Accountability of the powerful

Presentation by Roberto Bissio, Coordinator of the international secretariat of Social Watch, and Executive Director of the Third World Institute at the

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In the 14th century by the Arab philosopher ibn Khaldun, the father of modern sociology, spelled out in his Muqaddimah the following eight principles for an harmonious society:

"1. The world is a garden the fence of which is the dynasty (the state). 2. The (state) dynasty has the authority that defines proper behavior. 3. Proper behavior becomes policy when directed by the ruler. 4. The ruler is an institution supported by the soldiers. 5. The soldiers are helpers who are maintained by money. 6. Money is sustenance brought together by the subjects. 7. The subjects are servants who are protected by justice. 8. Justice is the harmony that makes the world a garden”.

If we translate “the garden” as “sustainable development” we have here all the elements that we need for a renewed agenda: Policy and regulations, means of implementation (taxes) and compliance mechanisms (justice) which is what we really want to talk about when we talk about monitoring and accountability.

Ibn Khaldun quoted Aristotle, who worked from Alexandria, in what is now Egypt, more than a thousand years before him, and Aristotle's concept of law and justice was based on those established two thousand years before by King Hammurabi, governing between the Tigris and Euphrates. Hammurabi had the laws written in stone, so they could not be changed overnight at will, and they were not hidden, so that all were able to access them and learn, for example, that even judges had a duty not to betray the rules in their decisions.

Much more recently, only two hundred years ago, La Declaration des Droits de l'Homme et du Citoyen in 1789 stated that every citizen has the right to check the need to pay taxes\(^1\) and that society has the right to hold every public agent accountable.\(^2\)

The Millennium Declaration commits the leaders of the world since 2000 to ensure the simultaneous realization of a triangle framed by peace and security on one vertex, democracy and human rights on the second and last but

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1 Article XIV: Tous les Citoyens ont le droit de constater, par eux-mêmes ou par leurs Représentants, la nécessité de la contribution publique, de la consentir librement, d’en suivre l’emploi et d’en déterminer la quotité, l’assiette, le recouvrement et la durée.

2 Article XV: La Société a le droit de demander compte à tout Agent public de son administration.
not least development and social justice. But the non compliance with these promises, while morally condemned in all cultures and places, is not punished and not even properly monitored. The commitments made to society tend to be easily forgotten if organized citizens and communities are not constantly reminding them.

Social Watch was created in 1995 to help governments remember their promises and to assist those governed to monitor the achievements... or lack of them. Every year we bring to the United Nations the findings of civil society organizations in over eighty countries from around the world. Each national alliance defines independently its own priorities, its message and how to engage with their authorities. The global network amplifies the national voices and collectively holds international organizations accountable for their own commitments.

In doing that, we found something that probably Hammurabi already knew: Accountability is only meaningful if the powerful can be brought into account. The powerful are the landowner, the major and the chief of police for a distant rural community. In the world as a whole the powerful are the big countries, the intergovernmental institutions (particularly those dealing with trade and finances), transnational corporations and even some huge foundations and INGOs with budgets of billions of dollars.

We firmly believe that it is up to citizens to hold their own governments accountable. In exercising these right, our member coalitions have managed in some countries to identify millions of dollars of “pork barrels” hiding in obscure budget provisions and redirect them to support genuine social development. They have also avoided civil wars through the development of credible election monitoring mechanisms based on social networks.

Very often, the Social Watch national coalitions have also found in practice that the smaller, poorer or more vulnerable a country is the more it is being held accountable to foreign actors. All countries are subject to report to their peers on compliance with their human rights legal obligations under the Universal Periodic Review of the Human Right Council. But developing countries also have to report about their compliance with WTO accession commitments; they are supervised by the IMF, even if they are not debtors, and they report to each of their bilateral donors individually and also collectively.

In fact, our members frequently observe that accountability to the citizens is frequently postponed or undermined by this accountability to the donors and creditors in ways that weaken the role of parliaments and undermine democratic institutions. To make matters worse, over two thousand bilateral and regional trade and investment agreements signed in the last few decades have created new rights for transnational corporations, including rights that humans don't have: corporations have acquired the right to settle anywhere they want and bring with them any personnel they decide they need, they are allowed to repatriate profits without restrictions and even to litigate against governments in demand of profits lost because of democratically decided policies, not through local courts but via international arbitration panels shaped to defend business interests and where human rights do not necessarily prevail. ICSID, the International Center for the Settlement of Investment Disputes, hosted by the World Bank, is an un transparent tribunal that displaces national judiciary and in a way creates its own law by way of ignoring human rights standards and environmental norms, even when they have been ratified as international treaties.

