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Expert Meeting on Social Accountability and Legal Empowerment: Allied Approaches in the Struggle for Health Rights

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EXECUTIVE SUMMARY

Social accountability (SA) and legal empowerment (LE) programs come from different traditions and have generally been carried out independently and funded through separate streams. However, in recent years, several groups have experimented with the integration of the two approaches—with varying levels of explicit framing and consciousness around such integration. On December 2-4, 2014, OSF convened a small group of practitioners and thinkers working in this area to explore the potential for integrating SA and LE approaches to better enable socially excluded groups to claim their rights and obtain accountability for service delivery. The convening aimed to provide a space for reflection on lessons, achievements, challenges, and remaining gaps in knowledge and practice. This document summarizes the background to the meeting and synthesizes the discussion that took place.

Background

Social accountability (SA) and legal empowerment (LE) programs come from different traditions and have generally been carried out independently and funded through separate streams. However, in recent years, several groups have experimented with the integration of the two approaches—with varying levels of explicit framing and consciousness around such integration.

Social accountability refers to actions other than voting that citizens and civil society can use to hold the state to account. Social accountability approaches and tools, such as budget advocacy, community monitoring and social accountability monitoring, enable civil society to increase communities' awareness of their health rights; make key social and health policies and legislation accessible; equip communities with knowledge and skills to monitor health system practices to identify state failures in ensuring health rights; and mobilize and organize communities to take collective action to address those failures (e.g. protest marches, petitions, pickets, collaborative problem solving through negotiations, public hearings, etc.). These activities enable communities to assert their political power and to hold local authorities to account. Common health system failures addressed through this approach include absenteeism of health care workers; shortage and/or stock-out of medicines; weak and often distrustful relationships between health care workers and the communities; issues of discrimination, timing of service availability or incorporating special needs and sensitivity of different population groups in service provision at the point of delivery; petty corruption and misuse of resources; and inadequate resource allocation.

Legal Empowerment approaches promote implementation of the law and access to justice

for marginalized people, including realization of health rights, through their own initiative and participation. This requires building community knowledge of rights and of administrative and judicial avenues to address violation of rights, and removal of barriers to bureaucratic and legal processes. The avenues for action are broad and can include legal education and trainings, community-led documentation of human rights violations for advocacy purposes, peer-to-peer information and advice, mediation, filing civil and administrative complaints, and even court representation through community-based paralegals backstopped by lawyers. Legal empowerment can result in individual or collective redress for rights violations, as well as in systemic change to policy and practice depending on the method used.

LE and SA share some **common aims and overriding principles**. These include:

- The promotion of human rights and social justice
- Fostering grassroots education, mobilization and empowerment by providing tools and know-how to individuals and communities to take action and seek solutions
- Strengthening participatory decision-making and power sharing between communities - often poor and marginalized - and state authorities

While some aims, principles, and even activities are the same, the approaches differ in a few key ways. There are advantages and disadvantages associated with each approach. In some contexts, employing both approaches can bring great synergies, as the advantages of each approach compensate for the disadvantages of the other. Specifically:

Legal empowerment can enhance social accountability interventions by opening new avenues for advocacy and action, providing concrete mechanisms for redress for rights violations. Legal empowerment can also set precedence, ultimately strengthening the legal and policy framework.

Social accountability can enhance legal empowerment approaches by focusing on systemic problems in service delivery including resource distribution; providing mechanisms for community participation in the initiation, development and implementation of policies; promoting identification of patterns in human rights violations in health care settings; and highlighting state failures in the realm of socio-economic rights. Further, social accountability approaches privilege collective deliberations that can build shared understanding of problems, contributing to collective action.

I CONVENING

Program implementers from several different NGOs, experts, and OSF staff from multiple programs attended the meeting. NGOs working with excluded populations (primarily ethnic minorities) in Guatemala, India, Macedonia, and Romania were represented. Among other activities, the NGOs in attendance operate on the sub-national and national level to promote access to quality healthcare. Some of these NGOs work primarily on legal empowerment; others focus more on social accountability. A full list of organizations represented can be found in Annex 1, and the meeting agenda can be found in Annex 2.

The meeting had the following objectives:

- Mapping the state of the field

- Sharing practitioner reflections and identifying lessons and good practices
- Grappling with advocacy opportunities and challenges
- Assessing the feasibility of collaborating on a framework for documentation and learning
- Identifying gaps and opportunities for collaboration

The next several paragraphs summarize the presentations regarding the current state of the field, including empirical lessons on good practices and challenges. Section I synthesizes several key themes that emerged over the course of the meeting; Section II outlines the conclusions; and Section III lists further resources for information sharing and learning.

Anuradha Joshi, an academic expert on social accountability, provided an overview of the state of the SA/LE integration field. She noted that it is a bit difficult to do so, as the field is still relatively new.

The key elements of SA are as follows:

- Works to empower people to make accountability demands; the demands generally relate to community priorities rather than to individual grievances
- Advocacy and interaction with the state through 'public space' and public deliberation, new framings on old problems
- Focus is on public goods and systemic problems including resource distribution, failures in ensuring socio-economic rights, participation in policy making
- Imposition of political and reputational costs on duty holders (plus triggering of formal sanction mechanisms)
- Requires capacity to mobilize community
- Works most fully with other strategies, such as formalized participation in policy and planning

