

Strengthening the Role of Parliaments in SSG - Challenges and Opportunities from Selected Case Studies





This project was led by DCAF's Policy and Research Division (PRDiv) in partnership with DCAF's Operations Department (OPD).

Project Lead PRDiv: Hans Born

Project Lead OPD: Abigail Robinson

Lead Author: Daniel Reimers

Case Study Authors:

Tunisia: Maxime Poulin, Hamza Mighri

The Gambia: Jean Conte

North Macedonia: Teodora Fuior, Vlado Gjerdovski

Colombia: Mónica Pachón Buitrago

Copy Editor: Kimberly Storr

Design and Layout: Rodrigo Amorim

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List of ABBREVIATIONS:

1. AEC	Agency for Electronic Communications
2. ANC	National Constitutional Assembly
3. ARP	Assembly of the Representatives of the People
4. ASL	Alliance Sécurité et Libertés
5. CCISC	Council for Coordination of the Security-Intelligence Community
6. CCS	Council for Civilian Supervision
7. COAAFA	Standing Committee on Administrative Organization and the Affairs of the Armed Forces
8. CPA	Commonwealth Parliamentary Association
9. CSD	Special Committee on Security and Defence
10. CSO	Civil Society Organization
11. EU	European Union
12. FESCOL	Friedrich-Ebert-Stiftung Colombia
13. GDPR	General Data Protection Regulations
14. IA	Foreign Intelligence Service
15. IHL	International Humanitarian Law
16. IPU	Inter-Parliamentary Union
17. IRI	International Republican Institute
18. MP	Member of Parliament
19. NSA	National Security Agency
20. OATP	La Oficina de Asistencia Técnica Presupuestal
21. OTA	Operational Technical Agency
22. SCDS	Standing Committee on Defence and Security
23. SSG	Security Sector Governance
24. SSG/R	Security Sector Governance and Reform
25. SSR	Security Sector Reform
26. UBK	Bureau for Security and Counterintelligence
27. UGTT	Tunisian General Labour Union
28. UN-CTS	United Nations Crime Trends Survey
29. UNDP	United Nations Development Programme
30. WFD	Westminster Foundation for Democracy

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Strengthening the Role of Parliaments in SSG: Challenges and Remedies from Selected Case Studies

Daniel Reimers

Executive Summary

Parliaments play an indispensable role in good security sector governance. As democratically elected representatives, parliamentarians ensure that individual and collective security is provided in accordance with the will of the people. This also requires that security sector institutions subject themselves to parliamentary oversight, which is one of the primary means of verifying that security actors respect the mandate they are given. Recent developments in our global security environment, including a shrinking democratic space – recently compounded by the COVID-19 pandemic – as well as a growing number of states affected by fragility, conflict, and violence, only increase the need for greater security sector accountability. However, this challenging and complex security landscape makes it especially difficult for parliaments to deliver this accountability, and parliamentarians face a mounting multitude of challenges in conducting their SSG responsibilities. Their parliamentary authority vis-à-vis security institutions may not be exercised or respected, they may lack the necessary resources to fulfil their constitutional roles effectively, or they may deliberately eschew their oversight role due to a lack of commitment to the democratic process and/or a fear of potential repercussions.

This comparative study centres observations and lessons drawn from specific country cases, all of which have wider applicability in the field of SSG/R and can be used to inform future policy choices and SSR interventions. The study maps out challenges, remedies, and opportunities for parliaments in exercising security sector oversight, through the analytical lens of the “triple A” framework – authority, ability, and attitude – all of which are necessary conditions for parliaments to play an effective role in SSG. Case studies from Colombia, The Gambia, North Macedonia, and Tunisia form the basis of the comparative analysis in this text, which examines cross-national patterns of institutional variation and their efficacy in contributing

towards good SSG. Special attention was also given to the specific challenges and limitations experienced by parliaments in their oversight role during the COVID-19 pandemic, as well as the impact of international and domestic parliamentary assistance programmes on how parliaments fulfil this role. The resulting recommendations are clustered around three core themes, identified across all case studies: *institutional and legislative architecture, technical expertise, and a culture of oversight*. These recommendations, summarized here, are explained in more detail later in the text.

First, to strengthen the institutional and legislative architecture of parliaments, the legislative framework governing parliamentary conduct and activities should be expanded and developed into lower order laws that specify, delineate, and institutionalize parliamentary authority; anachronistic remnants of authoritarian legacies, in particular the absence of parliamentary immunity in practice, must be addressed and discarded; and parliamentarians must be engaged in more focused efforts to reinforce their role in SSG, particularly given the shift in power towards the executive that has occurred during the COVID-19 crisis. Second, to strengthen the technical expertise of parliamentarians, and in turn, their ability to effectively govern the security sector, capacity building programmes should harness actors and institutions not bound by term limits (e.g., parliamentary staff, in-house advisors and trainers, and external stakeholders of parliamentary academies); lessons- and information-sharing must become a priority; and pragmatic approaches tailored to specific contexts should be utilized (e.g., by integrating interventions into the parliamentary calendar and legislative agenda). Lastly, to strengthen and foster a culture of oversight, structural reforms that refine the legal framework and make it more conducive to democratic norms or enhance existing modalities of engagement between parliamentarians and security sector

stakeholders are key, and have a proven positive effect on parliamentary behaviours and routines; the same is true for multi-stakeholder approaches involving parliament, security institutions, civil society, and academia – which can help to establish a common national vision for security.

