Learning retreat DDLG and CHR Networks
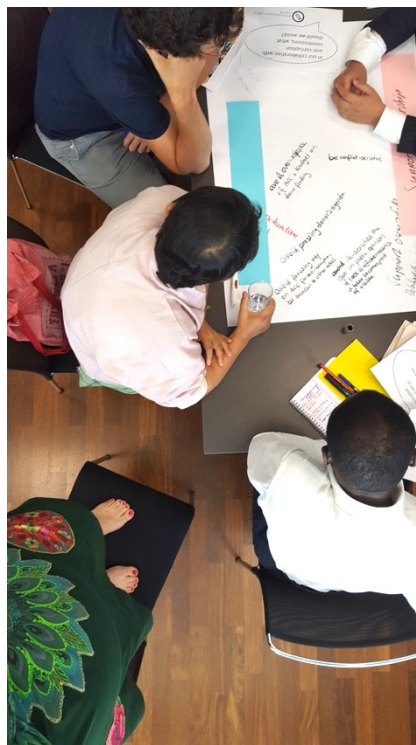
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Report

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1. The rationale of the learning retreat

SDC has a track record of actively supporting the functioning of national oversight institutions/independent state Institutions such as Election Commissions, National human rights institutions, Anti-Corruption Commissions and is also engaged with Ombudsman offices and Offices of the Auditor General. All these institutions can act as cornerstones of national accountability systems. They can contribute to trust-building between people and the state; they can act as complaint mechanisms and facilitate redress for those experiencing injustice; they can function as guarantors that legitimize political processes; they can be independent voices; and they can be crucial in advising governments on reforms.

And yet these institutions may not always successfully deliver on their mandates; they may be insufficiently independent or even subject to interference by governments (especially if too outspoken); they have limited powers, resources and ability to correct wrongdoings; they may not be able to fulfill people's expectations; and they may revolve too much around single, strong personalities.

The learning retreat was organized by the two network focal points "Democratization, Decentralization and Local Governance" DDLG and "Conflict and Human Rights" CHR to reflect on SDC's experience of supporting such institutions. The idea was further to refer to existing international standards and convey expertise and further examples from specialized centers.

2. Expected results and learning objectives

The learning retreat sought to achieve the following results:

1. Shared understanding about the roles and functions, ambitions and limitations of national oversight institutions / independent state institutions as part of national accountability systems.
2. Enhanced knowledge on good practices, challenges, and lessons learnt in supporting these institutions.
3. Digested personal learning and insights of participants and concrete ideas about the way forward in their operational work
4. Accessible network of peers and resources persons for participants, and clarified need for further support by the networks DDLG and CHR

The concept note[1] mentioned the following specific learning objectives:

1. Knowing the role and functions of these institutions, the global standards and review mechanisms, the international trends in translating these into practice and current practice of donor support
2. Understanding the strategic choices and action lines of these institutions in light of the particular contexts
3. Awareness about major challenges, risks these institutions are facing and how they deal with this
4. Understanding the role of donors
5. Learning about factors of success, about strategies that work and learning from failures

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[1] See https://www.shareweb.ch/site/DDLGN/Documents/Concept_learning_retreat_oversight_institutions.pdf; see also welcome and introductory remarks by Corinne Huser and Nils Rosemann, https://www.youtube.com/watch?v=4K0sF9qFrKY&feature=youtu.be.

3. Participants

The event targeted SDC staff in Bern and in cooperation offices as well as staff from SDC partner organizations. Interested persons from SECO, Human Security Division HSD and the Swiss Parliamentary services were also invited. Some expert resource persons (consultants, NGOs, representatives of national institutions in partner countries) were invited to share their specific experience.

43 participants were listed for the event, coming from various institutions (for details see list of participants).

- 8 national program officers working in Swiss Cooperation Offices in Albania, Bénin, Burkina Faso, Cambodia, Pakistan, Serbia, Tunisia)
- 1 Swiss program manager working in a Swiss Cooperation Office, 4 Swiss program managers working at SDC headquarters;
- 12 representatives of NGOs or implementing partners working in partner countries or in Switzerland/Europe
- 6 representatives of independent institutions in partner countries (Laos, Tunisia, Bhutan, Afghanistan, Burkina Faso)
- 2 participants from the Swiss parliamentary services, 3 from FDFA Human Security Division, and 1 from SECO;
- 6 participants from the two organizing networks' focal points, with 3 external resource persons for facilitating and reporting.

On the first day of the event, participants were asked about their expectations. Their responses focused on the following areas:

Sharing own experience on independent institutions
Learning and be inspired from others' experience and best practice
Understanding the topics better and reflecting on concepts
Understanding the opportunities and challenges for SDC/donors
Opportunity to network with colleagues dealing with the same topics
Learning about learning methodology

4. Program and methodology

Under the main facilitation of Nadia von Holzen, the three days program[2] addressed the topics and four types of oversight/independent institutions in a consecutive manner:[3]

Day 1 :

- Introduction to the topic: oversight/independent institutions and their role in ensuring accountability and legitimacy of governance
- Anti-Corruption Commissions: their role, opportunities and challenges

Day 2:

- Supreme Audit Institutions: their role, opportunities and challenges

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[2] For full program, with links to presentations and videos:
https://2017.ddlgn.ch/posts/ddlgn_pagecolor2736?locale=en#0.
[3] For all the presentations, videos and discussions, see the website of the event,
https://2017.ddlgn.ch/posts/ddlgn_pagecolor3861?locale=en#0.