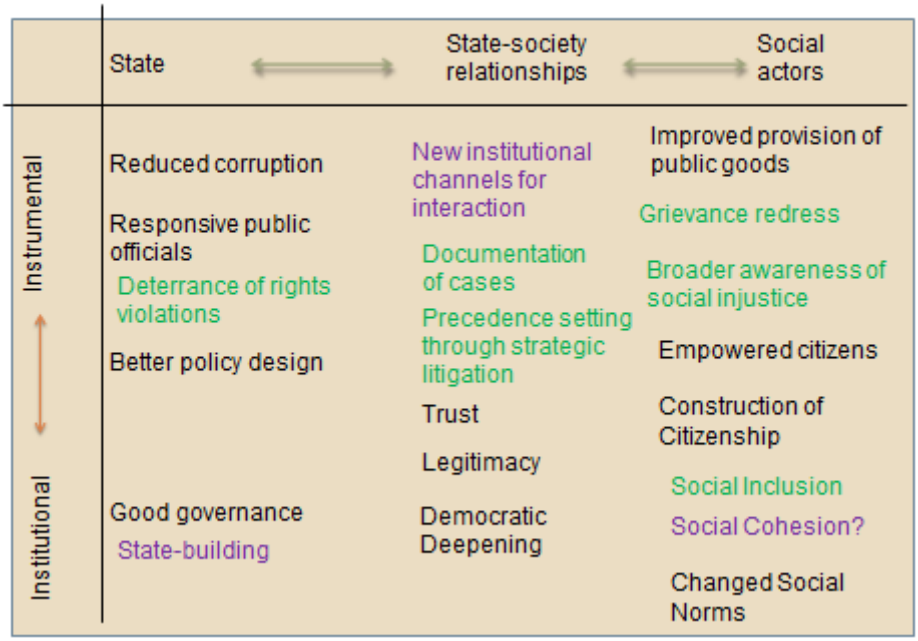
The key elements of LE are as follows:

- Works to empower citizens *vis-a-vis* their legal rights
- Focus is on rights violations and the structures that perpetuate them. The starting point is usually individual, though systemic problems may be addressed
- Works through invoking the law or regulations
- Requires legal expertise and capacity to mobilize community
- Potential for direct redress of grievances
- Potential for precedence setting triggering changes in law and policy
- Works with other strategies e.g. participation in policy processes etc.

Dr. Joshi devised the following "expectations table," to preliminarily suggest the universe of potential outcomes associated with social accountability and legal empowerment.

Table 1.

EXPECTATIONS OF SA and LE



The column on the far left shows to what extent the impacts are institutional (impacting structures) or instrumental (immediate changes). The top row shows whether the impacts are on the state, on state-society relationships (relationships between the government and NGOs/communities), or on the social actors (NGOs or the community) themselves. The impacts written in black text are common to both approaches. Those in green relate more specifically to legal empowerment, while those in purple relate to social accountability.

Implementers and evaluators rarely (if ever) trace all of the possible impacts on the table above. The evidence on whether or not these outcomes are achieved is mixed, though there are some examples of robust impact. The most commonly cited impacts are increased awareness and agency among program participants. Some studies have found that SA and/or LE can positively impact governments and other institutions, but most of these impacts are local (as opposed to national). The outcomes of SA and LE are not always positive, however. There is a danger of reprisals or backlash against individuals or groups making accountability demands. For example, tens of people making Right to Information (RTI) requests in India have been subsequently murdered.

Despite the "mixed results," picture, we do know some factors that commonly underlie SA success. These are likely to apply to some aspects of LE as well. Jonathan Fox, a political scientist focusing on accountability, describes some patterns that characterize success.[1] These include:

- **Adopting strategic approaches, as opposed to tactical ones**. In contrast to bounded, projectized approaches, strategic approaches are flexible, potentially multi-faceted, and tailored to the context.
- **Targeted information.** Merely providing information is usually insufficient. (For this reason, transparency programs in the absence of other efforts often fail to lead to the

[1] For further information, see http://gpsaknowledge.org/knowledge-repository/social-accountability-what-does-the-evidence-really-say-2/#.VVu9ToZAowA

desired results). The information needs to be targeted to a group and to a particular issue.

- **Representation of voice.** Voice is much more likely to have impact if it is represented to power in some way. In other words, it should be aggregated and communicated to those with decision-making power. Mere expression of voice, such as putting monitoring information on the internet, does not ensure that those with decision making power see it or act on it.
- **State capacity for responsiveness (incentives, sanctions).** The state must have the capacity to respond. Decision-makers need to have a reason, such as an incentive or fear of a sanction that makes them respond to citizen voice. Moreover, they need to have the capacity (financial, human resources) to respond.
- **Multiple accountability pressures.** The greater the number of people, organizations, and incentives that encourage responsiveness and accountability, the better.
- **Cross cutting alliances with pro-accountability groups.** Accountability is more likely to be realized when there are cross cutting alliances across class and other divisions, including the state/society divide. In other words, alliances between civil society and champions within the government can advance accountability. Such pro-accountability coalitions need to overpower anti-accountability forces.
- **Vertical integration of citizen led accountability.** Vertical integration implies bridging the local to the national. For example, combining a community level intervention with broader policy advocacy at the national level is a vertically integrated effort. This is more likely to lead to sustained change, as it induces local level and institutional change.

Practically, how can SA and LE be combined? Dr. Joshi presented an overview of strategies and tools used by SA and LE and issues raised by combining the two approaches (Annex 3). She also provided the following indicative – and tentative – table, representing the presence of particular activities in each approach. The table suggests what activities are more associated with each approach, with the number of x's indicating the relative frequency of the activity within the SA and LE fields respectively.

It is important to note that these activities do not always mean the same thing in each field. For example, human rights documentation within social accountability might focus on documenting issues that a group raises as relevant, whereas in legal empowerment, it would consist of the aggregation of individual cases.

Table 2.

Combining the Approaches: Activities

	SA	LE
Awareness Raising	XXX	XXX
Mobilization	XXX	XXX
Alliance Building	XXX	XXX
Media	XXX	X
Community Monitoring	XXX	XX
Individual Support		XXX
Litigation	X	XXX
Grievance Redress	XX	XXX
Intermediaries	XX	XXX
Policy advocacy	XXX	XX
Human Rights Documentation	XX	XX
Other Activities	XX	XX

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There is significant overlap in some activities, with several being quite common as part of both SA and LE approaches.

Moreover, it is important to contextualize SA and LE in our broader thinking about change. Focusing only on single projects risks obscuring our ultimate goals. When we take a long, strategic view, we can see many similarities between SA and LE. Both can be part of ongoing processes of interaction of poor and marginalized groups with the state. They can mobilize organic collective social action, albeit potentially with some external support. Both approaches appear to work best when combined with other strategies (participation in policy, political mobilization etc.) and across levels (vertical integration). Working across levels in turn requires aggregation, representation, and alliance building. This may mean tailoring strategies to each level, such as the community, district, provincial/state, and national level. The challenges to power implied by SA and LE will likely provoke resistance.