Notably, parliamentary assistance should extend across all three parliamentary domains – authority, ability, and attitude. But no common blueprint or script exists for parliamentary interventions. Each parliament, and any parliamentary assistance programme, must account for specific strengths and weaknesses, as well as the political environment in which a parliament operates.

The Role of Parliaments in SSG

Introduction

Strong legislative bodies are a bedrock of representational democracies. As houses of elected representatives, parliaments play an indispensable role in shaping both public policy and the way states exercise power and authority. In the domain of Security Sector Governance and Reform (SSG/R), parliaments fulfil this role by articulating the security needs of their constituencies, as well as by passing commensurate legislation, ensuring the effective and efficient use of resources, and encouraging accountability through scrutiny and oversight. Parliamentary institutions foster public debate and facilitate consensus-based decisions on security, which are consolidated and inscribed into legislation that shapes security sectors. Parliaments further oversee and review security policies, plans, and budgets, authorizing public expenditures and revenue-raising across the full budget cycle. A lack of oversight and management of security providers can permit security structures, institutions, and personnel to unevenly wield their monopoly on the legitimate use of force on different segments of the population. As such, oversight and scrutiny of security providers reduces concrete security risks for the population; and while parliaments are not the only counter-balance to executive power over the state apparatus, they represent a primary means to restraining this power in democratic systems.

Over the past decade, a trend of increasing violent conflict and shrinking democratic space has been observed on a global scale.¹ Strengthening the role of parliaments in democratic societies thus grows ever more important. Indeed, violent conflict has spiked dramatically since 2010, affecting both low- and middle-income countries, and the World Bank estimates that by 2030, two-thirds of the world's extreme poor will live in fragile and conflict-affected settings.² Climate change, new technologies, and other global developments have resulted in a fragility landscape of increasing complexity. Fragility saps growth and can lead to the reverberation of violent conflict through surrounding countries, such as in response to the forced displacement of affected communities. Addressing the root causes of fragility and violent conflict – inequality, exclusion, and corruption – through the promotion of transparency, accountability, justice, and the rule of law is key to combatting this worrying trend and fostering sustainable development.

When we speak of shrinking “democratic space,” we are referring to the arena in which individuals can hold states accountable, participate in politics, shape public debate, and express their needs.³ Across the world, three of the main tactics employed by states to restrict this participation and expression are cause for concern. First is the shrinking of civic space⁴,

1 For example, see European Partnership for Democracy, *Thinking Democratically: A Comprehensive Approach to Countering and Preventing ‘Shrinking Space’* (Brussels: EPD, 2020); Michael A. Weber, *Global Trends in Democracy: Background, U.S. Policy, and Issues for Congress*, Congressional Research Service Report R45344, 17 October 2018; and The Armed Conflict Location & Event Data Project, <https://acleddata.com/#/dashboard>.

2 Paul Corral, Alexander Irwin, Nandini Krishnan, Daniel Gerszon Mahler, and Tara Vishwanath, *Fragility and Conflict: On the Front Lines of the Fight against Poverty* (Washington, DC: World Bank, 2020).

3 Lisa Horner and Andrew Puddephatt, “Democratic Space in Asia Pacific: Challenges for Democratic Governance Assistance and Deepening Civic Engagement,” Working Paper, UNDP, 2011.

4 Civic space is defined as “the freedom and means to speak, access information, associate, organise, and participate in public decision-making.” See Carmen Malena, *Improving the Measurement of Civic Space* (London: Transparency and Accountability Initiative, 2015).

particularly vis-à-vis freedom of expression, assembly, and association, which inhibits the formation of political opposition and hinders the activities of civil society organizations (CSOs) and media. Second, incumbent parties tend to abuse state resources, skew legislation to serve their interests, and permit corruption, thereby establishing an “uneven playing field for political contestation.”⁵ Third, governments have made concerted efforts to undermine the separation of powers, subverting the independence of legal processes and stifling the rule of law. These phenomena form part of a wider trend of authoritarian resurgence occurring at a global level, fuelled by “authoritarian learning and autocratic influencing strategies.”⁶ In other words, as countries learn from their neighbours how to establish the frameworks and practices that shrink domestic civic space, autocratic regimes are simultaneously employing soft power strategies aimed at weakening and discrediting democracy within those same countries.