- National human rights institutions: their role, opportunities and challenges

Day 3:

- Election Management Bodies: their role, opportunities and challenges

The program was using different methodological approaches and techniques (expert presentations, videos, Q&A, group discussions, individual reflection, panel discussions, interviews, World Café, storytelling, peer coaching). The idea was to guide participants through their individual learning journey and facilitate the transfer of thematic and methodical knowledge, sharing experience, linking the topics, reflecting on the context, and identifying personal learning as well as next steps. In addition to the resource persons (from partner NGOs, from oversight/independent institutions) that were invited as experts to provide topical input, several NPOs from Cooperation offices also contributed with their knowhow and experience, some with formal inputs on several issues.

The atmosphere of the learning retreat was very positive, and many participants regularly contributed to the always lively discussion, in French and English. In the plenary, simultaneous translation ensured that both languages could be spoken and were understood by participant. Group discussions were organized mostly in a mono-lingual manner to provide opportunities to discuss freely in the preferred language but avoid heavy translation processes. Thanks to the quality of the interpreters, both English and French speakers seemed at ease, and no major language issues arose. All the topics met a lot of interest that were expressed by numerous questions and comments that were vividly discussed. The general evaluation at the end of the event confirmed that the participants liked the varied methodology.

While the methodology was indeed very useful to keep the interest and motivation of participants and promote reflection, the content of the three days program was very dense, addressing four different types of oversight/independent State institutions in challenging country contexts, with the aspiration of understanding the complex framework of accountability. Since many discussions took place in groups and the learning from individual reflection was not always shared in plenary, the reporting focuses on the learnings shared in plenary.

5. Topics and issues discussed

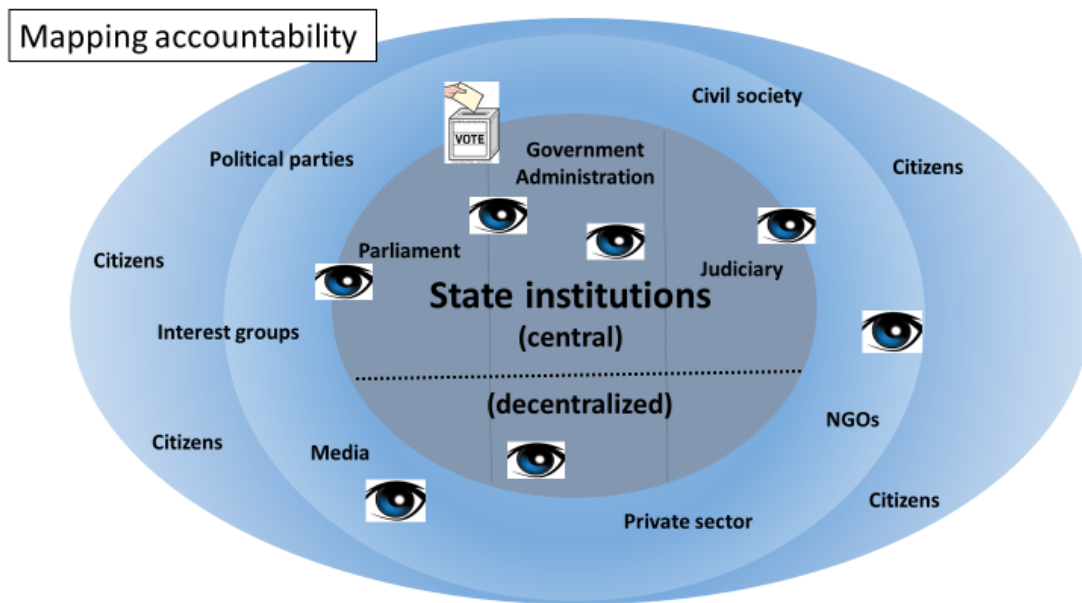### 5.1 Definitions and concepts: Why are we talking about "oversight" and "independence"?

The first input by **Erika Schläppi**, Ximpulse GmbH, introduced participants to the main concepts of accountability and legitimacy, with a view to frame the discussion about oversight/independent institutions and put it into a close relation to accountability and legitimacy of state authorities.[4]

Oversight institutions and other independent State institutions are key instruments for holding the State authorities accountable for their actions – and can contribute to the legitimacy of and confidence in State power. Accountability ensures that government action meets the stated objectives and responds to the needs of citizens, and it is expected to improve relations and trust between authorities and citizens, particularly in situations of fragility. Accountability is a key factor of sustainable development (see SDG No. 16) and aid effectiveness. Accountability is one of the key principles of good governance, and it is usually perceived in three dimensions: Firstly, stakeholders have to be informed about decisions that they are concerned with ("transparency"). Secondly, authorities have to justify their decisions if they are asked to do so ("answerability"). Thirdly, if

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[4] Full presentation see: https://www.shareweb.ch/site/DDLGN/Documents/Introduction%20draft%201-8-2017def.pdf; https://www.youtube.com/watch?v=4K0sF9qFrKY&feature=youtu.be.

authorities have taken unlawful decisions, they have to be sanctioned, and decisions have to be changed ("enforceability").