While we can provide a tentative "state of the field," critical questions remain. Some questions include:

- *What contexts are most fertile for the combination of SA and LE?*

- *When does the combination of approaches provide the most leverage?*

  How does the starting approach affect the choice of moment to integrate? Are there tensions between confrontational strategies and collaborative strategies?

- *Are hybrid interventions more impactful than each approach alone?*

  What has worked so far in employing each approach alone and in employing them in combination?

- *What are the practical challenges of combining approaches?*

  Are there tensions between the two approaches, capacity constraints, or

dangers of backlash?

These questions were revisited several times throughout the meeting, and they relate to the key themes (presented below) that organically emerged.

II KEY EMERGING THEMES

Several key themes were raised and deliberated over the course of the sessions. Some of these were explicitly written into the meeting agenda; others arose as participants identified what is most relevant to their work. These themes include:

- How do we categorize/distinguish between SA and LE? Do we need to?
- What is the rationale for integration?
- Tensions between confrontational and collaborative approaches
- The importance of context
- Achieving short versus long-term impact
- How do we define success?
- Documenting SA and LE for routine M&E and for broader learning

How do we categorize/distinguish between SA and LE? Do we need to?

Several participants pointed out that, (as shown in Table 2) SA and LE can entail parallel activities and groups are starting to organically incorporate elements from both. In this context, is there a particular value in examining SA and LE as distinct approaches?

On the other hand, others pointed out that SA and LE come from two very different traditions. They thus have different assumptions about the outcomes desired, stakeholders, advocacy targets, and other critical factors. Moreover, regardless of whether or not organizations intentionally label their work as SA or LE, questions about the integration of the approaches remain valid. For example, we may learn that in certain contexts, paralegals can play a key role in implementing community monitoring for SA. This lesson can be valuable to implementers irrespective of what they call their work.

Perhaps it is more helpful to think of SA and LE as falling on a continuum, with some projects falling at the extreme end (i.e. "purely" SA or LE) and others integrating methods from both approaches.

What is the rationale for integration?

Several organizations explained why they decided to integrate SA and LE. Some started by implementing SA and then later adding a LE component; others started with LE and then added some SA work; and finally, others had two free standing programs that they opted to combine.

Nazdeek, a legal capacity building organization based in India, added community monitoring (an SA tool) to an existing paralegal program addressing maternal and newborn health. The monitoring data show the incidence of maternal and newborn health rights violations,

buttressing Nazdeek's LE work. They are able to go to court with these data as part of their evidence. This strengthens Nazdeek's case and provides helpful information that they can use to ask for a targeted remedy.

Romani Criss, an organization promoting the social inclusion of Roma in Romania, had a similar story. For the last ten years, Romani Criss has litigated around health rights. They maintain a network of human rights monitors who identify cases for strategic litigation. However, despite legal victories, Romani Criss observed that little changed on the ground. Romani Criss has thus expanded the mandate of their human rights monitors to identify health, education, and employment issues, and to advocate vis-à-vis relevant local authorities, such as the mayor and other municipal offices, for immediate local level solutions.

Namati, an international access to justice organization with a long history in Sierra Leone, also began with a LE program. They opted to add SA approaches because it seemed the best way of achieving desired goals. Namati decided that LE was insufficient to achieve their ultimate objective of making health services more accountable. While LE brings a crucial component of grievance redressal, SA can build pressure and change community expectations of the government. Namati employs SA tactics to produce data regarding how well government standards are realized in health facilities, and to faciltiate joint planning to address any gaps. If action plans or policies are not respected, then paralegals (LE) can seek assistance from higher rungs in the state authority. For Namati, in practice, the integration of SA and LE seemed natural and necessary.

Several participants stressed that in addition to bringing aggregated data on rights violations, SA also entails participation. The empowerment and group mobilization capacity that can flow from participation can complement LE, which is often more focused on serving individual clients.

Key takeaway from participant experiences on *adding SA to LE* programs:

SA can add to LE, including by building better knowledge about what is happening on the ground, raising awareness about entitlements and expectations of government health services, fostering local level change, and by facilitating participation and collective action. These can in turn strengthen litigation efforts and enhance community buy-in, which may be vital to longer term LE goals.

In contrast to Namati, CEGSS (*Centro de Estudios para la Equidad y Gobernanza en los Sistemas de Salud*), Nazdeek, and Romani Criss started with SA work. CEGSS works to promote health equity in Guatemala, with a particular focus on indigenous communities. They support the community to conduct participatory surveillance of health facilities. After several years of implementation, the community pointed out that some "fixes" gained as a result of SA were only short term. For example, after advocacy, drugs were stocked at the local health facility, but only for 2 weeks. CEGSS realized that they needed to approach the government at a higher level, as local level SA efforts were ill-suited to address systemic problems whose origins were in national level weaknesses. Municipal authorities – the target of CEGSS' SA efforts – had limited decision-making power. To determine how to better facilitate sustainable change, CEGSS revisited their overall goals, which are to: 1) promote access for the rural indigenous population to quality health services, 2) use the health system

as an entry point to challenge marginalization and discrimination and promote justice more broadly. CEGSS began to research the activities of other organizations with similar goals. As a result of this search, CEGSS developed a new, strategically coherent work plan that contains both SA and LE activities. Moreover, they realized that following through on their SA work required confronting power, and they needed to be legally prepared for this. They thus hired staff with legal training and incorporated LE work.

HERA, a sexual and reproductive health and rights organization based in Macedonia, has been applying the two approaches (SA and LE) separately while working on the same issue, namely advancing the reproductive health and rights of Roma women. Within the scope of their SA work, HERA monitors the delivery of gynecological services to women, using citizen score cards. Through a LE project, they also provide legal services to Roma women in the communities where SA is undertaken. Over time, it became clear that the SA and LE projects had substantial overlap in the methods they were using to approach, educate, and mobilize the community. Thus, HERA realized that it might be more efficient and effective to merge the two programs. When using both approaches, they are effectively bombarding the institutions with power with different tools, creating multiple accountability pressures. For example, HERA provides the Health Insurance Fund (the institution charged with implementing mandatory health insurance in Macedonia) with score card information and with a summary of their aggregated LE cases.

