Evolving Accountability – Implications for Legislative Oversight

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The notion of accountability is an amorphous concept that is difficult to define in precise terms. However, broadly speaking, accountability exists when there is a relationship where an individual or institution, and the performance of tasks or functions by that individual or institution, are subject to another’s oversight, direction or request that they provide information or justification for their actions.

Thus, the concept of accountability involves two distinct stages: answerability and enforcement. Answerability refers to the obligation of the accountee (for the purpose of this article, the government, its agencies and public officials) to provide information about their decisions and actions and to justify them to the public and those institutions of accountability tasked with providing oversight. Enforcement suggests that the public or the institution responsible for accountability can sanction the offending party or remedy the contravening behavior. As such, different institutions of accountability might be responsible for either or both of these stages. In this article, we seek to consider the role of the legislature as an accountability institution - evaluating the ongoing effectiveness of public officials or public bodies and ensuring that they are performing to their full potential, providing value for money in the provision of public services, instilling confidence in the government and being responsive to the community they are meant to be serving.

The concept of accountability can be classified according to the type of accountability exercised and/or the person, group or institution the public official answers to. Broadly speaking, there are four principal forms of accountability: horizontal, vertical and diagonal with a fourth type, social being a particular case of diagonal accountability. All four types have emerged from different schools of thinking, and little has been done to synthesize the different concepts. Moreover, with the exception of horizontal accountability, little attention has been played on the role that the legislature plays in each promoting each type of accountability.

In this article, we seek to synthesize the different accountability concepts and highlight the role that legislature’s can play in promoting vertical, diagonal and social accountability, as well as horizontal accountability. As a point of departure, we use Mathews (2006) synthesize of horizontal and vertical accountability:
In diagram 1, executive governments (and, although not specifically noted by Mathews, other legislators as well) are held accountable by citizens via the electoral process; this is typically known as ‘vertical accountability’. Since elections are typically held every three to five years, in most countries other state institutions – notably the executive but other institutions, too, such as ombuspersons and supreme audit institutions) hold the government to account on a day-to-day basis, via the concept of ‘horizontal accountability’.

Diagram 2 presents the newer types of accountability, highlighting the principal institutional actors and the accountability relations between them while diagram 3 synthesizes diagrams 1 and 2 and highlights the oversight tools available to legislatures to promote the different types of accountability. We will present each type of accountability in turn, noting the tools available to the legislature to promote each type of accountability.

**Horizontal Accountability**

The prevailing view is that institutions of accountability, such as the legislature and the judiciary, provide what is commonly termed horizontal accountability, or the capacity of a network of relatively autonomous powers (i.e., other institutions) that can call into question, and eventually punish, improper ways of discharging the responsibilities of a given official. In other words, horizontal accountability is the capacity of state
institutions to check abuses by other public agencies and branches of government, or the requirement for agencies to report sideways. This is shown in Diagram 1 by the relationship between the executive, the public sector and the legislature and other oversight institutions, where the latter, with the legislature, act as horizontal constitutional checks on the power of the executive.

Legislative oversight tools used to enforce such accountability comprise three types: i) legislative committees; ii) chamber proceedings and iii) external oversight institutions. We will review each type in turn, but first will note that initially – and especially in parliamentary systems - such accountability was primarily political: public servants were accountable to ministers who in turn were accountable to the legislature\(^1\). But with the introduction of new public management techniques, the corporatization of government and the creation of executive agencies, so senior public servants are now often called to account by the legislature.

\[\text{Diagram 3}\]

\(^1\) Hence, the notion of ‘ministerial accountability’ and responsible government.
Committees

Joseph LaPalombara held that, “if the national legislature is to be a significant political factor, then it must have specialized committees of limited membership and considerable scope of power” (1974, page ??). Wehner (2004, page ??) dubs committees “the engine room” of the legislature…[where] in-depth and technical debate can take place, away from the political grandstanding that often characterizes proceedings in the chamber”. As Senator Bourne of Australia put it, “[T]he committees are remarkable because when no one is around, parliamentarians tend to agree with each other…we try to come to agreement by consensus. We try not to abuse each other. It is really different from the chamber.”2 The outcome of a committee’s investigations typically takes the form of a report to the legislature that is also published. The report and its recommendations may be debated in the plenary, and the legislature may require a response or follow-up actions from the government. An example is the Indian Parliament, which recently tightened up its procedure for following up recommendations by Departmentally Related Standing Committees (DRSCs):

“Under the existing procedure, after a Report on a subject is selected by the DRSCs is presented to the House, the Government furnishes its Action Taken Notes within three