Oversight institutions are part of the accountability systems of their country. They vary in their focus on transparency and answerability of State authorities, and their relations to other accountability actors (such as the parliament, the judiciary, media, NGOs) may differ.

Oversight/independent institutions are part of the State though aspiring to independence. They have varying shapes and features, according to their tasks and the context they are working in: They are established by the constitution, the law, or government decision. Members are elected or selected by the government, parliament or judiciary. They are funded by public budget, or external sources (such as development funds). They have varying tasks (such as overseeing specific authorities, or organizing elections). They assess performance of state institutions referring to different kinds of (international and national) standards, and they report to the government, parliament, or the judiciary. Oversight institutions are themselves guided by various international standards that can be used for assessing their performance.

The program then focused on four types of "independent" State institutions: The Anti-Corruption Commissions, the Supreme Audit institutions , the National Human Rights Institutions and the Election Management Bodies.

5.2   Anti-Corruption Agencies (ACA)

Sofie Schütte from **U4 Anti-Corruption Resource Center**, an NGO specialized in fighting corruption, presented the roles and functions of Anti-corruption agencies.[5] They are public bodies of a permanent nature, with a specific mission to fight corruption and reduce the opportunities for its

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[5] Full presentation see
https://www.shareweb.ch/site/DDLGN/Documents/Bern%20ACAs%20session_%20Sofie%20Schuette.pdf;
https://www.youtube.com/watch?v=hYZoK1lVAAc&feature=youtu.be.

occurrence, through preventive and/or repressive measures. The ACA's functions depend on their mandate, and typically include: receiving and responding to complaints, monitoring and investigation, prosecution of cases, research, analysis and compliance reviews, public information, education, coordination.

While there are no binding international standards or obligations to create an independent ACA, the Jakarta Statement (made by heads of anti-corruption agencies meeting in Jakarta in 2012) enumerates some principles for ACAs. These include a clear mandate on prevention, education, investigation, anchored in the constitution and the law; a careful selection and selection process of the head of ACAs; sufficient salaries for staff not to get bribed; access to timely, reliable and adequate State resources (although a challenge to independence…); and sound relations with the public and other stakeholders.

ACAs outcomes are often measured by changes in the overall corruption situation. This is unfair because mandates and capacities are always limited and ACAs can only contribute accordingly.

Donors should start from the actual mandate and capabilities instead with blueprint approaches and pre-defined expectations. They should beware of being obsessed with visible frontline activities, for example major corruption cases - if the ACA is dysfunctional. Often, donors also tend to overload institutionally weak ACAs with specific tasks and provide funding that the institution is not able to absorb.

According to the UNDP guide on the issue, it is important for donors to focus on

- strengthening institution building of "back office" structures and processes,
- sharing information on sectors where donors are financially contributing
- support research and analysis, sharing experience
- support transparent and open recruitment and removal processes
- offer political and moral support when ACAs are under pressure
- support cooperation with civil society, and coordinate among donors
- strengthen enabling environment (e.g. law on right to information, training of judges…)

However, there are always risks for donors supporting ACAs: Are we providing legitimacy for window dressing, or witch-hunts that target the political opposition? Is fighting corruption taking away important resources from a more systemic governance reform? Do we undermine credibility of state authorities by increasing perception of corruption in the governance system?

According to **Neten Zangmo**, former **member of the Anti-Corruption Commission in Bhutan**, commitment and personal engagement is key for fighting corruption.[6] Based on its mandate (that does not foresee prosecution of cases), the commission has elaborated "10 commandments" to define its own ethics and approach. When the commission started its work, there was not much understanding of the issues at stake, corruption prevalence was denied, or perceived as part of culture: Where do you draw the line between the widespread family culture obliging powerholders to look after their family and friends – and corruption?

The ACC had to be operational very quickly, in a challenging environment. Recruitment of staff was difficult since potential candidates feared to expose themselves in a society that dislikes open tensions. Another major challenge was independence, although it was constitutionally guaranteed. The Commission was finally successful because it had a clear vision and goals, strategies and

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[6] See Neten's thoughts on
https://www.shareweb.ch/site/DDLGN/Documents/Learning%20Retreat%20Report_Aug%202017.pdf, and the interview with her on https://www.youtube.com/watch?v=JX9xNl903B0.

priorities – but also because of the individual commitment, courage, and conviction of its commissioners. The ACC tried to learn from others, built up strong internal governance systems, developed codes of conduct, invested in the capacity building of staff, and mobilized donor support. The ACC invested in drafting new legal norms and dissemination of standards, and engaged with other stakeholders for developing common views and approaches.

