CHAPTER TWO

LEARNING FROM BEST PRACTICES OF PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR[1]

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1. Introduction

Winston Churchill once labelled the parliament as the workshop of democracy, and it goes without saying that the parliament does play a central role in any democracy, though this role may greatly vary across political systems. While parliaments may range from the ornamental to significant governing partners, they have some common characteristics, which include three basic functions that they perform: representing the people, making (or shaping) laws, and exercising oversight. Parliaments articulate the wishes of the people by drafting new laws and overseeing the proper execution of those policies by the government. In short: the parliament is the mediator between government[3] and the people.

Parliaments are regarded as the cornerstone of a democracy. No area or institution of the government can be exempted from parliamentary oversight and this includes all organisations of the security sector. Instead of "defence sector" the term "security sector" is deliberately used in this paper, as the military is only one of the important guardians of the state. The other 'guardians' are the police, border guards, paramilitary units, intelligence services and private security organisations. Parliaments have to develop a comprehensive security policy as well as keeping track of all security sector organisations. Parliamentary oversight is only complete

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[3] 'Government' has a different meaning in different countries. In this article, government refers to the top political level, being the president, prime minister and ministers as well as the departments headed by those ministers.

when it oversees the five major aspects of these agencies, that is, the policies, personnel, finances, operations and procurement of equipment and weapons systems.

The parliamentary oversight of the security sector is not a goal in itself. In essence, the main principle of parliamentary oversight is to keep the government accountable and to secure a balance between the security policy and society by aligning the goals, policies and procedures of the military and political leaders. In many countries, it is not the fear of military coups, but the alignment of military and political goals, that remains the biggest concern for parliaments.

In this paper, some best practices that are used by parliaments around the world are discussed. Before presenting some of these practices, we turn firstly to the relevance of democratic control and secondly to some methodological issues, which are relevant for understanding these practices.

2. Relevance for Old and New Democracies

Many parliaments, especially those in democracies in transit or being consolidated, often face difficulties in understanding the vast and complex security sector, getting relevant information and assessing military data. Yet, parliaments in consolidated democracies also face new challenges when it comes to parliamentary oversight over new military missions or security and defence policy on a supranational level. All these problems are aggravated by the lack of parliamentary staff and education in the field of defence and security matters.

In Europe, the issue of democratic and parliamentary control of the armed forces is undergoing a renaissance. The topic is on the political and scientific agenda of several European countries for numerous reasons. Firstly, the abolition of military conscription in several European countries (the Netherlands, Belgium, France, Italy, Spain, Portugal) raised a critical debate on the democratic control of the armed forces. Many commentators are afraid that an all-volunteer force is more difficult to control democratically than a conscript army. Secondly, during the last decade, on the one hand all European countries have been involved in the downsizing of the armed forces; yet on the other, these same countries have seen an amplification of the tasks assigned to the military with the addition of peace missions. These processes of restructuring and downsizing the military result in less budget and more

tasks for the military and consequently put the political-military relations under high pressure. Thirdly, as military activity increasingly takes place at the international level, the democratic and parliamentary control of international military cooperation and institutions is also becoming increasingly relevant. This is especially true for smaller member states of, for example, the EU and NATO. Fourthly, at the demand of international organisations such as NATO and the OSCE, post-communist countries in Central and Eastern Europe have had to restyle political-military relations according to democratic principles. Without the democratisation of the political-military relations, these countries were not permitted to become members of western international organisations. Moreover, in most transition societies, political democratic reform preceded security sector reform. Before reforming the security sector, transition societies adopted new constitutions, gave powers to legislatures and installed civilian ministerial control over the military. This was important, as security sector reform should be reformed in a democratic manner, not only meeting functional military demands but also attaining the demands of societies.

These four developments resulted in a renaissance of the democratic control in both old and new democracies in Europe.

3. Learning From Best Practices

Three issues are relevant for understanding the context of best practices: contextuality; political willingness of parliamentarians; and the meaning of the word 'oversight'.