Some participants mentioned that there were potential cost savings involved in integration. For example, paralegals (LE) or community monitors (SA) could potentially do both SA and LE activities, ultimately costing less per beneficiary than having both community monitors and paralegals. However, a consensus emerged over the course of the meeting that while cost saving may be an added benefit of integration, it should not be the driving justification for integration. Indeed, the notion of calculating cost benefit may not be appropriate for assessing SA and LE. Empowerment, for example, is difficult to quantify or assign a monetary value to, though we all agree it is an important outcome of SA and LE. Instead, the decision to integrate SA and LE should be driven by an analysis of programmatic goals.

Key takeaway from participant experiences on *adding LE to SA* programs:

The organizations represented at the meeting added LE to SA in order to bring additional tools, data, and power to address difficult problems, particularly those that cannot be solved at the local level. Moreover, LE can allow for follow up on individual cases.

Key takeaway from participant experiences on *combining* two programs:

Regardless of whether the starting point is SA or LE, the combination of approaches can diversify advocates' tool boxes, potentially facilitating some of the factors for success identified by Jonathan Fox: employing strategic approaches, exerting multiple accountability pressures, and vertically integrating efforts.

In the context of the discussions regarding rationale for integration, several "big" questions were raised. These include:

Is integration always a full merger, or can there be a continuum?

Should the same organization implement both approaches? Does it ever make more sense to partner with another organization?

For financial and political reasons, do organizations need to consider dropping certain activities if they are taking up new ones?

Tensions between confrontational and collaborative approaches

Many participants referred to a perceived tension between confrontational and collaborative approaches. Specifically, they wondered whether confrontational approaches of claiming rights and demanding accountability make collaboration with the government difficult. Several practitioners explained that they were more collaborative at the local level and more adversarial at the national level. There are multiple reasons for this. First, it seems unfair to hold frontline health providers to account for problems that are systemic and not within their control. In these situations, it makes more sense to work with providers to identify the causes of health sector challenges and to devise local solutions, where possible. For example, the community may be disappointed with a particular service but not understand why it is deficient. As actors within the system, frontline providers may be able to provide insight about administrative and other gaps that undercut health service delivery. This sharing of information can inform higher level – potentially more confrontational – advocacy. Indeed, frontline providers can become co-advocates, as they are often dissatisfied with the same things as the community, such as lack of equipment and poor electricity supply. This collaboration can build good will among providers, who may be then more willing to make changes that are under their control, such as improving their attitude toward patients.

Second, communities often have little choice of health provider. They cannot afford to alienate "the only doctor in town." Therefore, regardless of whether or not they feel a problem is directly within a provider's control, a collaborative approach entails less risk.

Some practitioners added nuance to this confrontation/collaboration distinction, explaining how the local and the national were related in everyday life in certain contexts, particularly when there has been "bad" decentralization. For example, in cases where visiting (patronage) nurse positions remain unfilled or where they are not doing their job, ESE (Association for the Emancipation, Solidarity, and Equality of Women in Macedonia) must send requests to the Macedonian Ministry of Health to advocate for the hiring and provision of vehicles. In this case, they had no local level interlocutor to solve a local problem. ESE needs to maintain a flexible approach that engages local and national levels to affect change. The "act collaboratively locally" and "act confrontationally nationally" distinction may not be apt.

Indeed, others explained that the conceptual distinction between "confrontation" and "collaboration" is not always clear. The possibility/threat of confrontation may incentivize the government to collaborate. Moreover, governments may interpret something as confrontational even when it was not intended in that way.

For example, when ESE has asked for budget data that should be available as per the law, the government has reacted as if it were an adversarial request.

There was also widespread agreement that confrontation may be warranted and effective in certain situations. Sometimes it is difficult or impossible to find allies in the government; in these cases adversarial tactics are the only possibility. Or, if there are multiple groups working collaboratively with the government, a confrontational group can be complementary. They can work from the outside to push the terms of the debate, broadening the scope of what can be done with collaborative approaches.

Key takeaway from the confrontation/collaboration discussions:

In some contexts, there may be tension between confrontation and collaboration, but in general, NGOs and advocates find it fruitful and useful to employ different approaches at different times. This often means taking more collaborative approaches at the local level and more confrontational approaches at the national level, though the distinctions between these levels and what constitutes 'confrontational' or 'collaborative' may not be clear. These issues relate to vertical integration; adopting a strategic approach often means reacting to dynamic opportunities at local and national level (and potentially at other subnational levels and internationally), and employing suitable tactics along the collaboration to confrontation continuum.

The importance of context

The importance of context is almost a truism among practitioners; everyone agrees that strategies are more effective if they consider the social, political, and cultural context. For example, staff at the Open Society Initiative for Eastern Africa (OSIEA) explained that a human rights framework can be interpreted as political and confrontational in Uganda, while this is not the case in some other countries of East Africa. Pilar Domingo, a legal empowerment expert, confirmed that social and political understanding of confrontation can vary enormously within and among countries. This means that the risk inherent in SA and LE activities varies as well.

CEGSS and others emphasized the importance of re-articulating over-arching goals, and using these as a guidepost for activity development. This will help to ensure that short term projects are strategically coherent and that they are not implemented in a template fashion divorced from the context. HERA explained that they frequently consult the community to ensure that their activities remain aligned with experiences and priorities of those on the ground.

In addition to discussing the wider context, a few participants discussed the relevance of the organizational context. For example, CEGSS described how adding legal staff to their public health team has influenced planning and implementation within the organization. Having an inter-disciplinary team has created some internal challenges, but it has also sparked creativity and broadened the scope of their activities.

Some participants described constraints on being attentive to context, including challenges stemming from donor approaches to funding SA and LE activities. Participants explained that donors may impose programmatic limitations and short time frames, and there was concern

that these stipulations can undermine practitioner ability to dynamically engage context. Participants suggested that projects that deliberately consider and address context may move more slowly and activities may need to be changed mid-project to respond to opportunities and blockages. This is not always possible in short-term projects with limited scope of activities and rigid activity plans.

