

Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies

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Preface

Establishing a system of intelligence service accountability that is both democratic and efficient is one of the most daunting challenges faced by modern-day states. This arduous task is indispensable, however, as political guidance and direction to the reform of intelligence services contributes to the avoidance of abuses as well as to the enhancement of efficiency for all participating branches of government.

Little systematic international comparison of democratic accountability over intelligence services has been carried out; as a result, no set of international standards for democratic intelligence accountability has evolved. The Geneva Centre for the Democratic Control of Armed Forces, the Norwegian Parliamentary Intelligence Oversight Committee and the Human Rights Centre of the University of Durham have teamed up to produce this publication which seeks to fill this gap by cataloguing and evaluating the legal standards that currently exist regarding democratic accountability of intelligence services. In doing so, this report also identifies and recommends best practice applicable to both transition countries and well-established democracies.

These standards and examples of best practice do not make the assumption that there is a single model of democratic oversight which works for all countries. Rather, the system of democratic oversight of intelligence services depends on a country's history, constitutional and legal system as well as its democratic tradition and political culture.

The rules and practices that are accepted and effective in one place may be less relevant in another. Given these different realities, some of the suggestions within the handbook will inevitably appear unsuitable for some countries. This said, from a democratic governance point of view, the oversight of the intelligence services is a shared responsibility of the executive, the legislature and the judiciary. A sound system of checks and balances is necessary, in which the executive does not have the exclusive privilege of overseeing the intelligence services. Thus, the intelligence agencies themselves, national parliaments, as well as external review bodies all have a role to play in this endeavour.

It is hoped that this publication will enhance public awareness of this complex and important field of governance and that it will contribute to ensuring that security policy and practices genuinely reflect the aspirations of the people they are meant to serve.

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Intelligence Oversight Committee

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List of Acronyms

AHRB	Arts and Humanities Research Board
ASIO	Australian Security Intelligence Organisation
ASIS	Australian Secret Intelligence Service
CAT	Convention against torture
CIA	Central Intelligence Agency (US)
CoE	Council of Europe
Cth	Commonwealth
CSIS	Canadian Security Intelligence Service
CDPC	European Committee on Crime Problems
DAC	Development Assistance Committee (OECD)
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DSD	Defence Signals Directorate (Australia)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EHRR	European Human Rights Reports
EOS	Norwegian Parliamentary Intelligence Oversight Committee
EU	European Union
FRG	Federal Republic of Germany
GCHQ	Government Communications Headquarters (UK)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPU	Inter-Parliamentary Union
MI5	Security Service (UK)
MI6	Secret Intelligence Service (UK)
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PC-S-SEC	Group of Specialists on Internal Security Services (CoE)
PKGrG	Law on the German Parliamentary Control Panel
PKGr	German Parliamentary Control Panel
RCMP	Royal Canadian Mounted Police
RSA	Republic of South Africa
SIRC	Security Intelligence Review Committee (Canada)
UK	United Kingdom
UN	United Nations
UNDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UN GA	United Nations General Assembly
USC	United States Code
WEU	Western European Union