GENEVA CENTRE FOR THE DEMOCRATIC CONTROL OF ARMED FORCES (DCAF)

NATO PARLIAMENTARY ASSEMBLY

OVERSIGHT AND GUIDANCE: THE RELEVANCE OF PARLIAMENTARY OVERSIGHT FOR THE SECURITY SECTOR AND ITS REFORM

A COLLECTION OF ARTICLES ON FOUNDATIONAL ASPECTS OF PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR

Hans Born, Philipp H. Fluri, Simon Lunn (eds.)

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DCAF Documents

DCAF Documents constitute exemplars of primary sources and relevant studies designed to promote reflection and discussion on civil-military relations and issues of democratic control over defence and security sectors. These studies are commissioned by the Geneva Centre for the Democratic Control of Armed Forces.

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PREFACE

In the short history of its existence, the Geneva Centre for the Democratic Control of Armed Forces (DCAF)[1] has organised and coordinated more than a hundred seminars, publications, and assistance and cooperation programmes.

In the field of parliamentary oversight of the security sector and its reform processes, DCAF has organised the Legal-Political Assistance Group (LPAG) to Parliaments which has been very actively cooperating with Eastern European parliamentary committees, among them the Russian Duma Defence Committee the Ukrainian Verkhovna Rada Foreign Relations and Defence Committees, and the Georgian Parliament. DCAF's International Projects Department funds committee staffers in six South East European parliaments in the framework of its cooperation agreement with OSCE.

Among the intellectually most stimulating and personally enriching programmes are the cooperation projects with the NATO Parliamentary Assembly, which go back to the time when DCAF was still being planned and conceptualised, a period during which the project team could always count on Secretary General Simon Lunn's sound advice. In the meantime DCAF funds a staff member at NATO PA in Brussels to closely liaise and cooperate with NATO PA and other Brussels-based international organisations. DCAF supports the Rose Roth process, and holds - in cooperation with NATO PA - training and instruction seminars for parliamentarians and committee staffers from Eastern Europe.

The present handy collection of densely informative articles provided by well-known specialists in their fields shall serve as a groundwork for future NATO PA-DCAF seminars, and as a *take-along* and *vademecum* for alumni to browse and possibly seek guidance from whenever the need be to consult on standards, procedures and good practices. More comprehensive collections of data are to follow.

Philipp H. Fluri, Dr.
DCAF Deputy Director

[1] The Geneva Centre for the Democratic Control of Armed Forces (DCAF) was created through the initiative of the Swiss Ministries of Defence and Foreign Affairs jointly, with the goal of providing a specific focus on an issue of widespread and growing interest and relevance. In addition to its own research programme, it was hoped to bring a degree of much needed coordination to the many disparate activities under way in this field.

INTRODUCTION

OVERSIGHT AND GUIDANCE: THE RELEVANCE OF PARLIAMENTARY OVERSIGHT FOR THE SECURITY SECTOR AND ITS REFORM

Hans Born, Philipp Fluri and Simon Lunn[1]

Myths

There is a widespread belief that security policy is a 'natural' task for the executive as they have the requisite knowledge and ability to act quickly. The decision to go to war, to contribute troops to multinational peace support operations, to conclude international treaties or to raise defence spending, to mention just some of the most important governmental security responsibilities, are regarded to be executive decisions. The stubborn perception exists that parliaments should be kept out of these decisions. Parliament tends to be regarded as a less suitable institution for dealing with security issues, especially given its often time-consuming procedures and lack of full access to the necessary expertise and information. Additionally, parliaments are regarded as ill-suited institutions for keeping classified information secret. However, this is a misperception. The past teaches us that parliaments do play a major role in matters of security in democratic states, both in times of war and peace. In the times of the Roman Republic, the Dutch Republic in the sixteenth century, Great Britain in the Second World War, or, more recently at the outbreak of the Second Gulf War, parliaments across the globe have debated, influenced and exercised oversight over security policy and security sector reform, even in the middle of war.

In this short essay, we put forward the main arguments for (a) why parliamentarians should put security sector reform and policy high on their political and legislative agenda and (b) why parliamentarians ought to insist on exercising oversight of the

[1] The authors would like to thank Marlene Urscheler and Eden Cole for their invaluable research and suggestions.

security sector and its reform. First we turn to the novel concept of security sector reform.