This trend of shrinking democratic space has been further intensified by the COVID-19 crisis, as a majority of governments have implemented emergency measures that risk exacerbating democratic regression.⁷ In the absence of sufficient oversight mechanisms, various leaders have seized on the opportunity to centralize and consolidate executive power, curtail individual rights, expand state surveillance, and suppress protests, marches, and demonstrations. In some cases, states of emergency have coincided with a complete lack of parliamentary oversight, have led to heightened executive control over media (under the guise of fighting misinformation), or have been used as a pretext to ban anti-government protests.

Reaffirming and Strengthening Democratic Governance through Effective Parliamentary Oversight

Cumulatively, these recent trends have raised the imperative to reaffirm the value of democratic governance and encourage efforts to strengthen it. To that end, this study aims to support the functioning of democratic institutions in fragile contexts by offering recommendations for future parliamentary assistance programmes as well as by gathering best practices and identifying crucial instruments to help parliaments effectively govern security sectors. Indeed, at the heart of democratic governance lies civilian control and oversight.

The competence to oversee government activities, policies, and expenditures means that both policies and their implementation can be assessed in terms of efficiency and capacity to meet the needs of the public. The primary responsibility for this oversight rest squarely on the shoulders of parliaments. While DCAF has published extensively on this topic in the past – most notably in the form of a parliamentary handbook jointly published with the Inter-Parliamentary Union (IPU) in 2003 – this study attempts to address contemporary challenges faced by parliaments and seek to fill a gap in scholarly and policy literature at the nexus of parliaments and SSG.⁸

5 European Partnership for Democracy, *Thinking Democratically*, 6.

6 *Ibid.*, 7.

7 Frances Z. Brown, Saskia Brechenmacher, and Thomas Carothers, “How Will the Coronavirus Reshape Democracy and Governance Globally?” *Carnegie Endowment for International Peace, Commentary*, 6 April 2020, <https://carnegieendowment.org/2020/04/06/how-will-coronavirus-reshape-democracy-and-governance-globally-pub-81470> (accessed 16 April 2021).

8 See Heinrich Böll Foundation – Africa, *Do Parliaments Matter? African Legislatures and the Advance of Democracy* (Cape Town, 2012); Steffen Eckhard, *The Challenges and Lessons Learned in Supporting Security Sector Reform* (Berlin: Frederick-Ebert-Stiftung Global Public Policy Institute, 2016);

Background and Objectives

In line with DCAF's broader mandate and its current strategy, at the core of this study are observations and lessons drawn from specific country examples that have wider applicability in the field of SSG/R and can be used to inform future policy choices and SSR interventions. Four country case studies – from Colombia, The Gambia, North Macedonia, and Tunisia – form the basis of a comparative analysis that examines cross-national institutional variations and the success of different parliamentary institutions in contributing towards good SSG. From this

analysis emerges a set of good practices and instruments that increase the effectiveness of parliament in exercising SSG. Limitations and challenges to parliamentary oversight during the COVID-19 pandemic are also discussed, as well as the impact of international and domestic parliamentary assistance programmes. The resulting conclusions and recommendations are intended to support states in strengthening parliamentary oversight, in order to achieve more accountable, transparent, and effective security sectors.

SSG and SSR

The central role for parliaments in ensuring good Security Sector Governance (SSG) is derived from their functions in law-making, budget scrutiny, oversight, government appointments, and public deliberation. Legislators vested with sufficient legal and normative authority, resources, and commitment are able to perform these functions in a way that contributes to good SSG. In this study, the statutory management and oversight of security providers by parliament is examined.

Good SSG is achieved by applying the principles of good governance to security provision and management, and to the oversight of both state and non-state actors. These principles are *accountability, transparency,*

rule of law, participation, responsiveness, effectiveness, and efficiency. Hence, as a normative standard, good SSG means that the security sector provides state and human security within a framework of democratic civilian control, rule of law, and respect for human rights. Establishing good SSG is the goal of Security Sector Reform (SSR), commonly described as “a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law.”⁹

Analytical Framework

All four country case studies presented in this text utilize the same analytical framework, examining the role of parliament in SSG through the lens of parliamentary authority, ability, and attitude (see Table 1). Taken together, these constitute necessary conditions for effective oversight, so that a parliament may contribute to good SSG; yet, on their own, none are sufficient.

Even in political and legal systems that feature well-designed policy frameworks for parliamentary oversight that grant parliamentarians wide-ranging authoritative powers, a lack of individual or institutional capacity can pose major challenges to effective oversight. Similarly, even with sufficient authority and ability, a lack of commitment to democratic principles can render parliamentary activities fruitless.

9 United Nations, Report of the Secretary-General, “Securing peace and development: the role of the United Nations in supporting security sector reform,” 23 January 2008 (A/62/659-S/2008/39).

Table 1. The “Triple A” Framework

Authority	Ability	Attitude
Parliaments must have sufficient normative and legal authority to oversee the security sector. Most countries have constitutions, basic laws, regulations, or statutes that confer this authority formally, but in practice, this authority is not always exercised or respected.	Parliaments must have sufficient resources to effectively fulfil their constitutional roles, including institutional support, access to information, analytical and research capacity, specialized skills, and working relationships with security institutions and civil society.	Members of parliament must maintain a strong commitment to the democratic process because their work is likely to create resistance and provide opportunities for corruption. Members are usually afforded immunity from prosecution for actions taken in the course of their official duties, to protect their independence and integrity.