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2 Comments made during the proceedings of the Conference to mark the twentieth anniversary of Senate Legislative and General Purpose Standing Committees and Senate Estimates Committees, October 3, 1990.
months on the recommendations made therein. Implementation of recommendations accepted by the Government is generally not complete with regard to a number of the recommendations. To infuse a sense of seriousness and ensure timely implementation of the recommendations made by the DRSCs, the Speaker, Lok Sabha [lower chamber] and the Chairman, Raj Sabha [upper chamber], issued directions in September 2004 providing that the Minister concerned shall make once every six months a statement in the House regarding the status of implementation of recommendations contained in the reports of the DRSCs. It is expected that this will make a significant difference in the timely and qualitative implementations of their recommendations” (Beetham, 2006).

There are two major types of committees: permanent (often called ‘standing’) committees, usually established for the duration of the legislature, and ad hoc committees appointed to perform specific, time-bound inquiries. While all committees perform some level of oversight, some parliaments have specific oversight committees. There is a huge variation, however, in how committees are organized and the resources they have at their disposal. According to the NDI (1996, page ???):

“[a]t one end of the spectrum sits the US Congress, in which standing (permanent) committees perform the essential functions of reviewing proposed legislation and monitoring executive branch activities. At the other end lies the British Parliament, in which ad hoc (temporary) committees conduct only a cursory review of draft legislation and permanent committees have a limited oversight function. And in the middle – which comprise the majority – there are legislatures, such as those in Germany and Sweden, in which permanent committees are active in the legislative process but are not as important as US congressional committees.”

Political parties have significant influence on the functioning of committees and strong party discipline and/or single party dominance may weaken committees and their oversight potential. Independence of membership is often a contentious issue as the ruling party may seek to remove members seen as being too ‘critical’. In the UK Parliament there have been several unsuccessful attempts to address this by removing powers of selection from the whips (Shephard, 2004). A striking example of this very problem recently played out in South Africa where the Standing Committee on Public Accounts (SCOPA), and particularly its members from the ruling party, came under enormous pressure from their seniors to drop an investigation into corruption in arms purchasing, and the ruling party’s leader in the committee was replaced for refusing to comply (The Africa Report, Oct. 2006). Where junior members of the ruling party on committees must stand up to members of the government who are also their senior members (particularly in party list systems) they may be less likely to seek to hold government to account. (The Africa Report, Oct. 2006). Dubrow (2001, page ???) argues that:

“[i]n parliamentary systems…the domination of committees by members of the governing party significantly limits the effectiveness of parliamentary oversight. Frequent turnover of pro-government committee members by the governing party can also weaken the cumulative knowledge of the committee…[and prevent] members from acquiring any significant policy expertise.”
Examining legislative oversight in post-communist countries, Olson (2004) concurs noting that “opportunities for committees to engage in administrative review and oversight increase to the extent that single party control is relaxed.” Similarly, as single party dominance has decreased in Ghana and Kenya, their parliaments have become more effective (The Africa Report, Oct. 2006).

A number of other factors can contribute to the effectiveness of parliamentary committees. Wang (2005) summarizes research which shows that committees are more effective when the committee system is parallel rather than cross-cut to the government’s departmental structure, and when committees have distinct and autonomous jurisdictions, as overlapping mandates may create confusion and lead to responsibilities being ignored (Mezey and Olson, 1991; Norton and Ahmed, 1997).

Where committees are large in size the benefits of increased cooperation and more efficient decision making are compromised. A study of defense committees in 30 legislatures that concluded that “the majority of committees are efficient and workable with between 13 and 25 members” (NDI, 1996). Similarly, a survey of 51 PACs found that they are more effective when the committee is small, with around 5-11 members, none of whom should be government Ministers (Stapenhurst, Sahgal, Woodley and Pelizzo, 2005).

Ensuring that committees are properly resourced, strengthening committee research capacity, and allowing committees to hire adequate staff, and consult or employ experts, can also enhance committee effectiveness. Committee staffing has often been considered insufficient in comparison to the staff resources that most government ministries possess (Beetham, 2006). Some legislatures have a large, qualified committee staff while others have none at all (NDI, 1996).