What is Security Sector Reform?

'Security sector reform' is a relatively new but ill-defined concept. By replacing 'defence reform' as a staple phrase in security studies, it seems to be a more adequate policy concept with which to address the problems of the new security environment. Security threats today not only include military threats, which require defence responses, but also non-military threats such as terrorism, civil wars, organised crime, illegal trafficking or proliferation of or small arms or even weapons of mass-destruction. These new threats require that all state security services operate in a concerted manner.

The security sector includes all 'state institutions and agencies that have the legitimate authority to use force, to order force or to threaten the use of force'.[2] Normally these institutions are the Military (Army, Navy, Air Force), Intelligence, Border Guard and Paramilitary organisations. The reform of the security sector takes place 'in order to create systematic accountability and transparency on the premise of increased, substantive and systematic democratic control'[3]. The accent on accountability and transparency places security sector reform within the context of the good governance agenda, characterised by a substantive concern for human rights, democracy and the rule of law.

On the other hand, a non-reformed security sector is often characterised by:

- Lack of transparency and flourishing corruption, especially in the arms procurement and trade sector;
- Too large an organisation and budget, both of which overburden and endanger the national economy;
- Lack of the rule of law due to a non-existing or weak legal footing;

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[2] Hans Born, Philipp Fluri, Anders Johnsson (eds.), *Handbook for Parliamentarians N°5, Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices, IPU/DCAF*, (Geneva: Belgrade, 2003) p. 16.

[3] See definition of 'security sector reform' in the Glossary of this handbook p. 244.

- Lack of professionalism: poorly trained units, amateurism, selection and promotion of servicemen on the basis of nepotism instead of merit;
- An inward looking bureaucracy, risk-avoiding, resistance to change, and organisational structures that are ill-suited to new security threats;
- The political abuse of security services by using intelligence services for domestic spying purposes such as manipulating political enemies, as well as the use of paramilitary units to intimidate or neutralise political enemies;
- A de-motivated and frustrated officer-corps due to a lack of professionalism, career opportunities, low salaries, or their low esteem in society;
- Conscripts perceiving service as a waste of time, the misuse of conscripts for personal gain, and the 'hazing' of conscripts in the barracks.

A non-reformed security sector coincides with the concept of 'poor governance' (as opposed to good governance) which refers to 'arbitrary policy-making, unaccountable bureaucracies, un-enforced or unjust legal systems, the abuse of executive power, a civil society unengaged in public life and widespread corruption'[4].

	Reformed Security Sector (good governance)	Non-Reformed Security Sector (poor governance)
Accountability	Accountable to democratically elected leaders	Unaccountable bureaucracies, arbitrary policy making due in-transparency, political misuse
Work ethos	Professionalism, adapting to the demands of the new security environment, predictable execution of tasks	Amateurism, hazing of conscripts, political leaders cannot trust on loyal execution of orders
Norms	Transparency, dedication	Nepotism, corruption, risk-avoiding

Table 1: Reformed as Opposed to Non-Reformed Security Sector

[4] See: The World Bank, *Governance: The World Bank's Experience*, (Washington, DC: World Bank 1994).

The Necessity of Security Sector Reform

Regarding the nature and scope of security sector reform (and its opposite, the non-reformed security sector), the reforms are necessary for at least four reasons.

Progression towards Conflict Prevention and Stability

An unreformed security sector often fails to prevent and sometimes causes violent conflicts which leads to increased suffering and poverty[5]. NGOs working in conflict zones report that an ill-functioning security sector is a key-impediment to peace-building and stability:

> Agents of security that do not play a legitimate and democratically accountable role in providing security for citizens not only are unable to prevent conflicts occurring but can also be a *source* of violence.[6]

Effective security sector reform, on the other hand, in the sense of the provision of security in an effective and efficient manner under democratic control, can add to stability both internally and externally[7]. Internally, security sector reform can take away causes which lead to instability in, for example, civil-military relations. Externally, a transparent and democratically controlled security sector can be regarded as a regional confidence building measure[8]. Therefore, security sector reform can promote stability which is a basic condition for democratisation and economic development.