Key takeaways from the context discussion:

Organizational, political, social, economic, and cultural contexts matter

Efforts to "keep your eyes on the prize" – the ultimate goal – can help to ensure that activities are embedded in the context

Community and other stakeholder input can also help to ensure contextual relevance

Program funding modalities should enable contextually driven programs

Achieving short versus long-term impact

The question of short versus long term impact was raised in a few different contexts:

- The ultimate goal of many advocates is to make sustainable change, which usually requires a long time frame. However, short term impact may be essential to maintaining community and policy maker interest and commitment. Moreover, this commitment can be essential to fostering long-term change. In other words, short term change, such as an accumulation of "quick wins" can ultimately engender deeper structural change.
- Donor funded projects are often short term, but effecting and proving change in this time line is often challenging. What can we measure to prove change in the short term? (See the discussion of documentation for further discussion).
- SA and LE both build rights and entitlements awareness among communities. This awareness may contribute to changes over the long term, often beyond the end of a project life cycle. How can such change be anticipated or measured?

Walter Flores explained that CEGSS' initial conception of advocacy was to write peer reviewed papers (to be published in academic journals) and policy briefs. The policy briefs would be presented to policy-makers at workshops. However, over time, they noted that despite interest from policy-makers, the situation on the ground was not changing. CEGSS hired a political scientist and CEGSS leadership started reading the larger social movements literature. From this, they distilled a few key lessons: they need timely achievements (short term impact) to keep communities interested/engaged; they need to integrate constant analysis of how the political environment is changing; and, while local level work is very much based on personal relations, this relationship-based approach does not work when you go higher in the political hierarchy. CEGSS felt they needed new tools to accommodate all of

these realities. They started to provide staff and constituents (the community) training on national level political engagement, including how the parliament works and how to engage opposition parties. They realized that they need to work at 3 levels at the same time – local, provincial, and national (vertical integration). These changes made a difference in how the community felt about work. While the community still wants to see change on the ground, they have come to appreciate the importance of national level advocacy and of working towards long term change.

Key takeaways on short and long-term impact

Short and long-term changes are both important and can be mutually reinforcing. Vertical integration can help to foster such mutually reinforcing changes.

Measuring long-term changes poses challenges, particularly when these changes would occur beyond the end of a formal project.

The community can be involved in pushing for change at multiple levels of the government.

How do we define success?

Defining success is linked to the question of short versus long term impact and to discussions about measurement. Several key questions arose, some of which relate to very practical concerns about how to incorporate sophisticated and nuanced thinking about success and impact into the demands of every day implementation, monitoring and evaluation, and the potentially limited scope of donor-funded projects.

- How can we effectively address the interplay between the local and the national in our definitions of success? In advocacy, we often think about "choosing a target." What does this mean for SA/LE hybrids where we might be targeting both the local and the national?
- Similarly, how can we balance consideration of direct client impact, broader community impact, and/or some combination thereof?
- What about asking the marginalized communities whose lives we seek to improve how they would define success? This approach ensures that SA and LE work is relevant, and as a process, promotes the principles of empowerment and participation that underlie SA and LE. At the same time, communities' imaginations about what is possible may be constrained. In other words, poor treatment and substandard service delivery may be normalized, leading communities to set tepid – rather than transformative - goals. NGOs and other advocates can work to increase the scope and quality of what communities expect their government to deliver.
- It is fairly easy to track outputs, such as number of meetings held with decision-makers. We can also track some aspects of service delivery improvement, such as reduction in stock outs. However, one fundamental goal is to transform the dynamics of power among communities, health service providers, and the government.

- How can we track this beyond just trying to assess policy changes? Is observation of health service delivery or routine collection of patient perception data one way of doing this?

Walter Flores outlined how CEGSS engages the community in defining success. They altered the facility survey that community members administered to focus on simple questions that relate to community priorities regarding health services. For example, "How many of you went to local health services in the past 3 months? How many of you felt your problems were addressed? If not, tell us the story of why not." After collating the responses given at a community assembly, CEGSS conducts in-depth interviews with families that mention not being satisfied with health services in the past 3 months. Authorities could always identify a technical weakness in the previous more technical surveys, but they cannot challenge these life narratives. CEGSS hopes that over time, more people will report that they felt their problems were addressed at the local health service, showing that services have improved. In other words, community responses will suggest if there have been improvements – if the LE and SA work has been successful – or not.

Overall, conversations about defining success highlighted the importance of frequently returning to basic questions about what organizations are trying to achieve, rather than getting caught up in intermediate outputs that are identified in project proposals.

Key takeaways on the definition of success

"Success" may be defined at multiple levels, with both short and longer terms objectives being included. Outputs (e.g. meetings held), short term impact (e.g. reduction in stock outs), and transformational change can all be elements of success.

Communities can provide input into defining success. Indeed, given that community perceptions of health services are integral to a rights-based approach and that these perceptions influence health service uptake, some kind of community input may be non-negotiable.

Documenting SA and LE

Documentation is used to serve many different purposes in SA an LE programs. It can be used for:

- Case management (particularly in LE programs)
- Documenting the baseline and subsequent changes that may be attributable to SA programs (e.g. by comparing report cards, social audit reports, or the number and type of cases brought by community paralegals over time)
- Routine monitoring and evaluation of program processes and impact, including defining the desired outcome and recording whether or not it was achieved
- As a source of data for study of a particular program or group of programs

The type of documentation required depends on the purpose of the data collection. Often, case forms or social audit reports are both forms of documentation that are integral to the execution of those SA and LE programs and are also a source of data for study.

One of the explicit objectives of the meeting was to consider and discuss the potential utility of a common framework on documentation and learning. Small groups grappled with various aspects of documentation for SA and LE, including: 1) how to track grievances/cases, 2) how to incorporate client and community perspectives, 3) how to assess and document policy change, and, 4) how to assess and track the broader health outcomes that we ultimately seek to impact.