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Scope of Analysis

The shape of parliaments varies greatly across political and legal systems and from state to state. This inevitably affects the roles and procedures that govern the activity of any given parliament. Still, despite these differences,

parliaments generally fulfil five main functions – legislative, budgetary, oversight, elective, and representative – by which they influence SSG (see Table 2).

Table 2. The Five Main Parliamentary Functions in the Context of SSG

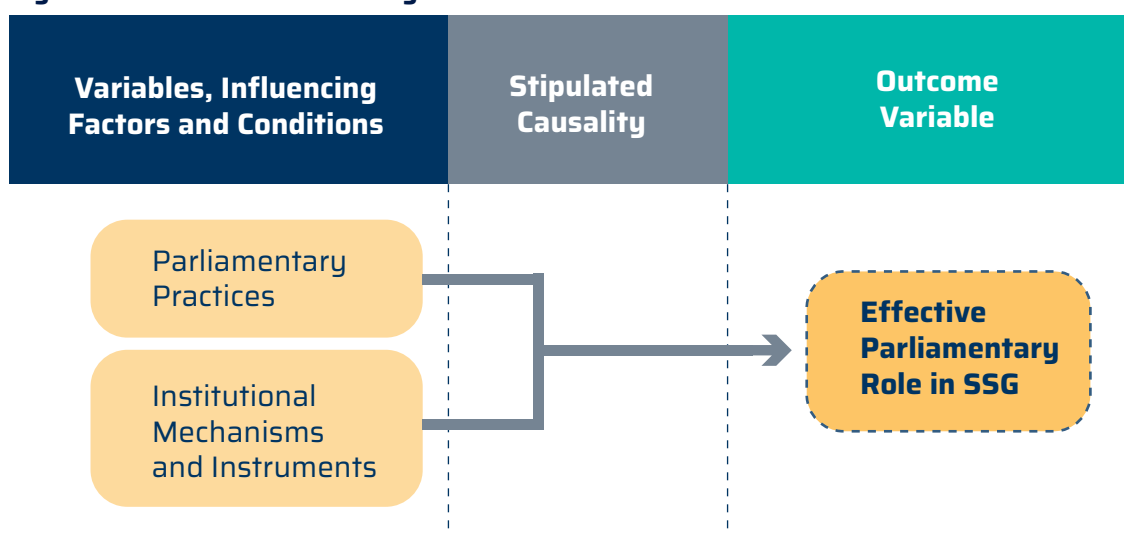
Legislative	Budgetary	Oversight	Elective	Representative
Parliaments adopt laws that establish the mandate, functions, powers, and organization of the security sector and oversight institutions.	Parliaments play a role in approving, amending, or rejecting budgets for the security sector.	Parliaments monitor and verify whether the behaviour of security sector actors aligns with the constitution and any relevant legislation, regulations, and policies.	Parliaments may scrutinize, veto, or approve top-level appointments within the security sector, and may vote no confidence when they disagree with government decisions in the realm of security.	Parliaments provide a public forum for debate, facilitate political consensus through dialogue and transparency, and give voice to popular dissent regarding government security policy.

Methodology

Countries were selected as the focus of case studies based on the significance and role of their parliament in SSG within a given region, as well as the existence of an SSR programme with a parliamentary oversight component or the existence of a parliamentary assistance programme with a security sector component. The countries under examination thus share a set of common factors relating to the role of their parliaments in SSG, along with distinguishing factors that extend from their distinctly different regional contexts.

In light of the objective of this study to identify and present good practices and instruments that enable parliaments to play an effective role in SSG, comparative analysis across cases aimed to determine the practices, institutional mechanisms, and tools that are causally linked to an effective role for parliament in SSG (see Figure 1). While some of these factors can be modelled as variables, the majority constitute conditions and influencing factors.

Figure 1. Framework for Analysis of Case Studies



The nature of the study design, employing country cases, means any comparative analysis must be sensitive to the different institutional and cultural contexts that enable or prevent parliaments from playing an effective role in SSG in the countries under study. This makes an analysis that centres independent variables less valuable, as each case study author chose to examine the factors most relevant in their respective contexts. Thus, this comparative analysis uses the technique of explanation building – a special type of pattern matching in which case study data is explained through stipulated causal links between processes, mechanisms, structures, and the outcome variable (here, an effective role for parliament in SSG), and patterns are identified across cases.¹⁰ A similar method that relies on presumed causal links is commonly part of a hypothesis-generating process in exploratory studies; and in this study, the recommendations put forth are in some

ways hypothetical, as causality is inferred and not confirmed. These recommendations may be strengthened by future research that uses an explanatory (i.e., confirmatory) case study design.

