international levels (Fox, Montero, & Aceron, 2016); as well as being multi-pronged in the sense of simultaneously coordinating across different spheres of action—community mobilization, litigation, media work, political advocacy, etc. Clearly initiatives combining SA and LE are integrated in the sense of being multi-pronged as they use legal systems as well as mobilization. It is important to note however, that not all such SA and LE initiatives are necessarily multi-level. In fact, the cases reported here are unusual in that they represent integration in both dimensions.

2. EVOLUTION OF THE APPROACHES

The past two decades have seen the rise of SA and LE approaches independently as a means of improving governance and achieving developmental outcomes (Joshi & Abdikeeva, 2014).[3] Both SA and LE have huge definitional ambiguities—and have been used in a variety of ways. Occasionally social accountability is viewed as a part of, or blending into a world of legal empowerment approaches (Golub, 2010; Goodwin, 2014). Sometimes it is the reverse, legal empowerment is viewed as one of the strategies of grievance redress within social accountability approaches (Peruzotti & Smulovitz, 2006). To set the stage, I discuss where these approaches are coming from, their key features, and their expected impacts (Table 1).

(a) Social accountability

The term "social accountability" came into use in the early 2000s to refer to citizen-led processes that demanded accountability from governments outside of formal electoral systems.[4] The term itself appears to have two different origins. One strand, led by international donors attempted to conceptualize and label emerging approaches to improving services and empowering citizens through organic structured bottom-up accountability demands (Malena, Forster, & Singh, 2004). A second strand of analysis came from observations of citizen protests against the lack of political accountability in Latin America (Mainwaring & Welna, 2003; Peruzotti & Smulovitz, 2006). Initially termed "societal accountability" by scholars, these efforts were redefining the relationship between citizens and the state (Peruzotti & Smulovitz, 2006).

By the late 2000s, these two strands had merged in the discourse.[5] The World Development Report of 2004, identified lack of accountability as a key reason for failures of public services, and suggested direct accountability relationships between providers and citizens (World Bank, 2004).[6] Overwhelmingly, the focus of SA practice shifted to non-confrontational "widgets" such as community scorecards, rather than organic political processes of community deliberation, mobilization and action (Joshi & Houtzager, 2012). In this paper I use SA ideally to mean citizens efforts at ongoing meaningful collective engagement with public institutions for accountability in the provision of public goods, rather than projectized, superficial tools that mainly attempt to close the feedback loop.

At the heart of this broader idealistic definition of social accountability there are common elements. First, although social accountability initiatives can originate in state or social action, they require an active citizenry, which is informed, mobilized, and ready to engage with public institutions. Second, the processes of social accountability incorporate both collaborative and confrontational strategies—from deliberation and problem solving around accountability, to protest and naming and shaming (Fung & Kosack, 2014). Third, although focused specifically on accountability, policy advocacy is also a part of social accountability strategies. Fourth, social accountability approaches draw on both formal institutions of engagement and grievance redress to work, but also on informal institutions such as reputational costs and social embeddedness. Finally, social accountability mechanisms do not focus on individual grievances, but aim to fix collective problems faced by communities through collective action.

Recent research on social accountability has increasingly focused on issues of outcomes, and the expectations have been quite wide-ranging (Grandvionnet, Aslam, & Raha, 2015;