Group 1 *was asked to consider whether we can understand the objectives of SA and LE in a common way, whether an LE 'case' can be a SA 'grievance', and if so, whether there are common approaches to documentation that might be used. In such circumstances, there is the possibility of defining common fields or themes for grievance and case tracking in respective forms. These forms are generally used to track progress and actions taken with respect to individual cases and group complaints from beginning to end. Generally, such forms track the nature of the complaint, steps taken by a paralegal (or other NGO volunteer/employee) and how and if the complaint was resolved.*

The group suggested that the following topics might be covered in grievance/case tracking forms for both SA and LE.

Item	Explanation
Demographic information	LE forms can track basic demographic information. If forms are being used for SA, community or group level attributes, such as the number of people involved in the issue, the socio-economic status of the individual/community, and the composition of the group gender wise can be recorded. This will also help to track which populations and subpopulations the project is reaching, which may be important for examining equity.
Client engagement	In the case of LE, forms can record how the client learned about the service. In the case of SA, the form can track how the case was generated (e.g. a group of women approached the NGO with a challenge, a SA working group identified the issue after consultation with the community and so on).
Case classification	Forms can track whether the issue/case is an individual or community level complaint and what it is regarding. Categories can be created (e.g. primary health care, sanitation). They might also note who is doing the reporting. Is it the aggrieved individual or community? A paralegal? An NGO volunteer or staff?
Actions taken	Tracking forms can record what actions are taken to pursue resolution. This might include recording which institutions and processes are engaged and what follow up is made on what dates. Concrete outcomes should also be recorded. Cases can be coded as open or resolved.
Follow up	Forms may track how the client(s) was kept up to date on actions taken (e.g. phone, home visit) and resolution, as well as the level of client satisfaction.

Group 2 *was asked to discuss how client and community perspectives might be integrated into a documentation strategy.*

The group concluded that there are two key elements that we might consider in defining client and community perspectives:

1. **Satisfaction** with the **process**. Clients and communities should feel that LE and SA processes are transparent and empowering. However, there are some challenges with simply asking about satisfaction. Some of the issues addressed through LE and SA may take a long time to resolve. For example, cases pursued through strategic litigation or long term action plans will likely not be resolved in the short term. Individuals and communities may feel dissatisfied in these cases, but this does not mean that the LE or SA program is performing poorly, or that the difficult cases are not important to the community. This difficulty highlights the importance of providing feedback to individuals and communities about action taken, and about the likely trajectory of the case. It also shows that it is important to address long term issues as well as "quick wins" that can be resolved in the short term. This will facilitate continued community engagement and buy-in.
2. **Client-defined success**. What was the client or community looking for? Was this achieved? Even if the ultimate objective was not achieved. Information on intermediate steps such as meetings held or processes initiated can be fed back to the client/community.

Group 3 *discussed how to track policy change. They were asked to consider in particular the fact that change in government policy is a key goal of many LE and SA program.*

To track how an organization contributes to structural change, the Group suggested tracking:

- What action did/can the group take?
- How does it add value given the context? Added value could include the generation of evidence, mobilizing groups and fostering collective action, personalizing issues by highlighting the impact of poor policy and practice on individuals and families, generating case studies, and providing a reality check on what is really going on.
- To what partnerships, alliances, and processes can these actions contribute?

Regardless of what is tracked, documenting influence is difficult. Besides basic questions about attribution (i.e. can we say that a certain policy change was due, in whole or in part, to the efforts of a particular NGO?), there are many other challenges that arise. In some cases, attributing influence might not be desirable, especially if the issue is controversial. For example, if a group is working to advance LGBT rights, they may not want to draw attention to their work. Also, decision-makers might not be willing to reflect on NGO influence. So, even if a decision-maker was swayed by an NGO, she may not admit this.

Given these caveats, the group proposed the following ways of potentially documenting influence:

- Documenting and assessing the content of official statements from NGOs (the NGO implementing the project and others) and from governmental actors
- Assessing temporal proximity—how long of a period elapses between the start of the campaign and the desired results/policy change?
- Using other data (e.g. national health system, UN surveys) to assess behavioral change among target groups, such as the community, policy-makers, and health providers

Group 4 *was asked to consider how documentation can link program level change to primary goals, namely more inclusive, equitable and effective health service delivery.*

The group stated that national data (i.e. health system statistics or national surveys conducted by other actors such as DHS or UNICEF) and program data can be examined together to provide insight into how the program is affecting broader goals. If national level data are geographically dis-aggregated (e.g. district or municipal level data) it can be used to show where a SA or LE program may be affecting health outcomes. However, attributing causality is quite difficult. Improvements in health indicators are not necessarily due to the SA or LE intervention; many other factors could be at play.

Program data can also add nuance to national level data by providing a "reality check." For example, if a LE or SA program addresses equity or solicits information on patient perceptions of care (e.g. patient satisfaction, experience of disrespect and abuse in the healthcare system) these data can be used to highlight national level priorities by highlighting important trends that may be obscured in national level data.

Following these presentations, meeting participants brought up several larger strategic questions relating to documentation. First, there is a lot of research, guidance, and other materials on SA, but the group attending the meeting is unique in its commitment to a hybrid SA/LE approach. Documenting how these approaches are bridged would make a contribution to the field. The group implicitly assumes that a hybrid approach is superior to each one alone. This needs to be proven and documented.

When documentation gets to be too much

One danger of rigorous documentation is that it becomes impracticably onerous. Zoran Bivovski of the NGO Kham provided a reality check. He described the case of a patronage (visiting) nurse asking him, "When can we finish this monitoring system and return to normal life?" If they cannot be worked into 'normal life,' then documentation plans may not be feasible over the long term.

As in the case of other discussions, this discussion returned to questions about fundamental goals. We need to think about the underlying problems, rather than the activities as such. What do we consider to be successful resolution of these problems? How do we get there? The documentation strategy should flow from analysis of this causal pathway. We need to recognize that there is some path dependence here; once we choose an audience for proving impact then the methodology follows. Governments, donors, peer NGOs, and communities all likely have somewhat disparate priorities and definitions of success. Implementers must strike a balance among these conceptions of success. Their choices will shape what documentation might be required.