Comparative analysis revealed central themes that reoccur across each case study, which emerged through the “triple A” frame of parliamentary authority, ability, and attitude. These themes are interwoven by a particularly dense set of causal links, not only to the outcome variable but to other variables, conditions, and influencing factors. Still, those variables, conditions and influencing factors differ considerably in different cases, often manifesting in dissimilar processes, structures, and mechanisms. Thus, while the recommendations offered here are bound by context and are not necessarily universal, this comparative analysis makes it clear that parliaments have devised various institutional solutions to address similar issues.

¹⁰ B. Glaser & A. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Mill Valley, CA: Sociology Press, 1967); and Robert K. Yin, *Case Study Research Design and Methods* (Thousand Oaks, CA: SAGE, 2014).

The Cases, in Brief

Tunisia is still haunted by the autocratic regime of Ben Ali, which routinely instrumentalized security institutions for political means – including unlawful exclusion, the muzzling of free expression, repression, and disenfranchisement – before it was finally brought to an end in 2011 by the so-called Jasmine Revolution. The Tunisian Parliament operates in an economic and political environment that remains in flux, still marked by institutional and legislative remnants of the former regime that inhibit democratic oversight. On top of this, a lack of trust between Tunisian security officials and parliament at times results in reluctant engagement at best; despite the fact that the country has faced a series of challenges related to violent extremism that have placed the country in a quasi-permanent state of emergency since 2015. Against this backdrop, the authority, ability, and attitude of parliament is understandably limited in Tunisia. A constitution adopted in 2014 conferred generic authority to parliament to govern and control the security sector, but the ability and attitude of the body lag quite a bit behind this authority. The absence of a national security strategy makes it particularly challenging for parliament to exercise effective oversight, as relevant committees are unable to reflect on a set of clear policies and plans, or assess their implementation. Moreover, tension and open hostility between security sector actors and parliamentarians negatively affects the attitude of parliament when it comes to conducting effective oversight.

In The Gambia, following more than two decades of authoritarian rule under former President Yahya Jammeh, a recent political transition has reshaped the landscape for long-awaited security reforms to take root. Like Tunisia, The Gambia has struggled with the legacy of a de facto military regime that brutally repressed political dissent and carried out mass human rights violations. The state security apparatus played a key role in maintaining Jammeh's regime, and was not only complicit in large-scale violations but succeeded in concealing such acts from domestic and international scrutiny. And Jammeh explicitly hamstrung and side-lined parliament through autocratic executive practices institutionalized in constitutional provisions. Yet, Gambian parliamentarians, determined to embrace

their important role in SSG/R, have made great strides since Jammeh's ouster in 2016, and some have demonstrated particular personal courage and legislative initiative. The parliamentary Committee on Defence and Security is vested with considerable authority through strong constitutional language; and has been the focus of numerous assistance programmes implemented by various partners since 2017. That said, the Gambian Parliament faces a significant lack of resources – from material to technical – and must contend with a current President, Adama Barrow, who appears inclined to perpetuate past autocratic practices.

A decades-long legacy of civil strife in Colombia, and the perennial presence of the illegal drug trade, have strongly shaped the role of the country's parliament in SSG. In pursuing SSR, this history of illicit armed actors contesting state control remains front and centre, and has led parliamentarians to concentrate their defence and security reform efforts on increasing the capacity of security forces to guarantee territorial sovereignty. The pressure of these internal security challenges has thus hampered the pursuit of more holistic SSR. An effective parliamentary role in SSG is further challenged by Colombia's sharply politicized environment, disincentives for parliamentarians to engage in complex security sector related initiatives, and the structural deficiencies of parliamentary organs. For instance, SSG oversight is dispersed among several parliamentary committees, which disincentivizes the members of any one committee to achieve comprehensive expertise on security issues. On top of this, the committees vested with SSG responsibilities offer limited potential for members to gain political capital and advance their careers, as SSG is paired in these committees with ceremonial and commemorative issues of low prestige. Frequently, this leads members of these committees to defer security questions to the executive branch, or to informally ally themselves with security authorities against their own institution. Taken together, these factors serve to maintain a state of inertia in the Colombian Parliament, which takes a reactive, deferential stance on SSG/R.

In North Macedonia, the role of parliament in SSG has been strongly shaped by a wire-tapping scandal that unfolded in 2015

and involved senior government officials. Highlighting the misuse of state intelligence services to unlawfully monitor government and opposition members, journalists, civil servants, businesspeople, and activists, the scandal exposed the failure of political, judicial, and security institutions to control this abuse of intrusive powers. Importantly, it also provided the momentum for substantial reforms to North Macedonia's security sector after widespread demonstrations and political turmoil ended the decade-long reign of the incumbent government. A profound transformation of the security sector followed and was further driven by the prospect of European integration, illustrating the influence of geopolitical factors on domestic reform processes.

