



## Oversight is the Continuation of Democracy by Other Means

The defence and security sectors are some of the most challenging areas for effective oversight for parliamentarians. This is true in many countries, including established democracies. Parliamentarians must balance their responsibility to demand accountability from public institutions with the need for a degree of secrecy in the defence and security sectors. This balance can too easily be tipped heavily toward favouring secrecy in the face of perceived heightened security risks. Once raised, it is difficult to bring the cloak of secrecy back down.

Too much secrecy can allow corruption to run rife. Globally, the arms trade is worth over \$1.7 billion<sup>1</sup>. Arms sales are technically complicated and can involve many additions through offsets such as establishing local manufacturing to produce arms parts. Corruption in these sectors can lead to nepotistic hiring and compromised or poor intelligence. These risks result in large amounts of wasted resources, security failures and risks to frontline security providers.

At its worst, corruption within the defence and security sectors can lead to human rights violations and suppression of liberties. This includes blocking and targeting corruption investigators.

Parliamentarians play an important role in mitigating these risks through oversight, legislation, and debate. Notably parliamentarians decide the appropriate balance between public accountability and secrecy for the defence and security sector and uphold the principle of a civilian administered military. They must scrutinize the proper use of public funds, and ensure the public and security providers are receiving the right protection at the right cost. Finally, parliamentarians must be responsible in passing legislation that ensures a proper balance between transparency and secrecy.

The urgency and heightened political nature involved in the defense and security sectors can push against scrutiny and transparency, and therefore GOPAC encourages parliamentarians to be vigilant and to make informed decisions on the appropriate balance between transparency and secrecy.

## Just War Tradition, Military Ethics, and the Parliamentary Oversight of Ultimate Decisions

The Just War tradition is the result of thousands of years of discussion about the moral issues associated with war. One of its components, *jus ad bellum*, is the most relevant to the oversight of defense and security forces, and it contains six criteria that must be met for it to be moral for a State to go to war. The moral authority of these six criteria can be undermined by economic and political incentives corrupting the intentions that led to defence and security engagements and deployment.

### The Six Criteria of *jus ad bellum*<sup>2</sup>

1. **Just Cause:** There is a just cause for going to war.
2. **Right Intention:** The decision to go to war is made for the right reason.
3. **Last Resort:** Going to war is the last resort employed.
4. **Public Declaration by a Proper Authority:** The war is declared publicly by the governmental body authorized to declare war.
5. **Reasonable Probability of Success:** There is a reasonable chance of success in the war.
6. **Proportionality:** The benefit of going to war outweighs the negative effects that the war will cause.

One criterion requires war to be publically declared by a proper authority. Hundreds of years ago this would have meant public declaration by the monarch; today, it is often the parliament that possesses this authority. This criterion limits the decision making authority of security forces and places them in a subordinate role to the parliament.

This limitation extends beyond the power to declare war and reflects the larger moral concept for which the Just War tradition is part: military ethics. A significant component of military ethics concerns civil-military relations, especially civilian control of defence and security forces. This control can be characterized as a principal/agent relationship with parliaments serving as the principal and defence and security forces as the agent.

As representatives of the State's citizens and as principals, parliamentarians are responsible for overseeing institutional-level financial and policy decisions made by security forces. Therefore, it is essential that the legislature/security force relationship be based on civilian control of security forces, and that they also specifically address accountability within this principle/agent relationship. As principal, parliamentarians play a role in upholding the codes and standards associated with a proper legislature/security force relationship and maintaining a culture of accountability.

## References

1. [www.sipri.org/yearbook/2014/files/SIPRIYBSummary14.pdf](http://www.sipri.org/yearbook/2014/files/SIPRIYBSummary14.pdf)
2. [plato.stanford.edu/entries/war/](http://plato.stanford.edu/entries/war/)