Beyond financial and human resources, committees require certain powers to be effective, such as the power to set their own agenda and initiate investigations. It is not necessary that committees scrutinize all of the government’s activities, but rather that the ministers know that any field of their activities could be investigated at any time for accountability to be effective (Beetham, 2006). The Philippines House of Representatives is an example of a legislature in which committees themselves determine aspects of government activity to be investigated:

Committee meetings, and more specifically hearings, may be conducted in closed sessions or be open to the public. Several parliamentary organizations including the CPA have argued for committee hearings to be public. Public meetings provide an opportunity for the media and the public to engage in the process of policy development and implementation and may increase political incentives for oversight. Moreover Bach (2000, page ???) argues that, from the US perspective “…with oversight hearings open to public view, members could envision the possibility of reaping some favorable publicity

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3 PACs surveyed in national and state and provincial parliaments in Commonwealth countries in Asia and Australasia and Canada and the United Kingdom.
in recompense for their efforts.” Regarding the U.S. case, the final report of the Joint Committee on the Organization of Congress (1993) notes that:

While closed meetings come at the price of transparency and participation, they may be necessary when committees consider classified information. Governments may also prefer closed sessions to minimize potential embarrassment and parliamentarians may feel they can speak more freely, potentially increasing intra and inter-party cooperation (NDI, 2000).

**Special Commissions of Inquiry**

Apart from the regular committees, the legislature may set up special commissions of inquiry, or investigation committees, to examine issues in the public debate and make recommendations on current and future policies and legislation. The U.S. Congress for example, operates numerous temporary commissions and task forces to examine issues such as security in Europe and tax reform (NDI, 2000). Such commissions are time bound and their subjects typically cut across the responsibilities of several government agencies or departments and several parliamentary committees. As with most committees, such commissions are empowered to summon witnesses to testify under oath, including officials of the executive branch, and to demand documents and order on-site inspections. Hearings to gather evidence may be held in public. In some countries they have even broader powers of investigation, similar to those of the investigating magistrate or prosecutor (OECD, 2000). At the end of their investigation, they generally issue a report to the full chamber or to the public that contains their findings and conclusions.

Different legislatures use different means to establish a commission of inquiry investigation committee. They may require a qualified majority, a motion by a small group of legislatures, or approval by either the governing body of the legislature, the committee on parliamentary procedures, or the full plenary. In Korea the plenary must first approve an ‘Investigation Plan’ outlining the purpose, issue, scope, method, period and cost of the inquiry (OECD, 2000). In bicameral legislatures, both chambers may have the right to launch inquiries, or it may be an exclusive right of the lower chamber (OECD, 2000). In the Netherlands, a parliamentary inquiry committee is the most far-reaching type of investigation available to the parliament and is initiated as a last resort. Nevertheless, Pelizzo and Stapenhurst (2004) found that more than 95 percent of legislatures surveyed conducted such inquiries, although they were somewhat more common in presidential and parliamentary forms of government than in semi-presidential systems.

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4 This is the case, for example, in Belgium, France, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Switzerland
The Chamber

Oversight mechanisms used within the chamber of the legislature include questions and interpellations; plenary debates; and votes of confidence/censure. We shall consider each in turn.

Questions and Interpellations

The right to question ministers, both orally and in writing, is among the traditional forms of oversight in parliamentary systems (including regimes where ministers are also members of the legislature). Originally developed in the United Kingdom, (where the categories of questions include departmental Question Time, inter-departmental Question Time, Prime Minister's Questions, Private Notice Questions, and questions following ministerial statements), this practice can now be found in legislatures worldwide (NDI, 2000). Questions are used to obtain information, request government action to solve problems, criticize government, expose abuses, and seek redress. Answering publicly for any potential shortcomings is seen as an important contribution to accountability and is the direct consequence of ministerial responsibility (Mulgan, 2003).

Pelizzo and Stapenhurst (2004) found that questions are more common in parliamentary and semi-presidential systems than in presidential systems, Beetham (2006, page ????) notes that while:

“presidential systems do not possess the same procedures for the routine questioning of ministers as parliamentary ones, they have a variety of devices for obtaining responses from ministers of state, besides the normal committee procedures. Under its reformed constitution of 1980, for example, the Chilean National Congress can require the attendance of ministers of state at special sessions of either chamber convened to inform members about issues within the competence of the relevant ministry.”

Individual members in the US Congress may also request factual information from the President or Cabinet members through resolutions of inquiry.

Interpellations are similar to other parliamentary questions, but often more formal and extensive, “designed to provoke comprehensive debate on an issue or a particular case of ministerial neglect” (NDI, 2000). Some parliaments require more than one Member’s agreement to file an interpellation, for example, a parliamentary group of at least 34 Members in Germany, and at least 10 legislators from two party factions in India (NDI,

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5 Don Wolfensberger, director of the Congress Project at the Woodrow Wilson International Center for Scholars and former staff director of the House Rules Committee, explains that the U.S. Congress has not adopted a question period for government ministers although measures calling for a question period for members of the Cabinet were introduced by Rep. Estes Kefauver (D-Tenn.) in the 1940s, Sen. Walter Mondale (D-Minn.) in the mid-1970s, and most recently by Rep. Sam Gejdenson (D-Conn.) in 1991 (with then-Rep. Schumer as one of 40 co-sponsors). The House Rules Committee conducted a full-fledged hearing on this last proposal however Members seemed satisfied with the Congressional committee system as the best mechanism for eliciting information from Cabinet members. See Bimonthly Column on Procedural Politics from Roll Call, “How Much Did the Yanks Really Split From the Brits in 1776?”, July 2, 2007
In Finland, interpellations are generally made by the opposition parties and require the signature of at least 20 MPs.