Finally, the group discussed several ways of using routine tracking forms to understand how results are achieved. For example, Namati selects certain cases (through a sample of their case tracking forms) for follow up. Then researchers go and interview every party to that case, asking about each respondent's experiences with the justice system. For routine M&E, they also sometimes use observations. They sit and observe how the paralegals mediate and how nurses respond. These monitoring and evaluation tools are a potentially rich source of data to understand strategy, implementation, and change over time.

Key takeaways from the discussion on documentation:

Documentation is a cross-cutting concern. It relates to fundamental questions about defining and measuring success, assessing and describing the context, measuring short AND long-term changes, and individual/community input.

Before methods can be discussed, practitioners need to decide why they are documenting and for whom.

Documenting SA and LE across projects requires common concepts, units of measurement, and objectives. We need to be clear about the difference between tracking/ascertaining what works and just tracking what we are doing. Documentation and evaluation are not the same thing.

While most of the discussion focused on documentation for internal NGO learning, it is also important to value documentation insofar as it enables field building, which is complementary to but not necessarily the same as internal learning.

III CONCLUSION

The convening addressed a broad spectrum of fundamental questions and creative tensions ranging from micro level questions about activity implementation to macro level conceptual questions about the nature of accountability and health service delivery. In discussing these issues, several key points emerged. These include:

- The distinct, but overlapping, approaches of LE and SA may be especially synergistic in certain contexts. In general, SA can foment collective consciousness and action, and minimize risk to individual participants through its focus on group – rather than individual – concerns. Because of its collective orientation, it can also be linked with broader social movements. In contrast, LE can pursue individual complaints, potentially providing redress to affected individuals and in some cases, leading to policy change.

- These complementary approaches to change enable fruitful program level collaboration. For example, SA activities can help implementers and advocates to better understand what is happening on the ground, providing invaluable information for LE cases. SA may facilitate community commitment and engagement in change, building momentum and buy in for both SA and LE. LE can "add teeth" to both SA and LE advocacy through connection to lawyers.

- SA and LE activities and documentation strategies should be based on an assessment (and constant revisiting) of a project's overarching goals and the context. In addition, for instrumental reasons (it will help to build community buy-in) and intrinsic reasons (participation is a key element of a rights-based approach), implementers

should also formalize community and client input into priority setting and program implementation, as well as feedback to the community on project progress and outcomes.

- Several general lessons in accountability have emerged over the past several years. Some of these include the value of vertical integration, the utility of using of multiple tools and exerting pressure vis-à-vis multiple actors, and the importance of working towards both short and long term change. The integration of LE and SA approaches facilitates all of these, as the complementary approaches can promote engagement at multiple levels of the system (health facility, local, district, state/provincial, national, and international) and entail the simultaneous use of different strategies. Moreover, together, SA and LE can address a diversity of issues. Practitioners can pursue short and long term change, ensuring the "quick wins" that engender continued community engagement, and incremental progress on entrenched problems. In brief, integration can be a good strategy to fostering transformational change and to realizing accountability.

IV RESOURCES

Participants identified several fora that already exist and can serve as a platform for learning and exchanging on SA and LE.

These include:

- A Facebook page on Roma health rights (interested individuals should email Alphia at abdikeeva@gmail.com)
- COPASAH (Community of Practitioners on Accountability and Social Action in Health)
- The Global Legal Empowerment Network led by Namati
- TALearn (which is led by the Transparency and Accountability Initiative)
- GPSA (Global Partnership for Social Accountability, led by the World Bank)
- Working Group on Monitoring ESCR (economic, social, cultural rights)

OSF committed to development of the following resources:

- OSF is in the process of finalizing "Bringing Justice to Health: A Good Practice Guide," which shares lessons and reflections from 8 years of access to justice projects for socially excluded groups in the context of health. The Good Practice Guide will be accompanied by a complementary virtual toolkit, hosted on Namati's Global Legal Empowerment Network, with practical resources from the field.
- OSF will also develop two resources on the integration of SA and LE. One publication will be oriented towards practitioners, and the other towards academics. The practitioner reflection will suggest a process for analyzing when a hybrid method makes sense and considerations to improve effectiveness. The academic publication will bring together parallel discussions from the LE and SA fields.

Annex 1

List of attending organizations:

American University
Association for Emancipation, Solidarity and Equality of Women (ESE)
Center for Economic and Social Rights (CESR)
Center for the Study of Equity and Governance in Health Systems (CEGSS)Charitable
Association of Roma (KHAM)
Columbia University Mailman School of Public Health
Foundation Open Society Macedonia
Harvard University John F. Kennedy School of Government
Health Education and Research Association
Namati
Nazdeek
Open Society Foundations
Open Society Institute for East Africa (OSIEA)
Open Society Justice Initiative
Overseas Development Institute
Romani Criss

Annex 2

Expert Meeting on Social Accountability and Legal Empowerment: Allied Approaches in the Struggle for Health Rights

December 2-4, 2014
New York, USA

Meeting Goals:

- Mapping the state of the field
- Sharing practitioner reflections and identifying lessons and good practices
- Grappling with advocacy opportunities and challenges
- Collaborating on a framework for documentation and learning
- Identifying gaps and opportunities for collaboration

Tuesday, December 2, 2014

9:30 a.m. **Welcome & Introductions** (Tamar Ezer, Rosalind McKenna)

10:00 a.m. **State of the Field** (Anuradha Joshi)

11:15 a.m. **Coffee Break**

11:45 a.m. **Practitioner Reflections** (Alphia Abdikeeva)

1:00 p.m. **Lunch**

2:30 p.m. **Advocacy Opportunities and Challenges** (*Moderator:* Sebastian Kohn; *Panelists:* Ellie Feinglass, Walter Flores, HERA staff)

4:00 p.m. **Close**

6:30 p.m. **Group Dinner (Brasserie 8 ½, 9 West 57th Street, between 5th and 6th Avenue)**

Wednesday, December 3, 2014

9:30 a.m. **Documentation and Learning**

- Introduction (Vivek Maru)
- The Sierra Leone evaluation project (Gibrill Jaloh)
- Group work on developing a framework for documentation and learning (Peter Chapman)

12:00 p.m. **Lunch**

1:00 p.m. **Documentation and Learning Part II**

- Group work report backs (Peter Chapman)
- Discussion on next steps (Vivek Maru)