Despite successful and far-reaching reform and governance efforts that have shifted the focus of security provision from a state-centric

approach towards a new human security paradigm and have established the normative and institutional foundations of good SSG, some shortcomings remain, preventing parliament from most effectively exercising oversight. To fully enable the effective exercise of the oversight powers conferred to the newly defined (and complex) structure of parliamentary standing committees, crucial resources are necessary to establish and maintain technical expertise and perform routine organizational tasks, and yet are largely absent. Moreover, an effective parliamentary role in SSG continues to be impeded by legislative weaknesses that limit the legal authority of parliamentary and civilian bodies, challenges in establishing a culture of oversight, and a lack of communication between parliament and the general public.

Comparative Analysis: Challenges and Remedies

These case studies all concern *institutional and legislative architecture, technical expertise, and the culture of oversight*, themes that correspond to the “triple A” framework, which examines the authority, ability, and attitude of parliaments. Importantly, each of these themes may have indirect implications on another.

Hence, in the following sections, these themes are unpacked as a function of the challenges and potential remedies that emerged across cases studies, observed in varied contexts. This cross-case comparison of challenges and remedies forms the basis for policy recommendations offered at the conclusion of this study.

Authority: The Institutional and Legislative Architecture

Parliaments are conferred normative and legal authority through constitutions, basic laws, regulations or statutes; but the institutional design of democratic regimes shapes the distribution of power among political actors and the effectiveness of their decisions.¹¹ Across case studies, a significant recurrent theme emerged in relation to *the institutional and legislative arrangements that inhibit parliaments from playing an effective role in SSG*. These institutional and legislative arrangements often unduly favour the executive in shaping security and defence policy and stem from past autocratic regimes or are otherwise historically contingent. For instance, during 22 years of dictatorship in The Gambia, the Constitution underwent countless amendments that facilitated the ruling party's manipulation of the political process, including one that allowed party leaders to exert

control over MPs by threatening to exclude them from their party, and by extension, their seat in the legislature. Similarly, Tunisia has experienced a quasi-permanent state of emergency since terrorist attacks in 2015, based on a 1978 decree law that was used at the time to oppress union protestors. In Tunisia, legal ambiguities, inconsistencies, and gaps also mean that parliament lacks the authority to access classified information, and the reluctance of security officials to release sensitive information to MPs may stem in part from the ambiguity of formulations governing precisely how parliamentarians should handle this information without jeopardizing the security of the state or any individual. Colombia's history of civil strife has relegated the ability of its parliament to shape security and defence policy, which is firmly in the hands of the executive, thereby

11 Giuseppe Ieraci, “Power in office: presidents, governments, and parliaments in the institutional design of contemporary democracies,” *Constitutional Political Economy* (September 2020).

undermining the capacity of parliament to hold the security sector accountable. This is evident in the lack of budgetary control afforded to parliamentarians, who cannot introduce budgetary bills or legislation with fiscal disbursement. Debates on the budget are time-limited and deeper deliberation is possible only in committees, depriving parliament of its conventional financial scrutiny role.

Clearly, *institutional and legislative arrangements that grant formal normative and legal authority to parliaments through special powers or prerogatives are crucial to effective parliamentary oversight and the role parliament can play in SSG*. In addition to conventional parliamentary powers, such as the prerogative to extend national states of emergency (as in The Gambia), issue votes of no confidence, conduct hearings and vet high-ranking security officials (as in Colombia), or conduct on-site visits, the countries under study each have context-specific practices and instruments embedded in their respective institutional and legislative architectures. In the Gambian parliament, for example, a Standing Committee on Security and Defence (SDCS) is supported by strong constitutional language that gives it the very broad authority to “investigate or inquire into the activities [...] of [...] any matter of public importance.” This decisive language extends to the performance of its functions so that the SDCS shall have “the same powers as the High Court during trials.” The integrity of parliamentary standing orders is similarly protected by language that bars national courts from inquiring into any “decision, order or direction of the National Assembly or any of its Committees or the Speaker relating to the Standing Orders of the National Assembly, or to the application or interpretation of Standing Orders, or any act done by the National Assembly or the Speaker under any Standing Orders.”

North Macedonia has also engaged creative remedies to increase parliamentary control, establishing an intricate parliamentary committee system geared towards specialization. Four distinct committees are vested with roles and responsibilities, narrowly defined: the first has a wide legislative mandate that covers the entire security sector, and oversight responsibilities over the armed forces and police; the second deals exclusively with the oversight of domestic and foreign intelligence services; the third monitors implementation of

intrusive methods for information collection by all the intelligence and law enforcement bodies authorized to use these powers; and the fourth – composed of seven citizens chosen by parliament – may receive public complaints, initiate investigations into the legality of communication interceptions, and request that the third committee conduct parliamentary investigations into alleged illegal data collection. Reporting mechanisms for committees, with clear requirements and deadlines, helps create and maintain awareness within the public and governmental institutions, and increases the likelihood that issued recommendations will be enforced. Oversight and scrutiny committees in North Macedonia also reserve special roles or grant special powers to members of the opposition. Still, a committee system this complex is only effective when the respective legal and normative authority of parliamentary and civilian oversight bodies is well developed. Importantly, North Macedonia’s parliamentary oversight bodies were strengthened in parallel to legislation that significantly re-shaped its security institutions. Especially pertinent was the decoupling of the technical capacity to collect information from the analysis of this information, by distributing these tasks to separate bodies. The Operational Technical Agency (OTA) now collects information, while the National Security Agency (NSA) analyses it. The NSA was also placed outside the Ministry of Interior and was stripped of policing powers.