The rules in parliaments that hold an oral ‘Question Time’ vary widely. Questions may alternate between government and opposition members may even receive more time for questions, or for supplementary questions, than government members. Questions may or may not be supplied to ministers in advance and the rules often set time limits for oral questions and responses. An OECD survey (2000) found that:

“…in a third of the countries participating in the survey, ministers are notified of the questions in advance (e.g. Austria, Canada, Hungary, Ireland, Korea, Luxembourg, the Netherlands, Sweden, UK).” However, in most of these cases during ‘Question Time’ itself any subsequent questions to the minister are made directly without prior warning.”

Beetham (2006, page ???) maintains that the aims of Question Time are most likely to be realized if the process of questioning is well organized and provides the following example of strong organization from the Irish Dail:

“The Taoiseach (Prime Minister) answers questions of which notice has been given (and supplementary questions asked without notice) for 90 minutes each week, and also answers questions from the leaders of the parties in opposition without notice for a further 40 minutes each week. Other members of the Government answer questions in rotation for 210 minutes each week. Approximately 1,900 questions were answered on notice in 2004. In addition, a further 26,000 questions were the subject of written answers.”

Question Time tends to attract public and media interest and is typically broadcasted through television or radio, and its proceedings published, which may increase the effectiveness of Question Time as an accountability measure. The OECD (2000) finds that this is the case in Australia, Finland, Italy, Japan, Netherlands, and Sweden for example. Similarly, Beetham (2006) notes that the Question Hour proceedings of both the Houses of the Indian Parliament are broadcast live on All India Radio.

However there are many impediments to the effectiveness of questions. On the one hand government members may ask ‘friendly’ questions, pre-arranged and prepared by the Government, which invite answers favorable to the Government (Coghill, 2002). Such questions waste time and cut into the time available for additional questioning from the opposition. On the other hand, opposition Members may simply seek to score political points and generate media attention. Legislators of either party may also use Question Time to "ask irrelevant or inappropriate questions that focus on personal or political issues rather than on particular policies. Other questions become rambling, political speeches…” (NDI, 2000, page ???) Many legislatures experience difficulties with poor quality of replies or unanswered questions. Ministers may do their best to evade answers or attack the questioner and “[w]ritten replies can also be carefully crafted by civil servants to avoid revealing anything substantial” (Beetham, 2006, page ???). A Tanzanian legislator demonstrates this in an interview with Wang (2005, page ???):
“The minister answers, and normally you do not get much out of it. It is a tricky way of answering that they resort to. They normally limit themselves to the main text and try to go around it. In very few cases they come up with new data or new substance”.

Finally, in countries where the Speaker is nominated by the government, and remains a member of the ruling party, he or she may act in a partial manner while overseeing Question Time, ignoring “breaches of the rules regarding the form and content of questions and whether answers are relevant” (Rasiah, 2006).

Ultimately, the effectiveness of questions and interpellations may rest upon parliament’s power to sanction government by dismissing individual ministers or the government. Interpellations sometimes end with a formal resolution or a motion that the minister should resign, although these rarely pass in parliaments with government majorities (NDI, 2000). Less extreme measures also exist. In Poland:

“…MPs vote to approve or reject answers to parliamentary questions. According to a former Polish MP and Minister of Education, while rejection of the government’s answer has no practical consequence, it is a slap in the face and for obvious reasons the government tries to avoid this.” (NDI, 2000, page ???)

**Confirmation of Appointments, No Confidence, and Impeachment**

Another important oversight power lies in whether the legislature plays a role in executive appointments. The legislatures’ authority may vary from the power to reject a candidate to a more advisory role (NDI, 2000). Confirmation of executive appointments is more common in presidential systems (e.g. South Korea, Nigeria, the Philippines, and the United States), and tends to involve comprehensive investigations of the executive’s proposed candidate. Some semi-presidential and parliamentary systems also have procedures for oversight of appointments of high-ranking senior civil servants (IPU, 2006). The OECD (2000, page ???) notes for example that legislatures play an important role in appointing or confirming senior appointments to:

“…key public institutions such as: the Constitutional Court (e.g. Korea, Portugal); the National Council of Magistrates (e.g. Hungary, Portugal); the Stock Exchange Board (e.g. Hungary); the Public Broadcasting Board (e.g. Austria, Finland); the National Elections Commission (e.g. Hungary, Mexico, Portugal); Boards of state-owned enterprises (SOEs) and utilities (e.g. Greece); and independent regulatory authorities (e.g. Austria, Hungary, Italy, Mexico).”