2:00 p.m. **Coffee Break**

2:30 p.m. **Opportunities for Collaboration** (Alina Covaci)

3:30 p.m. **Close**

Thursday, December 4, 2014

9:30 a.m. **Opportunities for Collaboration Part II**
- Introduction (Maja Saitovic)
- Individual meetings

(Coffee and snacks served throughout)

12:00 p.m. **Lunch**

1:30 p.m. **Collaboration Highlights and Wrap-up** (Rosalind McKenna, Tamar Ezer)

2:30 p.m. **Close**

Annex 3:

Strategies and tools used by LE and SA and issues raised by combining approaches (draft work in progress)

	SA	**LE**	**Combining Approaches Issues (in theory)**	**Combining Approaches Issues (in practice)**
Awareness Raising	Legal rights and processes Existing levels of services (compared to standards and compared to other localities)	Legal rights and processes: what are health rights, how to access them, and how to challenge rights violations (redress mechanisms)	Two teams (paralegals and SA mobilizers duplication of work?) can gain efficiencies	Confusion sometimes for people about what to expect when people circulate in one role or another (e.g. bringing cases—desk based, vs. monitoring—field based)
Mobilization	Expected mobilization through information or Active mobilization through intermediaries Whole communities	Active Mobilization of marginalized groups		Easier to mobilize communities for SA when LE is in place and has delivered concrete results in terms of grievance redress

Alliance Building	Within communities, easier, as public good problems tackled With state actors: possible if collaborative strategies identify their constraints	Within community cleavages can make broad alliances difficult With state actors: Maybe difficult if discriminatory practices rooted at the frontline. With other groups or actors: If there are overarching issues/objectives, for example women´s rights groups, patients´ rights groups, transparency/anti-corruption activists, etc. International/regional entities and donors	Social cleavages can make alliance building across constituencies difficult, especially if exclusion is socially based as well	Alliances easier if homogenous groups have independent electoral representation Or when there are overarching concerns (i.e. corruption and violations of patients´ rights in healthcare affect everyone, not just marginalized groups) Maybe helped by international pressure and alliances, e.g. states´ aspirations of participating in international/regional organizations (EU accession, Roma Decade, etc.) or improving scores e.g. Corruption Perception Index
Media	Highlight poor performance of state agents and thus impose political and reputational costs	Raise awareness of the plight of marginalized groups and highlight human rights violations in healthcare settings	If focus is only on marginalized groups, then entrenched discrimination within media might mean lack of publicity	Depending upon freedom of media, difficult issues raised by combining approaches (rights violations and poor governance) may or may not be raised publicly.

Community Monitoring	System level (e.g. absenteeism, budgets etc.)	Violations of rights (denial of service, substandard services, degrading treatment/use of force, extortion of bribes, etc.)	Monitoring and surveys (e.g. scorecards) can be used to highlight cases of rights violations and case referrals, as well show patterns of discrimination across populations (also help in impact assessments over time) Credible information shifts power balances	Needs capacity building for community workers in order to capture both kinds of monitoring—are they more effective than ones trained to do a specific kind of monitoring?
Individual case support		Accompanying marginalized people in encounters with the state	SA advocacy and knowledge can increase legitimacy of local actors	If SA activities are confrontational, then might jeopardize LE activities?
Litigation	Collective (e.g. public interest litigation, cases raised by groups), aimed at changing policies, use is rare	Strategic, precedence setting challenging regulations/policies that create indirect barriers to accessing services; challenging systemic violations (discrimination) International/regional legal frameworks: to attain decisions as well as publicity impossible in the local/national context	National laws and redress mechanisms are often deficient, legal procedures expensive and time-consuming, lawyers trained in both health rights and minority concerns are rare, which make litigation a last resort remedy. However, positive decisions also carry substantial weight beyond a specific issue in case.	Successful strategic litigation can have mobilizational impact on other SA activities?

Grievance Redress	Usually only tackled locally in collaboration with public providers	Community mediators and paralegals can help resolve cases without the need to go to court.	Lack of success can lead to the use of 'exit' options as well as demoralizing in terms of mobilization	There is a reverse correlation between redress and accessing services: Lack (of awareness) of redress for violations dissuades using services; grassroots assistance (mediators, paralegals) helps resolve minor violations/obtain redress and encourages accessing services.
Intermediaries	CSOs training in facilitating community processes Sometimes when processes are organic, no outside intermediaries	Paralegals Training and specific services Health mediators Grassroots CSOs	Are skill sets compatible for both kinds of intermediaries? Overburdening limited capacities?	Few intermediaries with capacity could be stretched thin trying to combine approaches
Scaling up	Best practices in governance (e.g. participatory spaces, budget analysis) might be replicated	"Best practices" such as paralegals or health mediators can be replicated across the country	Can lead to working across levels (e.g. local, regional, national, international)	Potential to work with elected politicians?

Policy Advocacy	Requires alliances through networks that operate at the policy level Usually focused on upstream vectors in specific service (e.g. budgets, resources)	Focused on additional legal structural obstacles (insurance, identity documentation for accessing services for marginalized groups)	Can together tackle key structural problems at the policy level	Problems with political will—especially if there are entrenched interests. Maybe easier than legislative advocacy But maybe also more complicated on behalf of numerically small marginalized groups and requires cross-issue coalitions(alliance-building, as well as using a combination of tools/strategies) Starting with generic public goods issues (e.g. SA approaches) can mean the neglect of marginalized groups.
Human rights documentation	Individual cases not systematically documented, but sometimes systemic patterns are (e.g. low levels of immunization)	Fills the gap of absent statistical information, provides evidence for legal cases, domestic and international advocacy, and media	Aggregation of documentation can present decision-makers with more robust (and catalyzing) evidence in support of policy change.	
Other, non SA/LE activities	Education (literacy numeracy) Service Delivery Behavior Change Participatory planning	Behavior change (e.g. persuading people the value of institutional births)	Dissonance between demand led (rights based) and behavior change messages?	

CONTACT INFO

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We welcome feedback on the issues raised in this report. Please contact Rosalind McKenna at rosalind.mckenna@opensocietyfoundations.org

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