Success was only possible because there was political willingness to fight corruption, within the ACA and more broadly, in political leadership and the judiciary. While it was difficult to work with media that were interested in sensation mainly, the commission was successful in creating a new public discourse that used more positive terminology and addressed the widespread defensive attitudes. The commission focused on empowering individual citizens and civil society to challenge the abuse of power where it occurs. According to Neten, the commission was not very effective in mainstreaming the fight against corruption in State institutions in general but it was cooperating successfully with the Parliament. Some judicial cases were prosecuted which was an important signal that the untouchable becomes touchable. In terms of general results, the corruption perception index went down with the work of the commission, and the very concept of corruption is now publicly known.

Cooperation with donors was important though not always easy. Donors should trust the local institutions that know the local context best, leave ownership to national structures and avoid prejudices and blue prints. Donors should take opportunities instead of following their own bureaucratic procedures. Donors should harmonize among themselves, and have a withdrawal plan.

Sergio Gemperle from **Swisspeace** presented insights that he has gained from his doctoral research focusing on **anti-corruption agencies and statebuilding**, in particular, the effects of anti-corruption institutions on post-conflict statebuilding.[7] Generally, corruption has a strong delegitimizing effects in developing countries, particularly in fragility, and might be a cause of conflict – but it could also be that corruption is used for balancing interest and prevent conflict.

Thus, ACAs have an impact on State legitimacy, sometimes positive – but not always. If the ACA is effective in terms of reducing corruption, it supports legitimacy of state authorities. But effective ACAs could also have delegitimizing effects on state authorities, by exaggeration of corruption in public perception and decreasing credibility of state authorities. If ACAs are not effective, the public perception is that this is just another rotten institution, further delegitimizing the State. But even ineffective ACAs may have a positive effect on legitimacy of State power: It gives a signal to people that problems are taken seriously. The conclusion from the research is: Even effective ACAs can have negative impact on legitimacy. For donors this means that possible effects should be carefully analysed before and during investing in ACAs.

The various inputs have been given raise to a vivid discussion and a rich reflection round that allowed participants to share their own experience and reflect on the findings in their own contexts. Comments included, for example:

- We agree that we should not do harm – but how to assess the impact of an Anti-Corruption Agency, particularly on conflict and peace?
- Anti-Corruption Commissions can be important partners for donors to avoid corruption around their own support.
- Harmonized reaction to corruption around donor money is more effective than a strong but individual one.

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[7] See the analytical matrix,
https://d200qu858usvfe.cloudfront.net/uploads/medium/data/2107/IMG_5498.jpg.

5.3   Supreme audit institutions (SAI)

Natalie Bertsch from **SECO** presented SECO's experience with supporting several Supreme Audit Institutions in their partner countries, with a view to strengthening the system of Public Financial Management (PFM).[8] She reminded that the PFM circle includes the budget formulation, budget approval by the Parliament, budget execution, and budget control. SECO supported the International Organisation of Supreme Audit Institutions in developing international standards for SAIs. The performance measurement framework(PMF) was adopted in 2016 as a tool for assessing the work of SAIs holistically. It is not made for rating countries but a learning tool that is based on evidence. 25 performance indicators (with various dimensions) are set in the following six domains: independence and legal framework, internal governance and ethics, audit quality and reporting, financial management, assets and support services, human resources and training, communication and stakeholders. These assessments can be used for evidence-based assistance and budget support.

In the case of **Mozambique**, capacity building activities for the SAI were funded by the new SAI capacity development fund, established by WB and SECO, based in Washington. Activities focused on training and certification of auditors. Challenges included a big delay in the organization of activities. Independence is also a big challenge for donors: SAIs must be perceived as independent – you can't rush them from the outside for the sake of your own procedures. Moreover, SAIs are part of a financial management system – and can only be as strong as the weakest part of the PFM circle. And how much can we expect from them to change the big picture?

In the case of **Serbia, Petar Vasilev** shares the experience of **SDC's support to the SAI** that reports to the parliament and supports the parliament in fulfilling its oversight role.[9] SDC's support focuses on the external audit of local governments, with the idea that by helping the auditors to work professionally and effectively, you are strengthening the legitimacy and performance of audited institutions. The state audit shifted from financial to performance audit and provides helpful recommendations to internal audits. The practical challenges of the SAI relates to the fact that it is depending on the Parliament, that means on political pressure of the majority with no interest in its independence. The SAI has technical difficulties when auditing expenditures for projects that are funded from different sources (federal, regional, local), and has not enough capacity to audit the 40'000 beneficiaries it should cover. Nevertheless, the SAI has gained acceptance and was successful in bringing some corruption cases to court. The example also shows that leadership, integrity and adherence to professional standards is key for success of SAIs.

Questions and comments from the group included:

- The work of SAIs often closely links to anti-corruption: SAI can detect cases but it usually does not have capacities to investigate, so close cooperation with ACAs and/or the judiciary are needed to take over.
- Addressing financial management and PFM reform as well as budget support might be risky but very rewarding in terms of development effectiveness.