Even after executive and judicial officials are appointed, the legislature may have the power to remove or impeach them. Beerman (2005) describes the impeachment procedure in the United States where the Constitution gives the House of Representatives the power to impeach federal officials and the Senate the power to conduct trials after the House votes the articles of impeachment. If convicted by the Senate, the official is removed from office. Some parliamentary systems also allow for no-confidence votes on individual ministers. Such votes are not considered a referendum on overall government policies, but rather on that person’s performance in office (NDI, 2000). The threat of a
vote of no-confidence, more common, than votes of no-confidence themselves, may also lead individual ministers to resign.

Perhaps the most severe power the legislature has to impose accountability on the executive is the power to remove it from office either through impeachment or a vote of no confidence. Impeachment, again more commonly found in presidential systems, is used as a last resort when the president is seen to have committed a significant breach of the law or constitution (NDI, 2000). In parliamentary systems a vote of no-confidence is more likely to indicate a loss of political support than illegal actions on the part of the government (Beetham, 2006). It must obey stricter rules than regular votes, but is still more commonly used than impeachment in presidential systems. As the government is regularly supported by a majority in parliament such votes are fairly rare, except in coalition governments, where one or more parties is more likely to drop out of the coalition and vote against the government (NDI 2000).

It is worth noting that censure or votes of no confidence are not without consequences for the legislature. For example, an ongoing study of Constitutions, Standing Orders and rules of African countries found that in 61% percent of cases “the legislature may censure but the president may respond by dissolving the legislature.” Regardless, the threat of censure, particularly in the form of a vote of no confidence, makes it difficult for the executive to take decisions that are not supported by a majority of legislators and Shugart and Carey (1992) argue that the possibility of censure and dissolution can encourage cooperation between branches. At the same time successful no-confidence votes (and dissolution of parliament) can result in upheaval and political instability. To counteract this Dubrow (2001) points out that some systems, such as Germany and India, make votes of no confidence contingent upon the selection of a replacement Prime Minister and government.

Debates

Yamamoto (2008, page 62) defines debates in plenary as “…oral exchanges of opinion that are intended to facilitate the chambers collective decision-making on certain issues”. They can, he suggests, “…take place on special occasions, such as opening speeches or at different stages of draft legislation [and can] address issues that are chosen by parliamentarians themselves of highlight the work of parliamentary committees.” The effectiveness of plenary debates as an oversight mechanism are influenced by the time allowed for debates, whether the opposition has reserved time for debates on subjects of its choosing, whether the debates are open to the public and the degree of nonpartisanship and professionalism on the part of the presiding officers etc.

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6 Semi-presidential systems tend to follow one or the other model.
8 As during Question Time, “the Speaker (President) of the Parliament plays a key role in …ensure[ing] the smooth progression of parliamentary debates and is vested with wide powers and authority to this end (e.g. right to invite or curtail speeches by members).” (OECD, 2000)
In Westminster parliamentary systems, not only are the ‘opposition’ days, when the opposition leader determines which debates will take place, but there are also debates on adjournment, which are held at the end of every session and are typically initiated by an individual parliamentarian. In is common for such debates to focus on problems in constituencies or on individual complaints (Yamamoto, 2008).

**External Oversight Institutions**

Evans (1999) describes extra-parliamentary accountability institutions as a diverse set of institutions designed “to enhance accountability of government, which operate outside parliament and the political process expressed through parliament” and whose creation paradoxically has been “largely driven by a perception of the inadequacy of parliament as an accountability mechanism.”

Some such institutions are adjuncts to the legislature while others operate completely independently. Nevertheless their establishment depends on action by the legislature, usually in the form of legislation and they often report to legislature, as a means of ensuring both their independence from government and reinforcing the legislature’s position at the apex of accountability institutions (Stapenhurst, Johnston and Pelizzo, 2006).

Beetham (2006) distinguishes two types of non-governmental public oversight agencies: i) those that comprise part of the legislative oversight regime and are designed to contribute to the oversight of government, such as Ombudspersons and supreme audit institutions, and ii) those agencies which carry out some of the executive and regulatory functions of government itself such as regulatory bodies for health and safety or agencies delivering services with public money in housing, education or urban development. In this article, we consider only the former.