3.1. Contextuality

Contextually refers to the topic of universal or relative democratic standards. The best practice of parliamentary oversight or the best way to carry out parliamentary oversight of the security sector simply does not exist. Moreover, accepted practices, legal procedures and parliamentary structures in one established democracy may be unthinkable in another one. This variety of democratic practices and systems is exactly the essence of democracy: every country has the right to choose its own way of dealing with civil-military relations. Although there is no single set of norms for civil-military relations, there is a general agreement that democracies adhere to principles of democratic civil-military relations. Parliamentary oversight of the security sector is a 'sine qua non' condition for democracy.

3.2. Political Willingness of Parliamentarians

Parliamentary oversight is in many countries hampered by lack of (parliamentary) organisation, parliamentary staff and expertise. The best practices as listed in section 3, show how parliaments are dealing with these barriers to effective oversight. Here we would like to turn to the issue of political willingness as another important factor hindering effective oversight.

Unless elected representatives have either a commitment or the political will to hold the government to account, no amount of constitutional authority, resources or best practices will make them effective. If the parliamentarians do not want to use their powers for scrutinising the government, then constitutional or other legal powers will be of little use. Parliamentarians may be less interested in scrutinising the security sector for various reasons. The most important reason is party politics. More often than not, parliamentary political parties, which are represented in government, are not very eager to oversee their governmental counterparts in a critical manner. As a result, the (best) practices and tools of parliamentary oversight will not be used to oversee the government, except during scandals or in emergency situations. Another reason is that some parliamentarians think that the security sector is not interesting or crucial for the voters. As parliamentarians strive for (re-) election, it might be the case that they turn their attention to other governmental sectors, such as employment issues, welfare, labour issues or pension system or simply the price of bread and gasoline.

3.3. The Meaning of 'Oversight'

Many different words refer to parliamentary involvement in the security sector. A first concept is 'oversight', referring to over viewing the government and to set broad guidelines for the government and its agencies. A second concept is 'good governance', referring to a whole system of democratic management of the security sector, in which the parliament should be playing a significant role. Thirdly, 'control' is a commonly used concept. In the English language, 'control' has a broader meaning than in many other languages. In English, control means to rule, to instruct or even to manage, as opposed to the stricter concept of 'to check'. Each concept has its own advantages: good governance refers to a systematic approach, 'oversight' stands for a broad approach and control signifies a powerful approach by the parliament as it refers to the management of the security sector. We have used the concept of

oversight in this case, because governance has too broad a meaning (referring to the entire political system). The concept of control is not used as it has the narrow connotation of 'to check'.

It must be clear that each concept represents a specific and particular political system and culture. With regard to parliamentary oversight, the essence is to grasp the 'dividing line' between the parliament and government: to what extend should the parliament be involved in the activities of government? It is, of course, clear that parliamentarians do not command the army, but it must be equally clear that parliament and government have a shared responsibility concerning the security sector. The idea of shared responsibility is equally valid for the relation between political and military leaders. These two parties should not be regarded as adversaries with antagonistic goals. On the contrary, political and military leaders need each other in order to achieve an effective security policy that meets both the military and societal requirements. Therefore, democratic oversight not only means commands and orders, but also incorporates dialogue and communication between political leaders and generals. This communication should be characterised by trust, open lines of communication, mutual inclusion and inviting each other to express each other's opinion.

A final remark on oversight deals with the distinction between democratic and civilian oversight. Civilian oversight is a pre-requisite, but insufficient condition for democratic oversight. This is what the authoritarian regimes of twentieth century have taught us: for example, Hitler and Stalin had perfect civilian control over their military, but their type of oversight is not desirable in a democratic society. In this respect, parliament plays an important role in safeguarding the democratic element of overseeing the security sector.

4. Some Best Practices

All best practices address the main task of parliaments, which is to keep the government accountable on behalf of the people. The best practices come from various countries of the Euro-Atlantic area, from both 'old' and 'new' democracies. It is most certainly not the case that the 'old' democracies have stronger parliaments than 'new' democracies. Indeed, the new democracies in particular are afraid of previous forms of authoritarian rule and consequently take care to put substantive powers into their parliaments. The practices mentioned below constitute a catalogue

of possible practices, legal arrangements and organisational set ups which can facilitate effective oversight.