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[5] Department for International Development, *Understanding and Supporting Security Sector Reform,* (London: Stairway Communications DFID, 2002) http://www.dfid.gov.uk/Pubs/files/supporting_security.pdf p.2.

[6] See Damian Lilly, Robin Luckham, Michael Von Tangen Page, *A Goal Oriented Approach to Governance and Security Sector Reform,* (International Alert: London, September 2002) available at http://www.international-alert.org/pdf/pubsec/Goa.pdf

[7] Timothy Edmunds, 'Defining Security Sector Reform', in *Proceedings of the 2001 DCAF/IISS Conference*, Geneva, 23-25 April, 2001, (Oxford: OUP for IISS) pp. 3-6.

[8] See Heiner Hänggi, 'Good Governance of the Security Sector: its Relevance for Confidence Building', paper presented at the conference on "Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?", New York, October 16, 2002. http://www.dcaf.ch/news/NewYork_161002/Hänggi.pdf

Contributing to Sustainable Economic Development

A non-reformed security sector, leading to instability and insecurity, does not create a favourable investment climate. Foreign and domestic investors are very reluctant to commit themselves to financial investments if the country is in an unstable and insecure situation. Otherwise, a security sector that is plagued by corruption and that constitutes a burden to the national economy does not contribute to sustainable economic development either. One should keep in mind that security sector reform does not come cheaply, due to, among other factors, investment in new equipment, training and offering service personnel salaries competitive in the national labour market. In the long run, however, security sector pays off as it contributes to sustainable economic development.

Professionalising: Creating a Reliable and Dedicated Corps of Servicemen

As the security sector services are managing, on behalf of the democratically elected political leaders, the state's monopoly of violence, it is important that the monopoly is carried out by a professional work force. Dealing with violence professionally is what distinguishes the security services from other governmental organisations. It is 'more than just another job'. Professionalism entails dedication, the ability to carry out the tasks and orders of their superiors and to provide security within the context of the dynamic and rapidly changing 'new security environment'. Professionalism also means that the officers corps operates in a predictable and disciplined manner. Without professionalism, democratic control would not make any sense as the military's political superiors would never be assured whether their orders will be implemented due to a lack of discipline and quality. Professionalism implies that the political leaders trust that the servicemen are up to their job.

Democratising Security

Last but not least, security sector reform enhances democratisation by the creation of a legal framework which subordinates the security services to the legitimate political authority as well as defining and limiting its purview. Installing a legal framework which affirms civilian supremacy may be regarded as the bottom-line and point of departure for successful democratisation efforts in countries in transition. In principle, the legal framework rests on two core values, which are accountability and

transparency. The relations between the political leadership and the security services should be governed by these two important twin concepts of democratising security.

Making Oversight *Democratic*: the Necessity of Parliamentary Involvement

The security sector services can be characterised as a *Janus*-faced organisation. On the one hand, the security services have to meet their functional demands, that is to maintain law and order, protect the national interest and civil rights. The security services, be it the military, intelligence services or border guards, all have to be prepared and show readiness to fulfil their duties. On the other hand, the security services have to comply to normative societal, democratic and legal standards. All security services have to operate within the law and are accountable to the democratically legitimate political leaders. In other words, democratic governance applies to security services as well.

When it comes to civilian supremacy and democratic governance, parliaments fulfil a crucial role. Due to parliamentary involvement and debates, civilian oversight becomes democratic oversight. It is a way to give voice to the people's needs and concerns in the debates about security. In fact, parliamentary involvement makes the difference between civilian oversight and democratic oversight, or, between good governance and democratic governance. It is important to make this distinction. Civilian oversight is a pre-requisite, but insufficient condition for democratic oversight. This is what the authoritarian regimes of 20th century teach us. For example, Hitler and Stalin had perfect civilian control over their military, but their type of oversight is not really desirable in a democratic society. In this respect, parliament plays an important role in safeguarding the democratic element of overseeing the security sector.

There are at least five reasons why parliamentary involvement in security policy and security sector reform is essential[9].