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[8] Full presentation see
https://www.shareweb.ch/site/DDLGN/Documents/20170830_SECO_PresentationSupremeAuditInstitutions.pdf; https://www.youtube.com/watch?v=ymq17sgO3zA&feature=youtu.be.
[9] Full presentation see: https://www.shareweb.ch/site/DDLGN/Documents/7F-08396.01_Res_Loc_Dem_MunAud_%20DLGN%20Learning%20Retreat_Oversight%20Inst_2017.pdf; https://www.youtube.com/watch?v=gCRutNXecy8&feature=youtu.be.

- What about supporting independent institutions in systems that tend to be dominated by the majority and authoritarianism – and thus favor dependence? Better going out of system and focus on international auditing/monitoring?
- The SAI's focus on professionalism and an external perspective (national SAI on local government) has brought results in Serbia. On the other hand: what's the use of "technical" instruments in such politized contexts? Independent auditing is highly costly, and faces political limitations.
- Cooperation with civil society is key: CSOs can use SAI reports for their work.
- Using national systems to audit donor support is recommendable, since it strengthens local accountability systems.
- With its orientation on more general issues, the PMF Tool is not designed for evaluating service delivery costs, but other indicators can be added to make it useful for this dimension.
- Cooperation among accountability institutions is key. There are also other tools for evaluating services that are very helpful.
- How much should and could the SAI support the government in implementing good PFM standards?

5.4   National Human Rights Institutions (NHRI)

In the introductory discussion some participants expressed a negative opinion on national human right institutions. According to them, they don't show any impact, are too academic, and even do harm to the judiciary and/or are used by the governments for window-dressing and improving their reputation.

Marie-Louise Johannessen, Danish Institute of Human Rights (DIHR), explained that NHRIs are working in a variety of ways, depending on the concrete context.[10] The Paris principles are the reference framework providing the criteria for performance of NHRIs. By their constitutions as well as by ratifying international human rights treaties States have committed to implement human rights in their national systems. However, there is a compliance gap, and many states have no institutional set up for effective implementation, despite of their human rights obligations.

While the obligation to implement human rights is with State authorities, NHRIs are the lighthouse to monitor all different stakeholders in the executive, legislative, judicative, and even in society. NHRIs are administrative State bodies with a constitutional and/or legislative mandate to protect and promote human rights. They work closely with authorities, have access to authorities, sometimes under the radar of public awareness. They often keep a low profile, not so visible as CSO. However, NHRIs often make important contributions to analysis of human rights challenges and take stands on human rights issues or even on individual cases. NHRIs can have different forms. National Commissions, ombudsman-type institutions, research institutes, etc.

NHRIs have developed over the years with the idea to link the international human rights monitoring framework with the national institution. Their number has increased in the last 30 years, from 8 in 1990 to 116 in 2016.

The Paris Principles 1993, endorsed by the UN General Assembly, established the minimum requirements for the function and status of national human rights institution. This includes:

- NHRI must have a broad mandate relating to national and internationally anchored rights;

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[10] Full presentation see:
https://www.shareweb.ch/site/DDLGN/Documents/Marie%20Louise_NHRI%20presentation_SDC.pdf;
https://www.youtube.com/watch?v=LfGy2HyidNI&feature=youtu.be.

- NHRI must be independent, i.e. established by law, having institutional independence, personal independence (with selection procedures following transparent and clear criteria), financial independence (adequate public funding, able to attract own funding without approval, and autonomy over use of funds).
- NHRI must be pluralistic: broad representation of social groups in the governing structures.
- NHRI can have a variety of competences: monitoring of situation of human rights that it decides to take up; advising and providing accurate, timely, concrete recommendations to the powerholders; providing parallel reports to international bodies; education and information; judicial competences.

The Office of the High Commissioner on Human rights promoted the Global Alliance of NHRI (GANHRI) with a secretariat in Geneva. A GAHNRI Subcommittee is responsible for the accreditation and selection of members (today 78 with A-status, 33 with B-status).

The **cases of NHRIs in Nepal and Afghanistan** showed that the NHRIs might not be perfect but they have important empowering functions. In a short video from Nepal the NHRI was presented as a key support to citizens that want to investigate human rights cases and challenge human rights abuses. **Musa Mahmodi, the executive director of the Afghan NHRI**, showed that the NHRI can make a difference, according to him, even in a very challenging and violent context.[11] The NHRI started in 2002, from scratch, no logistics and staff, in a difficult environment of massive human rights violations. Thanks to support of donors they could establish themselves and make themselves accessible. Today, the NHRI has 550 staff, with offices nationwide. The NHRI has a strong constitutional mandate, with the power to monitor, investigate and receive complaints, and assist victims in legal processes. By presidential decree the mandate is even broader and corresponds to the Paris Principles. Legally, the NHRI enjoys financial independence (separate financial management system, regularly audited), structural independence, personal independence (no possibility to remove commissioners, a separate recruitment procedure). Strong leadership has contributed to develop the NHRI and was most relevant to keep independence.

The NHRI has done several hundred monitoring missions, dealt with thousands of complaints, collected data and followed up on cases. Of course, it faces huge challenges: war and regular massacres constitute a difficult working environment, and it is very difficult to uphold human rights values and obligations in such circumstances. The NHRI offered support, training and safe places to human rights defenders under threat, as well as victims. It was innovative with a view to adapt to new situations. The NHRI invested a lot in capacity building for staff how to cope with threats to security (sequestration, crossfire, bombing etc.).