4.1. The Parliamentary Committee on Defence and Security

Parliamentary committees are the most powerful organisation of parliamentary work. Through committees, parliamentarians have the opportunity to organise their work and to focus expertise. Given the complexity of the security sector, a well-developed committee structure is needed if the parliament is to exert real influence on the government. Effective parliaments have committees for each policy field of the government; the defence or the security sector is no exception. Committees are vital because they are able to scrutinise the government in detail and because they allow for direct communication between parliamentarians belonging to different political parties. An effective committee has the following features:

- Their functioning and powers are based on rules of procedure;
- They have control over their own schedules (agenda, issues, dates, frequencies of committee meetings), and have greater latitude in the initiation and amendment of legislation;
- They make use of minority reports;
- There is consistent inter-committee coordination between the committees relevant for the security sector: defence committee, home affairs committee, budget committee, industry/economy affairs committee and the foreign affairs committee;
- The chairman is a senior member of the parliament in the field of defence and security policy;
- The committee is entitled to require the presence of the Minister of Defence at committee meetings;
- The committee has the power to organise hearings on any topic it deems necessary;
- The committee has the power to demand that ministers, civilian and military experts testify at hearings;
- The committee effectively uses experts from academics and NGOs, from outside the government;
- The committee has its own meeting rooms, staff, budget and documentation.

4.2. Making Full Use of Other Oversight Organisations Inside Government and Civil Society

Parliament alone cannot guarantee effective oversight and hold the government accountable for all activities and policies within the security sector. Politicians do not have the time, resources or expertise to keep a close watch over the complex and large security sector. Effective parliaments:

- Make full use of the reports and the work of other state institutions responsible for over viewing the security sector, such as the judiciary, accountants/auditor-general (e.g. checking the accounts, procurement, and criminal behaviour);
- Invite civil society experts to participate in parliamentary hearings;
- Order independent think tanks, research institutes and universities to carry out research/audits in specific fields of the security sector (e.g. crime, procurement issues, and personnel policies);
- Ensure that NGOs have access to all relevant policy documents;
- Stimulate the existence and functioning of NGOs, such as lowering the bureaucratic barriers for legal recognition of NGOs or giving financial support.

4.3. Parliaments and Budget Control

Budget control is at the heart of parliamentary control. Most countries have developed or are developing a systematic approach for evaluation and approval of budget proposals. The key of proper budgeting is transparency and accountability.

Effective parliaments:

- Enact laws and procedures for installing transparency and accountability, giving the parliament the power to enforce transparency and accountability;
- Ensure that all budget documents are available to the parliament and to the general public;
- Possess information on all budget items (not only on grand totals);
- Secret budget items are available to a selected group of parliamentarians;
- Demand external auditors to report to parliament about the financial state of affairs of each security sector organisation;
- Have the power to approve, disapprove or amend the budget (allocating funds);

- Have the power to approve or disapprove any supplementary budget proposals presented by the Minister.

4.4. Parliamentary Staff and Other Resources

Effective parliamentary oversight of the security sector requires expertise and resources within the parliament or at its disposal. However, the expertise found within parliament is no match for the expertise of the government and the security forces. In most cases, parliaments only have a very small research staff if any, whereas the government can rely on the staff of the Ministry of Defence and other ministries dealing with the security sector. In addition, parliamentarians are only elected for a limited term to sit in parliament, whereas civil servants and military personnel for the majority spend their entire career in the Ministry of Defence. The basic problem is, however, that parliaments mainly rely on information emerging from the government and military; yet these are institutions they are supposed to oversee. This creates asymmetrical dependency relations between parliament, government and military. The situation is aggravated by the closed nature of the security sector due to its typically military work, culture, education, and secrecy laws. Effective parliaments have developed strategies to cope with this disadvantageous situation.