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[9] Born, Fluri, Johnsson, *Handbook*, pp. 18-19; see also Hans Born, 'Between Efficiency and Legitimacy: Democratic Accountability of the Military in the US, France, Sweden and Switzerland', Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Working Papers*, No. 102 pp. 2-3 available at http://www.dcaf.ch/publications/Working_Papers/102.pdf ; and Hans Born, 'Democratic Oversight of the Security Sector: What Does it Mean?', Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Working Papers*, No. 9 pp. 2-3 available at

A Cornerstone of Democracy to Prevent Autocratic Rule

Former French Prime Minister Georges Clémenceau once stated that 'War is a much too serious matter to be entrusted to the military'. Beyond its humorous side, this statement recalls that in a democracy, the representatives of the people hold the supreme power and no sector of the state should be excluded from their control. A state without parliamentary control of its security sector, especially the military, should, at best, be deemed an unfinished democracy or a democracy in the making.

According to the eminent American scholar Robert A Dahl, 'the most fundamental and persistent problem in politics is to avoid autocratic rule'. As the security sector deals with one of the state's core tasks, a system of checks and balances is needed to counterbalance the executive's power. Parliamentary oversight of the security sector is thus an essential element of power-sharing at state level and, if effective, sets limits on the power of the executive or president.

No Taxation without Representation

To this day, one of parliament's most important mechanisms for controlling the executive is the budget. From the early days of the first assemblies in Western Europe, parliaments demanded a say in policy matters, their claim being: 'No taxation without representation'. As security sector organisations use a substantial share of the state's budget it remains essential that parliament monitor the use of the state's scarce resources both effectively and efficiently.

Creating Legal Parameters for Security Issues

In practice, it is the executive that drafts laws on security issues. Nevertheless, members of parliament play an important role in reviewing these drafts. They can, if need be, suggest amendments so as to ensure that the proposed legal provisions adequately reflect the new thinking about security. Moreover, it falls to parliament to see to it that the laws do not remain a dead letter, but are fully implemented.

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http://www.dcaf.ch/publications/Working_Papers/09(E).pdf.

A Bridge to the Public

The executive may not necessarily be fully aware of the security issues which are priorities for citizens. Parliamentarians are in regular contact with the population and are well-placed to ascertain their views. They can subsequently raise citizens' concerns in parliament and see to it that they are reflected in security laws and policies. Due to their representational function, parliamentarians have the unique possibility to give or to withhold democratic legitimacy to government's decision about security policy and security reform. Parliamentary debates may fulfil a catalytic role in creating or diminishing public support for, among other decisions, the government's decision to contribute troops to multinational peace support operations.

Balancing Security and Liberty

In the post-Cold War era, the security services are confronted with a new security environment. Among others, security threats today include failed states, terrorism, uncontrolled proliferation of weapons of mass-destruction, political threats and organised crime. Particularly after 9/11, a whole series of new-anti terrorism legislation and measures are put into place. It is important the security services make the right choices under democratic guidance. That is, firstly, that the 'generals are not preparing for the previous war'. Parliaments have to ensure that the security services are up to the demands of the new security environment. Secondly, parliaments have to oversee that the new directions and actions of the security services are at all times consistent with the constitution, international humanitarian and human rights law.

Challenges for Parliamentary Oversight of the Security Sector

In sharp contrast between the desirability of parliamentary oversight of the security sector, as described above, is the actual state of affairs of parliamentary oversight in many countries. In many countries, both in consolidating and consolidated democracies, parliaments are confronted with serious challenges:

- ✓ Secrecy laws may hinder efforts to enhance transparency in the security sector. Especially in emerging democracies or conflict-torn countries, laws on secrecy may limit or jeopardise parliamentary oversight of the security sector; this is also due to the absence of legislation on freedom of information.

- ✓ The security sector is a highly complex field, in which parliaments have to oversee issues such as weapons procurement, arms control and the readiness/preparedness of military units. Not all parliamentarians have sufficient knowledge and expertise to deal with these issues in an effective manner. Nor may they have the time and opportunity to develop them, since their terms as parliamentarians are time-bound and access to expert resources within the country and abroad may be lacking;
- ✓ The emphasis on international security cooperation may affect the transparency and democratic legitimacy of a country's security policy if it leads to parliament being left out of the process. It is therefore crucial that parliament be able to provide input to, participate in and follow up on debates and decisions in the international arena.

Perhaps the most serious challenge is to convince all the concerned actors throughout the military, civil society, the executive and democratic institutions that parliamentary oversight is in the interest of both democracy and security.

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