**Ombudspersons**

Originally developed in Sweden in 1809, the ombudsperson\(^9\) represents the interests of the public by investigating and addressing complaints reported by individual citizens against public authorities. In some countries Ombudsmen may have emphases beyond oversight of legality and good governance - typically these include human rights and mediation between citizens and public authorities. Less typical is an explicit anti-corruption mandate, such as that found in Papua New Guinea, Uganda and Namibia.

\(^9\) Other names for the Ombudsperson include *Defensor del Pueblo* in a number of Spanish-speaking countries (such as in Spain, Argentina, Peru and Colombia), *Parliamentary Commissioner for Administration* (Sri Lanka, United Kingdom), *Médiateur de la République* (e.g. France, Gabon, Mauritania, Senegal), *Public Protector* (South Africa), *Protecteur du Citoyen* (Québec), *Volksanwaltschaft* (Austria), *Public Complaints Commission* (Nigeria), *Provedor de Justiça* (Portugal), *Difensore Civico* (Italy), *Investigator-General* (Zambia), *Citizen's Aide* (Iowa), *Wafaqi Mohtasib* (Pakistan), and *Lok Ayukta* (India).
According to the International Ombudsman Institute (IOI) close to 130 countries worldwide have established ombudsmen either at the national, regional or local levels – although in a survey of 88 national legislatures, Yamomoto (2008) found that where an ombuds office exists (62 of the 88 countries), half are appointed by the legislature and half by the executive, although in the case of the latter, it is common for the ombudsperson to report to the legislature, sometimes to a specialized committee. Many countries employ more than one ombudsman. For example, Hungary has four ombudsmen: the Parliamentary Commissioner (general ombudsman); the Parliamentary Commissioner for Human Rights; the Parliamentary Commissioner for Data Protection and Freedom of Information, and the Parliamentary Commissioner for Ethnic Minorities. (NDI, 2000)

The Ombudsman in some countries, such as Belgium, may undertake investigations of a particular administration at the legislature’s request. Furthermore the impetus for legislative oversight may be reinforced by the Ombudsman ensuring that information from their investigations is widely available to the media and the general public.

The decisions of the Ombudsperson in most countries are not binding and their powers to act lie more in the realms of mediation and conciliation, providing guidance, making recommendations and issuing reprimands. Only in a few countries do Ombudsmen have the power to initiate criminal prosecutions (e.g. Finland and Sweden) although where there is a legislative ombuds committee, the legislature itself may follow-up.

**Supreme Audit Institutions**

Supreme audit institutions (SAI) conduct financial, legal (compliance) or performance (“value-for-money”) audits of government revenue and spending. Their work is essential to parliament’s ex-post oversight of government accounts and they provide technical expertise and additional resources that would otherwise be unavailable to parliament, thus helping to level the playing field between the legislature and the executive.

While SAIs are most often institutions independent from both the legislature and the executive, the relationship between legislatures and SAIs may be described as symbiotic. The legislature depends on the information submitted by the SAI to be reliable and timely, while the SAI depends on the legislature to provide a public forum for the presentation and discussion of audit results and recommendations for corrective action. In most countries the constitution requires SAIs to report to the legislature. The legislature approves their budget and often appoints, or is required to approve the appointment, of the Auditor-General (AG). In most countries the SAI works closely with a dedicated parliamentary committee (such as the Public Accounts Committee, state audit committees, budget or finance committees) or sub-committee and may even provide the committees

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10 In many countries SAI reports may be several years out of date thus stymieing effective legislative oversight.
11 In Malta for example, “…the mandate of the Auditor General, whose appointment requires approval by at least two thirds of Members of Parliament (IPU, 2006)
with special technical assistance, for example to prepare legislative proposals on state auditing, financial management, or matters that have been the subject of major audits (Mazur and Vella, 2001). To ensure optimal coordination, some audit institutions have legislative liaison offices and accompany the scrutiny of audit findings by the legislature on an ongoing basis; others are directly attached to the legislature (Stapenhurst & Titsworth 2001).

There are three broad external audit models: the Westminster model (also known as the Anglo-Saxon or parliamentary model); the board or Collegiate model; and the judicial or Napoleonic model. However, there is often differentiation across the countries using these three models and some countries, particularly those who experienced a period of colonial rule followed by development assistance, may combine elements of more than one model.