No single duty was created for corporations to compensate for this expansion of their rights and that may well be one of the reasons for the current disproportionate share of capital in the capture of the benefits of growth and the symmetric reduction in the share of labour in those benefits that is so overwhelmingly documented by Thomas Picketty for most countries, rich and poor.³

Corporations have to be made accountable not only to their owners and consumers but to their workers and to the people that are affected by their operations. Corporate accountability requires rules set by governments, respect for human rights and environmental due diligence as well as reporting, ensuring access by those negatively affected to an effective remedy, tax transparency; proper land appropriation rules, etc.

³ Piketty, Thomas, Capital in the Twenty-First Century, Harvard University Press, 2014
We do want, of course, to harness the power and the money from corporations and the huge foundations they support to make them contribute to sustainable development (starting perhaps with the old medical principle of “first, do no harm”) but no “partnership” will really contribute if it is not accountable.

The Righting Finance coalition, of which Social Watch is a member, has elaborated a set of minimum criteria to be applied to all actors wanting to benefit from “partnering” with the United Nations, among them the mandatory declaration of any conflict of interest, and careful “vetting” of their human rights background and performance. Fiscal resources, whether domestic or ODA-originated “should only be applied to support the private sector in instances where it can be demonstrated concretely that a) such allocation will advance certain rights, b) this is a more effective use of such resources than through public investment, c) mechanisms exist for the transparent and public participation of those affected by the use of those resources and d) performance in meeting the promised targets will be evaluated and monitored periodically, with lack of compliance credibly giving rise to a withdrawal of the fiscal support.”

Corporations in partnership with the UN should be subject to at least the reporting requirements already established for NGOs, which include regular reporting to ECOSOC, including on their finances and their origins, demonstrated adherence to Human Rights and contribution to the work of the UN.

The mandate for this reporting by corporation already exists, and has been approved by the UN General Assembly as part of the Guiding Principles on Extreme Poverty and Human Rights and the Guiding Principles on Business and Human Rights. These principles require, for example, an impact assessment of multilateral organizations, corporations and the trade and investment regime. This reports need to be made mandatory and not just voluntary.

Accountability doesn't happen without transparency and access to information: Corporations should report their accounts on a country-by-country basis, countries need to keep public registers of company owners, among other basic information provisions. In particular, the secrecy involving the work of arbitration panels in investor-states disputes needs to be declared as contrary to basic accountability and human rights principles. Banking secrecy undermining the ability of countries to tax their citizens or corporations operating in their territories needs to be identified as a major obstacle to the achievement of human rights and development goals and this should be a major issue to address in the coming Addis Ababa conference on Financing for Development in 2015.

The Sustainable Development Goals that were approved by intergovernmental consensus last July 19 in the final session of the Open Working Group established by the Rio+20 Summit include a list of 169 targets to be achieved. Of these more than one third, a total of 62 targets, refer to Means of Implementation, without which the Goals cannot be achieved. Goal 17 of the outcome document includes 19 targets and the other goals add 43 additional MoI targets. Of those, 36 refer to actions required from developed countries, 4 targets refer to actions mainly by developing countries and 22 of them require all countries to do something. The conclusion is clear: if there is no effective monitoring and accountability of the commitments of developed countries, the post-2015 development agenda will never be implemented.

An important implication of this refers to the proper institutions for this accountability to happen. Peer-to-peer mutual accountability as happens at regional level is an invaluable instrument for learning from similar experiences and provides excellent opportunities to build common positions. But powerful global corporations or the extraterritorial impact of the policies of big powers cannot be monitored only by their peers.

The Rio decision about the creation of the High Level Political Forum (HLPF) clearly wants to empower this Forum to be the place for these reviews. For that to happen the Forum needs to be properly assisted by a strong

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secretariat, informed by adequate reporting and carefully prepared by an active chair or troika that provides continuity and leadership.

Seven centuries ago, Ibn Khaldun concluded that “the lesson is that injustice ruins civilization. The ruin of civilization has as its consequence the complete destruction of the dynasty (state)”. Without effective monitoring and accountability of the powerful there will be no development agenda and the multilateral system will loose its legitimacy.