Institutional design may also bestow parliaments with formal authority, or deprive them of it, as they pursue oversight. A crucial factor in this context is the level of formality attached to certain practices, processes, and modalities of engagement. In the absence of formal modalities of engagement between security sector officials and parliamentarians, the authority of parliament to conduct oversight tasks may not be respected in practice, as is often evident in the unwillingness of security actors to relinquish sensitive information, even to oversight committees. Lacking formal channels, MPs may resort to engaging with security officials on an individual level, as in the Gambia. To create and strengthen modalities of engagement between parliament and the security sector, the Tunisian Parliament’s Committee on Security and Defence (CSD) has made great strides in establishing channels of communication and cooperation with the Ministry of Defence. Since 2014, it has become customary for the National Defence Institute,

situated within the MoD, to provide a one-week workshop and training to members of the CSD, delving into the structure of defence institutions and the current challenges that face the sector. Still, these trainings offer relatively basic information and do not sufficiently highlight the urgent need to align the security sector with the contours of Tunisia's broader democratic transition. To further strengthen this effort, National Defence Institute trainings should extend beyond the basic level to integrate principles of democratic good governance and specific considerations related to the democratic transition underway in the country at large. Occasionally, knowledge sharing visits with European parliamentarians have been organized as well, so that members of the CSD can learn best practices from the EU for identifying specific reforms and implementing effective oversight.

Notably, imbuing certain processes with a level of formality can itself act as an enforcement mechanism, effectively increasing the authority of parliament when issuing recommendations. For example, while reports issued by Tunisia's Committee on Security and Defence (CSD) are published online, there is no requirement to formally present and discuss these in the general plenary, so that recommendations may simply be ignored and thus become less actionable or unlikely to result in reform. Similarly, in Colombia, parliamentarians can call cabinet members and other public servants to testify in a committee or floor session to account for the implementation of a specific policy, yet these hearings are not held under

oath, minimizing any potential repercussions for lying. A lack of formality in these practices is a significant shortcoming of institutional design.

Institutional deficiencies that negatively impact the authority of parliaments may also manifest in the design of parliamentary committee structures and in committee practices. In both Colombia and Tunisia, the mandate to oversee the security sector is dispersed among multiple committees that were established due to political imperatives at the time of their creation, with little regard for maximizing efficiency in security sector governance. A certain vagueness surrounding the roles of committees may at times provide space for cooperation and collaboration among them, as is the case in North Macedonia, and to some extent Tunisia. But a highly diluted committee structure can adversely impact the authority of committees, as in Colombia, where the main committee tasked with security and defence oversight also assumes ceremonial and commemorative responsibilities, reducing its authority and status to such a degree that most MPs view a seat on the committee as neither desirable nor politically expedient. Certain committee practices may also weaken its authority to conduct oversight. For instance, until recently, hearings were scheduled in the Colombian Congress largely on the basis of personal relationships between a given legislator and committee chair, creating a stark disadvantage for members of the opposition and limiting the effectiveness of hearings as an oversight mechanism.

Ability: Technical Expertise

Even when policy frameworks for an effective parliamentary role in SSG are well designed and infused with sufficient normative and legal authority, *a lack of individual or institutional capacity can pose major challenges to parliamentary oversight.* Such a lack of capacity can significantly weaken the ability of parliamentarians to fulfil their constitutional roles effectively, and *this deficiency is most evident in low levels of technical expertise* on both the individual and institutional levels. This is the result of multiple distinct factors, but the most common are *a lack of sufficient resources necessary to establish and maintain technical expertise and structural weaknesses that dilute technical expertise.* A shortage of sufficient financial and human resources means that

parliamentarians may be unable to fund public hearings, convene witnesses, and conduct on-site visits and inspections, or engage legal experts and specialized support staff to ensure that laws are formulated and implemented as intended; and in all the countries under study, deficient financial and human resources constituted a seemingly perennial challenge. Indeed, parliamentarians in all four countries lack the resources to hire staff to provide independent analysis and assessments, and in North Macedonia, members of its civilian council – a specialized civilian committee with SSG responsibilities – became so frustrated with what they perceived as parliamentary passivity in response to requests for resources that they resigned in protest. And in Tunisia,

where the parliament lacks administrative and fiscal autonomy, this challenge of insufficient resources is one that simply cannot be remedied without fundamental change, which is unlikely to come in the short-term.