## Recommended Resources

- Transparency International – Defence Sector Program: [www.ti-defence.org](http://www.ti-defence.org)
- NATO Building Integrity Program: [www.nato.int/cps/en/natolive/topics\\_68368.htm](http://www.nato.int/cps/en/natolive/topics_68368.htm)
- Democratic Control of the Armed Forces (DCAF): [www.dcaf.ch](http://www.dcaf.ch)
- Centre for Integrity in the Defence Sector: [cids.no/](http://cids.no/)
- International Society for Military Ethics : [www.euroisme.eu/](http://www.euroisme.eu/), [reilly.nd.edu/research/collaborations/international-society-for-military-ethics/](http://reilly.nd.edu/research/collaborations/international-society-for-military-ethics/)
- Association for Security Sector Reform Education and Training (ASSET): [ipcs.org/assetdemo/aboutus.php](http://ipcs.org/assetdemo/aboutus.php)
- United Nations Arms Trade Treaty: [www.un.org/disarmament/ATT/](http://www.un.org/disarmament/ATT/)
- Global Principles on National Security and the Right to Information: [www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles](http://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles)

## Oversight of Defence Procurement, Public Expenditure, and Arms Export Controls

In its role as principal, parliaments maintain responsibility for administering effective oversight of defense procurement, public expenditure, and arms export control. This ensures that security forces are properly and efficiently using public funding. Parliaments must also ensure that security forces fulfill their fiduciary duties to act in the interests of the State and in a manner defined by its constitution and policies. Doing so will prevent what is known as the principal/agent problem, which occurs when the agent begins to act in its own interest rather than the interest of the principal. A principal/agent problem occurs if corruption exists, such as when funds are used to support a policy counter to the State's official policy, unneeded equipment is procured, or arms are exported in a matter that undermines the State's interests.

For this reason, parliaments have the responsibility to establish the proper relationship with security forces and develop processes that oversee defence and security sector decisions. These processes allow parliament to ensure that these decisions are proper. These processes also clearly establish that the sector is accountable to the parliament for the equipment they procure, public funds they expend, and arms they export.

### Oversight Mechanisms: Balancing Accountability and Secrecy

Parliamentary committees and budget reviews are essential tools for establishing and maintaining the balance between accountability and secrecy. Due to the sensitive nature of proceedings, committee business may need to be conducted *in camera*. However, members of such committees should be given equal access to expert advice and sufficient opportunity to call on expert witnesses. Regular scrutiny of the budgets for the defence and security sectors is a powerful tool for parliamentarians. They must decide on appropriate intervals for review, what information may be publicly reviewed, and what level of disaggregated data is required.

Parliamentarians must also follow guidelines to make their procedures rigorous and trustworthy to the public and security providers. The selection process for parliamentarians to join committees *in camera* must be made public, and standards should be set for reviewing candidates' public record, knowledge of defence and security issues, and potential conflicts of interest.

Finally, codes of conduct are required for parliamentarians' departure from public service in order to combat a 'revolving door' between government and the private sector involved in supplying and advising the defence and security sectors. Good practice advises a moratorium period before public officials and public servants can take on a private sector job in a field they were responsible for.

#### What does the title refer to?

The title is a play on the quote by Carl von Clausewitz: "War is the continuation of politics by other means." The title is an optimistic assertion that democracy is served not only by free and fair elections but also by the integrity of the democratic institutions that forward the causes of democracy between elections. In particular, oversight of the defence and security sectors is critical to safeguarding democracy and ensuring stewardship of the greatest public good, peace.

## Recommendations for Parliamentarians

- Advocate for internal, independent and impartial resources within parliament that facilitate the role of parliamentarians in the review of defence and security sector issues;
- Establish a system for anonymous reporting that is apolitical and endowed with powers to investigate concerns expressed by legislators, the public, and defence and security personnel;
- Ensure the process for selecting parliamentarians for *in camera* committees is known to the public and the results of selection are on public record;
- Strengthen measures that prevent conflicts of interest, e.g. instituting rules for a moratorium period following involvement in defence and/or security committee related business;
- Make effective control of the international arms trade a high priority on the parliamentary agenda and establish a process for ongoing review, sanctions and restrictions;
- Encourage substantive public debate on the issues of parliamentary oversight and the deployment of defence and security personnel;
- Establish systems that institutionalize regular reporting and disclosure of disaggregated financial data to parliament on defence and security sector spending; and,
- Ensure that professional military personnel swear an oath of allegiance that guarantees the protection of citizens and the rule of law and create safeguards in the use of paramilitary forces.

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