The NHRI is partnering, firstly with people, even children; with NGOs that are a most important resource, particularly for remote areas; research institutions and universities; with the judiciary and the parliament. The NHRI is also involved in international human rights reporting and the monitoring of international recommendations, partnering with MoJ, prosecutors, parliament – and trying to be constructive. Afghanistan is confronted with a big compliance gap: The government may make strong statements in favor of human rights, particularly women's rights but in practice, the administration does not care as much as needed about implementing these commitments.

The NHRI is focusing also on education and capacity building. In fact, the human rights message is very simple: We want people to be free from want and free from fear. This is very telling and convincing for people who are confronted with violence, threats and abuses every day, and with 40% of the population living below poverty line.

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[11] See https://www.youtube.com/watch?v=Y4gbHJ10ZMw&feature=youtu.be.

A panel discussion with **Melina Papageorgiou (SDC HQ, thematic unit DDLG), Musa Mahmodi (NHRI Afghanistan), Fatima Quraishi (National Program Officer SDC Pakistan), Patricia Barandun (SDC HQ, Global Institutions, Desk UNDP) and Marie-Louise Johannessen (NHRI Denmark**) focused on the experience of SDC and other donors in supporting NHRIs, particularly in **Bangladesh, Afghanistan, Pakistan**. Main issues included:

- The NHRI are often toothless, in the sense that they don't have the competence to investigate abuses by the real power holders. However, they are not worthless: reaching out to citizens, awareness raising, information about human rights and how to use it, is very important in the long run.
- In Denmark, civil society is a strong activist, has a case-to-case approach, with a vocal and populist role. The NHRI is working more on structural changes, more strategically, on legal reforms, or use their privileged access to administrative structures. NGOs can make a huge difference in a country and are important partners of NHRI. But their role, approaches and methods of work are different, NHRIs don't focus on "naming and shaming" but try to be more constructive and at the same time ask authorities to comply with standards. NGOs often use violations for advocacy and mobilizing resources and support.
- NHRIs must aspire to be transparent, and invest in communication with the public, with NGOs and the authorities. NHRIs should build alliance with friends within the system, and support champions.
- NHRIs should focus on playing the role of a connector, or intermediary between authorities and citizens. NHRIs are part of a system where other stakeholders (like the judiciary, or NGOs) take important roles in fighting human rights violations. NHRIs should not take up their roles – but they have their unique role to play.
- The success of NHRIs depend on a sound mandate, personal commitment of leaders and staff, autonomous budget, independence, good relations with CSO and media, substantial communication with the public and with the government to make them understand the value of oversight.
- Donors can support CSO and media in defending NHRI from interference (from government as well as from CSOs) and putting pressure for effective work,
- NHRIs do not only need financial support but political support, particularly if they are under threat or do not work well. Donors should also use the Universal Periodic Review process to discuss human rights and NHRI issues with authorities.
- The UN system provides a legitimate framework for engagement with human rights and NHRIs in partner states. Donor should be aware that they are also part of the UN system, they have human rights obligations and should not consider themselves as donors only.
- While human rights are a crosscutting issue and should be used as an approach to cooperation in general, donors still see human rights work as another project.
- The challenge is to make NHRIs sustainable and promote nationally set priorities and institutional independence. Donors often have difficulties in understanding the specific mandate and role of the NHRI and overload it with their own agenda. Donors must refrain from political interference, refrain from taking the lead but push the NHRIs to change and be more effective, and cooperate with other donors.
- International standards are an important reference also for donors and can help to assess NHRIs and decide whether to engage. But sometimes NHRIs may not fulfill important standards and nevertheless play an important role (e.g. in protecting the space for civil society in times of increasing pressure). Donors need to weight different factors, tradeoffs and risks.

5.5 Election management bodies (EMB)

Sead Alihodzic, International IDEA introduced participants to the topic. Electoral Management and Justice Bodies are key pillars of democratic societies.[12] The main purpose of elections is to provide credibility and legitimacy to power holders and officials. But elections can go wrong, easily and frequently. And if a country does not have stable institutions this may involve heavy problems.

Elections are important moments in political transition processes (war to peace, authoritiarian regime to democracy, political crises to stability), and the international community often takes much interest and mobilizes support.

Requirements for holding successful (i.e. free, fair credible) elections include: the design of appropriate electoral laws and institutions, the capacity of electoral stakeholders, the participation of citizens. Electoral management can be done by an independent body (as EMBs), in a mixed system, or by a governmental authority.

Election management bodies usually have the following core tasks:

- Determining who is eligible to vote
- Registration of parties and candidates
- Conducting polling
- Counting the votes
- Tabulating the votes, and
- Running a credible organization

Other possible tasks that are often in the competence of other bodies

- Voter registration
- Delimitation of election boundaries (a very political issue)!
- Voter education and information
- Media monitoring
- Electoral dispute resolution.