Before leaving the notion of horizontal accountability, it should be noted that a minority of commentators diverge in their opinion as to what constitutes horizontal and vertical accountability. An alternate conception of horizontal and vertical accountability relies on the relationship between parties to determine whether one party exercises horizontal or vertical accountability over the other. In instances where there is a classic top-down, principal-agent relationship, whereby the principal delegates to the agent, the agent is accountable to their direct superiors in the chain-of-command and this constitutes a form of vertical accountability. For instance the public official answers to the department/agency minister, the department answers to the minister, the minister answers to the legislature (in particular in parliamentary systems), and the legislature answers to citizens. This relationship is demonstrated in Diagram 4.

The legislature is again a key actor. In terms of holding government officials to account, the legislature is the principal and the official the agent. The legislature, as principal, requires the government and its officials, as agents, to implement the laws, policies and programs it has approved – and holds the government and officials to account for their performance in this regard.

The legislature is also an agent, in that the electorate (the principal) elects legislators to enact laws and oversee government actions on their behalf. The electorate then hold legislators to account at election time and, in a few jurisdictions, through recall, where dissatisfied voters can recall their elected representative and vote for an alternative.

The absence of the direct principal-agent relationship relegates the accountability relationship to one of horizontal accountability or social accountability. In order for there to be social or horizontal accountability a hierarchical relationship is generally lacking between actor and forum, as are any formal obligations to render account.
Social Accountability

The prevailing view of social accountability is that it is an approach towards building accountability that relies on civic engagement, namely a situation whereby ordinary citizens and/or civil society organizations participate directly or indirectly in exacting accountability. Such accountability is sometimes referred to it as society driven horizontal accountability.

The term social accountability is, in a sense, a misnomer since it is not meant to refer to a specific type of accountability, but rather to a particular approach (or set of mechanisms) for exacting accountability. Mechanisms of social accountability can be initiated and supported by the state, citizens or both, but very often they are demand-driven and operate from the bottom-up.

It is generally accepted that social accountability mechanisms are an example of vertical accountability. However, a minority of commentators argue that, with respect to social accountability, a hierarchical relationship is generally lacking between actor and forum, as are any formal obligations to render account. Giving account to various stakeholders
occurs basically on a voluntary basis with no intervention on the part of the principal. Therefore, social accountability would be a form of horizontal accountability.

Social accountability initiatives are as varied and different as participatory budgeting, administrative procedures acts, social audits, and citizen report cards which all involve citizens in the oversight and control of government. This can be contrasted with government initiatives or entities, such as citizen advisory boards, which fulfill public functions.

Often overlooked in considerations of social accountability is the role that legislators can play in providing weight to such grass roots accountability mechanisms. For example, a legislator can represent the concerns of his/her constituents by questioning a Minister during Question Period or by requesting information directly from a government ministry or department. In addition, through the use of public hearings, committee investigations and public petitioning, the legislature can provide a vehicle for public voice and a means through which citizens and civic groups can question government and seek sanctioning by the legislature where appropriate.

With regard to petitions, Yamomoto (2008) found that 19 out of 88 reporting legislatures have a committee specifically mandated to deal with petitions. In Germany, he notes (page 34):

“…the Petitions Committee of the Bundestag is the focal point for handling citizens’ complaints. It handles requests and complaints addressed to the Bundestag. The president refers petitions to the Petitions Committee and, in turn, the committee asks for comments from specialized committees relate to a subject under debate in those committees. A list of the petitions handled by the Petitions Committee, and related recommendations, is submitted every month to the Bundestag.”

Yamomoto further notes that many petitions committees have the power to consult with or report cases to the ombudsperson and/or to examine the ombud’s report.

**Diagonal Accountability**

The concept of diagonal accountability is far from settled with two groups of commentators adopting different definitions. The literature does not support a convergence of their ideas. Although, there is conjecture as to what constitutes diagonal accountability, the prevailing view is that diagonal accountability entails vertical accountability actors. Generally speaking diagonal accountability seeks to engage citizens directly in the workings of horizontal accountability institutions. This is shown in Diagram 2 by the diagonal line linking citizens and the legislature and the secondary institutions of accountability. This is an effort to augment the limited effectiveness of civil society’s watch dog function by breaking the state’s monopoly over responsibility for official executive oversight.

The main principles of diagonal accountability are:
Participate in Horizontal Accountability Mechanisms – Community advocates participate in institutions of horizontal accountability, rather than creating distinct and separate institutions of diagonal accountability. In this way, agents of vertical accountability seek to insert themselves more directly into the horizontal axis.

Information flow – Community advocates are given an opportunity to access information about government agencies that would normally be limited to the horizontal axis, for instance internal performance reviews etc. Furthermore, they have access to the deliberations and reasons why horizontal accountability institutions make the decisions they do. Meanwhile, community advocates bring first hand experience about the performance of the government agency to the accountability process.