- They could make use of the expertise of NGOs in their work (see above, e.g., ordering research from think tanks, inviting civil experts to participate in hearings and so forth);
- International parliamentary assemblies and international think tanks are becoming increasingly active in supporting parliaments. Parliamentarians are active in international assemblies, in which they exchange experiences and viewpoints with parliamentarians from other countries;
- They have parliamentary staff members for supporting both individual parliamentarians and parliamentary committees;
- A civil service system for parliamentary staff is in place (e.g. recruitment, selection, promotion); parliamentary staff members are acknowledged (senior or junior) experts;
- Both parliamentarians and parliamentary staff members follow national and international seminars and study tours;
- They possess or strengthen parliamentary research services and libraries.

Conclusion

Democracy (and therefore democratic oversight) cannot be a gift. To achieve democracy, as we know it, one has to struggle. History teaches us that most countries have had to fight to become a democracy and to dethrone their authoritarian rulers, be it a dictator at home or abroad. The same is the case with parliamentary oversight. In both new and old democracies, neither governments nor the security sector organisations are very willing to surrender (parts of) their powers and privileges. To establish best practices or to tear down inappropriate practices is not only a matter of knowledge and expertise, but also of resolve and conviction.

In this respect, the political willingness of individual parliamentarians is crucial. Do parliamentarians keep a careful watch on their oversight powers? Do parliamentarians duly exercise those oversight powers, in particular when their 'political friends' are in government? Are they prepared to make the effort to become acquainted with the complex issues at stake? Are they willing to invest time and energy and political goodwill in establishing a system of good governance of the security sector? In answering these questions, one could learn a great deal from parliaments in old and new democracies. The political willingness to do so, however, cannot be taught.

In summary, there are many aspects that both old and new democracies can learn from the other democracies. Perhaps the most important broad issues are:

1. Political willingness of parliamentarians is paramount for implementing reform of both the political/parliamentary system and the security sector. If parliamentarians do not want to use their powers in holding the government accountable, their constitutional or legal powers are of little use;
2. In many instances, however, parliamentarians are willing but not entirely able to over view the government and its agencies, due to a lack of human and budgetary resources. Those resources, such as a parliamentary staff, provide parliaments essential capability to perform oversight;
3. Political and parliamentary reform precedes security sector reform. Otherwise reforming the security sector becomes similar to driving a car without a steering wheel;
4. Political and military leaders have shared responsibilities in reforming the security sector, given that the reform has to fulfil both functional and societal demands.

Appendix

List of Powers and Problems of Parliamentary Oversight of the Security Sector: Some Examples (Work in Progress)[4]

Country	Examples of parliamentary powers	Examples of parliamentary problems
Bulgaria	• According to the constitution, parliament is responsible for passing the defence budget. • Approving military deployment overseas or the deployment of foreign troops on its territory. • Approving any declaration of war or state of emergency by the President or the Council of Ministers. • The parliamentary National Security, Budget and Foreign and Integration Policy Committees have the power to call the Minister of Defence, the Chief of the General Staff and any of their subordinates to provide evidence for their enquiries.	• Often differing parliamentary priorities mean that defence issues are not allocated the time necessary for their full consideration. • Lack of defence expertise among parliamentarians. • Need for clearer institutional arrangements.
Czech Republic	• All defence related decisions are taken by the President and must be endorsed by the parliament. • In exceptional situations, when the parliament cannot be convened, the President can order a military operation without parliamentary approval. • Approves all defence and security legislation. • Plays a central role in drafting the military budget and overseeing military expenditures. • Responsible for deploying the army in times of crisis and declaring or extending a state of emergency at the request	• It is difficult for parliamentarians to obtain information of confidential nature (e.g. related to military intelligence services) • Party politics. • Lack of expertise.