EMBs are part of the election system and are to closely cooperate with political actors, parties, CSOs, media, international community, security sector, civil register. EMBs are bound by the guiding principles of independence, impartiality, with the procedural guarantees of transparency and simplicity, access to effective justice at reasonable costs and with reasonable timelines.

Traditional challenges for EMBs include the lack of capacity, electoral malpractice, election related violence, and out of country voting. More contemporary challenges are linked to the growing authoritarianism and populism, manipulations from abroad, and cyber security.

For donors it is most important to take a holistic look at the electoral cycle (not only at the election phase itself); strengthen the capacity of EMBs to manage risks, ensure sustainability of EMB structures, and evaluate results and share with a view to learn from experience.

In an interview, **Me Barthélémy Kéré, former chair of the Independent Commission on national elections (CENI) of Burkina Faso**, shared his experience as a chair of the CENI.[13] The CENI was

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[12] Full presentation see: https://www.shareweb.ch/site/DDLGN/Documents/EMB_SeadAlihodzic.pdf; https://www.youtube.com/watch?v=aZA4hqqxOhY&feature=youtu.be.

[13] Full presentation see: https://www.shareweb.ch/site/DDLGN/Documents/PresentationSuisse.pdf, . https://www.youtube.com/watch?v=CUzxUHNIwx0&feature=youtu.be.

established to guarantee the independence and impartiality of the election process. The CENI consists of 5 members of the party on power, 5 members of opposition parties, 5 representatives from civil society. The president is selected among the representatives from civil society.

After 27 years of presidency, the presidential elections of 2015 were held in a difficult political environment, full of tensions. With donor support the CENI introduced a biometric system for voter registration, and the voter list had to be updated, in preparation of the elections.

As a principle, CENI is inviting political parties and civil society to observe updating work, with a view to ensure transparency, quality and credibility of the process. An international audit also ensured that international standards of voter registration were met. CENI also had to take decisions about the sequencing of the presidential, legislative, and local elections. The presidential along with legislative elections were put concomitantly. Before elections there was a Putsch attempt, and CENI had to hide its registers and the computers, and the chairperson had to disappear from the capital for security reasons.

CENI's strategy to keep impartiality and gain credibility was to strictly follow its own rules, with no room for favoritism. Consultations were always made, and CENI took decisions based on the synthesized positions of parties, weighted according to political power. In general, consultations and open communication with stakeholders have been key for the credibility of the CENI and the effectiveness of its work. The main challenge in terms of presidential election was to compile and communicate the election results the day after election.

It was also important that the CENI coordinated itself with the 14 partners and donors that were very generous and flexible at the same time. The way how the CENI organized the election, contributed to the fact that the CENI could manage the process without external interference.

A panel discussion with **Me. Kéré, Sead Alihodzic, Tatiana Monney,** Policy Advisor at the FDFA Division of Human Security, **Fatima Quraishi,** Senior Program Officer at the Swiss Cooperation Office in Islamabad, and **Said Zekri**, SDC National Program Officer in Tunisia, showed that SDC has already made considerable experience in supporting elections. Findings and open questions include:

- Cooperation with civil society is important for success. CSOs often make a lot of pressure. Transparency on voter registration, communication and outreach is key Communication and outreach is very important for EMBs that have to engage with citizens.
- Election reforms are not possible without taking the powerholders on board. The EMB can take an important role in electoral reform processes, by looking at election cycles as a whole, assessing experience, drawing conclusions and proposing/realizing reform. The EMB has to negotiate with the people on power to identify possibilities of reform. The EMB must build trust of opponents in the process, and help to ensure security of candidates during the election process. But how to create confidence?
- It is important that all stakeholders (government, security forces, the judiciary political parties, …) understand their responsibilities in the election process. The EMB has to fulfill its own responsibilities and make sure that other stakeholders do the same. A Code of conduct for and self-commitment of political parties can bring good results.
- If elections are expected to be inclusive, then the pre-election information and communication must be adopted to the various target groups whose needs might be very diverse. Creating the level playing field for all is key for EMBs.
- Elections are in any case a failure if there is no real competition among candidates – even if they are technically perfect and citizens are participating.

- In situations of transition and fragility, EMBs have a strong facilitation role. The EMB must be strong and credible enough to facilitate agreements and make sure that they are respected.
- For the sake of the credibility of elections, the EMBs should be permanent, to play an active role before, during and after election, even if the elections take place all 7 years. It is not enough to have an EMB that manages the short pre-election phase. The EMB also should have an active role between elections and make real political discussions possible. Between elections it is also easier to work with parties and support them in preparing for the hot election phase.
- What can be right answer to boycotts of election by the opposition? Do donors accept and support elections without opposition? What to do?
- What can be done to ensure the quality of candidates and elected people? Open party list systems help. If the party lists are closed, voters don't really know who will be candidate in the end. Closed lists may trigger transaction politics. Many candidates pay high amounts for being first on the party list. -and candidates often sign blank resignation forms.
- What can be done to hold elected candidates accountable when they don't perform? Some EMBs have developed tools to detect performance of and provide public information on candidates and parties in terms of funding and economic connections.