Compel Officials to Answer – Community advocates co-opt the horizontal accountability institution’s authority to compel a government agency to answer questions (as in the example given above of an MP questioning a Minister about issues of concern to his/her constituents); and

Capacity to Sanction – Community advocates acquire the authority of the horizontal accountability institution to enforce the findings or influence elected officials.

Some argue that civil society can strengthen the effectiveness of horizontal accountability institutions by pressuring existing agencies to do their jobs more effectively. This type of participation in accountability is not direct action against wrongdoing, as with vertical accountability, but rather society-driven horizontal accountability, such as citizen advisory boards that fulfill public functions, like auditing government expenditures or supervising procurement. More generally, active citizens and civil society groups can work with elected representatives to enhance parliaments’ representation role.

A minority of commentators diverge in their opinion as to what constitutes diagonal accountability. Some commentators suggest administrative accountability, exercised primarily through quasi-legal forums, such as ombudsmen, auditors, and independent inspectors reporting directly or indirectly to the legislature or the responsible minister, is a form of independent and external administrative and financial oversight and control. This form of accountability is different to the classic top-down/ principal-agent relationship because the administrative accountability institution is not in a hierarchical relationship to the public officials and often do not have formal powers to coerce public officials into compliance. It is argued that these administrative agents are auxiliary forums of accountability that were instituted to help the political principals control the great variety of administrative agents and that their accountability relations are, therefore, a form of diagonal accountability. This is shown diagrammatically in Diagram 2.

An important process through which legislatures can involve the interested public in oversight is through the committees. It can do this in two ways: by opening committee hearings to the public and by seeking public input into committee deliberations. As NDI (2000, page ???) explains:
“Hearings allow various elements of society – business and NGO leaders, scientists and citizens – to comment on the effectiveness or efficiency of government programs. Hearings may also give parliamentarians, particularly members of the minority, an opportunity to pose direct, policy-related questions to ministers and other government officials. Often, hearings themselves are the result of citizen complaints.”

Especially when oversight includes the effectiveness of service delivery, committees’ outreach activities can help forge synergy between people’s awareness and concerns and the oversight function of parliament. Yamamoto (2008) notes that 71 out of 88 reporting legislatures have procedures for holding public hearings and receiving submissions from the public. Procedures vary; in Cyprus the House of Representatives, they state that:

“Should a person wish to express views or elaborate on them or give opinions on a matter, he shall inform accordingly the Chairman of the Committee in writing, through the Director of the Parliamentary Committee service”

In addition, Committees may try and make up for insufficient staff by going to outside specialists from civil society and academia. Civil society organizations often assist legislatures and their committees in budget oversight. For example, the Uganda Debt Network has helped to monitor and correct serious leakages that were occurring in the transfer of funds from the National Ministry of Finance to individual schools, while the Public Sector Accountability Monitor (PSAM) in South Africa works closely with the legislature to track the executive branch’s response to allegations of misconduct contained in the AG’s report (Krafchik, 2003).

Many legislatures have enacted freedom of information laws, which assist both citizens and the legislature to hold governments to account. The power to summon papers and records all strengthen parliament’s accountability function (Dubrow, 2001, CPA, 2006). Moreover:

“[a]ccess to information is a key to effective accountability, including access to classified information. Freedom of information legislation which allows extensive exemptions or a ministerial veto on disclosure may well be mirrored by and reinforce limitations on parliament’s own access to sensitive information” (Beetham, 2006, page ??).

Wehner (2004, page ??) concurs, noting that “[p]arliamentary decision making needs to be based on comprehensive, accurate, appropriate and timely information supplied by the executive.” In the United States for example, committees have subpoena power to enforce their requests for information. Finally, committee scrutiny is inconsequential if committees do not have the power to recommend amendments or amend legislation before it.

**Conclusions**

Legislatures are key actors in what has been termed the ‘chain of accountability’. They are, along with the judiciary, the key institution of horizontal accountability, not only in
their own right but also as the institution to which many autonomous accountability institutions report. They are the vehicle through which political accountability is exercised. Along with civil society organizations and the mass media, they are also important institutions in vertical accountability.

Newer concepts of accountability have emerged: social accountability and diagonal accountability. The former, defined as ‘society driven horizontal accountability’ seeks to provide direct answerability from government to citizens; legislatures and elected representatives are important vehicles through which citizens and civic groups can also extract enforcement. And – no matter how defined – legislatures are one of the institutions through which diagonal accountability can be exercised.
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