[4] See also Andrew Cottey, Tim Edmunds and Anthony Forster (eds.), *Democratic Control of the Post-Communist Military: Guarding the Guards*, (Palgrave: London, 2001).

	of the government. • Approves any governmental decision on the participation of Czech troops on peacekeeping missions. • Can establish commissions of enquiry into serious problems within the armed forces. • Participates in the creation and implementation of the country's security policy. • The Defence and Security Committee runs military, police, emergency and prison services.	
Hungary	• Declares state of war and the conclusion of peace. • Decides on the deployment of armed forces both abroad and within the country. • Establishes the National Defence Council, in the case of war, or imminent danger of armed attack by a foreign power. • If the parliament is obstructed to reach the necessary decisions the President has the power to declare a state of war, a state of national crisis, state of emergency and can establish the National Defence Council.	• The parliaments role in relation to defence matters has been relatively limited reflecting the large number of other tasks requiring its attention. • Lack of experience and basic expertise in this area. • No programme budgeting means that parliamentary control of the defence budget is limited.

Latvia	• Passes legislation relating to the military. • Determines the overall size of the armed forces. • Approves the defence budget. • Appoints the commander of the National Defence Forces. • Has the power to declare a state of war and state of emergency. • Endorses international agreements on defence issues. • Approves decisions on the participation of the armed forces in peacekeeping operations. • The parliament has the role of overseeing national security and defence policy. • The parliament has 16 standing committees.	• Problems in translating these powers into effective scrutiny. • Lack of experience and knowledge of committee members.
Lithuania	• The main issues of national defence shall be considered and coordinated by the State Defence Council, consisting of the President, the Prime Minister, the Parliamentary Chairperson, the Defence Minister and the Commander in Chief of the armed forces. • The government is accountable to the parliament, which is sovereign in these matters. • The parliament assumes a growing role in terms of passing laws relating to security and defence, providing oversight of the government in this area and approving the defence budget. • The parliament and the National Defence Committee have also developed expertise on defence and security issues. • The National Security Committee has a responsibility to exercise parliamentary control of national defence, state security, civil defence, state border protection and the	

	Special Investigations Service. A team of advisers, administrative staff and the information branch of the parliament support the Committee.	
Romania	Parliamentary oversight is exercised through the defence committees of both parliamentary chambers: • Preparation of reports for legislation. • Hearing civilian defence and uniformed military leaders. • Recommend approval of the budget to the plenum. • Grant permission for participation in military exercises and operations and for transit of foreign troops.	• The parliamentary budget control is limited due to a chronic lack of financial resources. • The Parliamentary Defence Committees instruments must be re-empowered and strengthened, especially regarding their powers of independent investigation and their expertise in defence matters.
Russian Federation	• Adoption of Defence Budget. • Declaration of war. • Legislation on the military.	• Laws adopted by the Parliament are subject to mandatory consideration in the Federation Council but come into force only after presidential approval. • The power to approve the budget is undermined by a lack of detailed information on the defence budget, resistance from the Ministry of Defence and the military, a lack of civilian expertise, and the supremacy of the Presidency in Russian politics. In July 2000, a new joint committee on federal budget spending for defence, security and law enforcement activity was established.
Slovenia	• Scrutiny of defence budget. • Defence Minister's actions are exposed to scrutiny and pressure from the Defence Committee of the National Assembly, which is normally chaired by an opposition MP.	• The effectiveness of parliamentarian oversight of the military and defence policy has been limited by the relatively low level of expertise in the Defence Committee.
Ukraine	• Adoption of laws. • Approving the State Budget and controlling its implementation. • Determining the principles of foreign policy. • Declare war following a	• The powers are relatively limited compared to those of the President. • The lack of access to detailed information, limited expertise on defence and security issues, and resistance form the President, government and the

	request from the President. • Approving presidential decisions on the use of the armed forces. • Giving consent to the appointment of the Prime Minister. • Approving the Programme of the Cabinet of Ministers. • Confirming the general structure and numerical strength of the armed forces, security services and other military formations. • Confirming the introduction of martial law, the state of emergency and the mobilisation of the armed forces by the President.	military means that parliamentary oversight of the armed forces and defence policy is rather limited.

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