6. Conclusions

Corinne Huser and **Inanna Göbel-Boesch** synthesized the three days-discussion and draw the conclusions for the two organizing networks.[14]

Corinne Huser, the focal point of the DLDG network, concluded that the three-days discussion on four types of oversight/independent institutions have been very fruitful. Looking back to the accountability landscape that was introduced on the first day, we have seen many examples of institutions working in various contexts, involved in making state action more transparent (e.g. investigating corruption or HR violations, informing citizens, raising awareness), asking power holders to justify their action (e.g. NHRI, ACC confronting power holders with their findings), and sanction abuses of state power (e.g. filing a case in Serbia and in Bhutan or linking up with the justice in Nepal) - the three dimensions of accountability. We also learnt that they carefully navigate within the accountability system by building alliances with other accountability actors (e.g. CSOs, media, parliament and the judiciary) and seeking strategic interaction with important political stakeholders (e.g. political parties, different state institutions). This is essential to enhance their effectiveness but also an important means of self-protection. Oversight/independent institutions are not the only accountability actors; they are part of a system.

The debate also showed that oversight/independent institutions can contribute to increase legitimacy and credibility of the state, for example by ensuring fair and credible elections, or by addressing the negative public perception about the status of corruption in given country. They play an important role in political transformation processes and in overcoming situations of fragility and open conflict. At the same time, we should be cautious and consider that attribution is difficult to measure, and that these institutions may also produce opposite effects.

For donors' support this means that

- We should support partners to navigate and play their role in the system, make them cooperate with other stakeholders. A clear mandate, appropriate resources and procedures are key for the institutions' success.

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[14] https://www.youtube.com/watch?v=pTjkwQOxUEk&feature=youtu.be.

- Donors must respect ownership and independence of supported institutions and not interfere, with a view to avoid undermining their credibility.
- Acknowledged standards are important for ensuring the institutions' proper functioning and credibility. These standards can help donors to assess the current status of an institution and serve as a reference frame for our support and the policy dialogue with governments.
- We should be fair and asses the performance of institutions according to their mandate – and taking our own expectations and results framework as a reference. Let's be modest, and adapt to the context, if we decide to engage.

Inanna Göbel-Bösch from the Conflict and Human Rights Network emphasized that she was impressed by the level of individual commitment, passion and courage shown by the representatives from national oversight institutions . She stressed that this is key for the success of oversight/independent institutions. The learning retreat has made visible that working for national oversight institutions is a value-based work that involves risks because it is about asking for accountability of powerholders.

In terms of results and measuring progress and impact of the work of national oversight institutions it is important to be modest and consider small steps and changes in attitude as relevant results. Regarding the question of what we can realistically expect from oversight institutions we have to keep in mind that they are part of a system – and if the system is dysfunctional, we can't fix it through oversight only. But we expect them to identify and analyze issues and concerns, find evidence, and provide orientation for the way forward. We have also seen during these three days that oversight is also ensuring key values of democracy. legitimacy of the State, and good governance – against the abuse of power.

The learning retreat showed the beauty of peer learning and sharing: The wealth of knowhow and experience within SDC on these topics is tremendous. By sharing our experience and learning from the insights of others, we gain a clearer understanding about the topics at stake, challenges and opportunities – and what could work in our own working context.

And finally: the learning retreat was a success in the cooperation among the two networks involved. DDLNG and CHR network do share many common issues, and accountability and legitimacy of State institutions is one of them.

At the end of the program participants were asked to identify one key word that could symbolize their learning and conclusions from the three-days event. The following terms were written down:

Inspiration, dignity, working from inside, knowledge, courage, engagement (several times), independence (several times), context, rigorous, election, improvement, human rights, commitment, sensitivity, hope, motivation, rights, inequality, responsibility, freedom, democracy, diversity, endurance, short, grateful.

7. Next steps

Eventually, participants identified some next steps they will take, on the basis of the learning. While many ideas are linked to the specific country context and the individual oversight mechanisms (NHRIs, SAIs, ACAs, EMBs) there, some more general ideas were shared:

– I will observe what oversight/independent institutions are doing in my country – and seek for entry points to support them and other stakeholders that are contributing to accountability.

- I will engage more on accountability, frame a new program to support the accountability system, bring the accountability perspective to the work of our partners.
- I will try to link the perspective of oversight institutions with other governance programs that we are supporting, for example the topic of corruption and the work of the ACA.
- I will continue to seek inspiration and insights from the networks and more generally, from the experience from my peers as well as from the resource persons that I met at the event.
- I will be active in both networks to profit from both perspectives.
- I will share the learning on the topics as well as on the methodology with my colleagues in the office.
- I will engage my colleagues in discussions about most relevant topics and not only on management issues.
- I will establish bilateral links with my colleagues in other offices to continue learning from their concrete experience on issues that are also relevant for my country.
- I will engage with the electoral system and see where and how we can engage in supporting dialogue between political parties and the EMB.
- I will try to use the international accountability frameworks and mechanisms (like UPR) to support accountability in my country.

For the two networks the following suggestions have been:

- Facilitate peer exchange via electronic platform

- Provide more learning about the role of these institutions at decentralized levels and how to use them to enhance accountability and improving performance of subnational state institutions.