Insufficient resources to establish and maintain technical expertise may be confounded by structural weaknesses that further inhibit the acquisition of technical expertise. Illustrative of this are the hiring practices in the Gambian parliament, where parliamentary staff is often hired based on patronage rather than merit. Another example is the committee structure in the Colombian Congress, where the committee tasked with security sector oversight has low political visibility, offers limited political capital, and shares a mandate for ceremonial and commemorative issues, offering little incentive for parliamentarians to develop technical expertise on complex security sector themes. An absence of regular and formal engagement between parliamentarians and security sector authorities in Colombia further diminishes the incentive of parliamentarians and reduces their opportunities to gain knowledge from such interactions; and in the rare instances they do occur, the transaction costs for this flow of information is high, as participants do not share the same level of expertise. In fact, in both Colombia and Tunisia, the ignorance of most parliamentarians to security issues has made security sector officials reluctant to engage, which only exacerbates the inability of parliament to fulfil its role in SSG. In The Gambia, a high turnover rate for parliamentarians - combined with the fact that newly elected members are typically young, inexperienced, and have only low levels of education - drives a loss of institutional knowledge and relationships. Moreover, newly elected Gambian parliamentarians receive little to no training, especially on cross-cutting issues such as Human Rights or Gender. In Tunisia, where parliamentary committee formation is not dependent on technical expertise requirements and parliamentarians can be seated on more than one committee, it is committees that see a high turnover, reducing the incentives to specialize. The ability of Tunisian parliamentarians is further curtailed by the lack of a common, coherent vision of national security, which would allow them to reflect and assess government policies.

These deficiencies in technical expertise have repercussions that may negatively impact the role of parliament in SSG/R, such as by resulting in the improper implementation and interpretation of laws related to the security sector. Strengthening the technical expertise of parliamentarians thus brings the potential to have profound effects on their authority and attitude. But on top of that, parliamentary committees must have sufficient capacity and logistical means to fulfil their mandates. Efforts to strengthen technical capacity have manifested across the countries under study in the institutionalization of technical expertise in specific research and communication units. Institutionalizing technical expertise reduces the loss of knowledge that results from the high turnover of parliamentarians, and in The Gambia, the Westminster Foundation for Democracy (WFD) has supported the establishment of such units - which are now fully functioning. Similarly, in 2016, a joint initiative of UNDP and the Hanns Seidel Foundation undertook the development of a parliamentary academy to educate members of the Tunisian Assembly on a wide range of issues, including SSG/R. These trainings revolve around three core themes: (1) oversight and control of the work of government agencies; (2) understanding legislation in various fields; and (3) communications and media strategy. Shorter workshops and retreats may also build technical expertise. In The Gambia, for instance, WFD held three-day workshops on revising the parliament's standing orders in which participants explored new procedures for legislative scrutiny, the roles and responsibilities of different stakeholders in the process, and effective methods for public consultation and engagement. In Colombia, external actors have led similar expert workshops involving a diverse set of SSG/R stakeholders across the political spectrum; and despite low levels of engagement by Colombian legislators, these exercises do increase technical expertise and foster relationship building among relevant actors. Retreats focused on knowledge-sharing among peers have proven to be an effective remedy as well, across all four cases. Gambian lawmakers undertook a study trip to Ghana to identify concrete strategies to better implement their oversight prerogatives, for example. And multiple knowledge-exchange programmes have been conducted in Tunisia, including with European and British parliamentarians. In North Macedonia, a programme led by DCAF over

three years supported its three parliamentary committees by focusing on peer exchange as well, alongside practical exercises, self-assessments, and independent critical analysis.

On its own accord, North Macedonia also took the step of establishing a parliamentary budget office in 2020, with the aim of improving the financial oversight capacity of parliament. The office was added to an existing joint secretariat, composed of five parliamentary staffers who support the three parliamentary committees. Staffers are vetted and can thus participate in all committee meetings and activities, including those in which classified information is discussed. They assist a specific committee according to a pre-defined division of labour but are gathered in one secretariat to encourage comprehensive expertise, technical coherence, and joint action.

Attitude: A Culture of Oversight

An effective parliamentary role in SSG/R also depends on the commitment of parliamentarians to the democratic process and their willingness to make use of their authority and ability to conduct effective oversight. Across the countries under study, this dimension was captured in the culture of oversight theme, encompassing the various routines and practices of parliamentarians as they fulfil their constitutional role. The challenge to parliamentarians is that *various influencing factors and conditions inhibit a culture of oversight*. Fostering such a culture, committed to the democratic process and to an effective parliamentary role in SSG, is thus a necessity. However, the means to do so remain limited by historical patterns and by contexts that inhibit the implementation of international best practices.

It should be noted that it is difficult to assess authentic commitment to the democratic process on a collective level (i.e., in an entire parliament). But individually, MPs usually enjoy immunity from prosecution for actions taken in the course of their official duties, to protect their independence and integrity. This immunity may be lifted according to internal regulations of parliament itself. In Tunisia, the principle of parliamentary immunity was challenged in 2017, however, when a military court charged a parliamentarian after he criticized the appointment of a high-ranking military officer on social media. Despite ultimately proving

Importantly, *the technical expertise of parliamentarians may be supported by the use of external experts*. This practice is common in The Gambia, Colombia, and North Macedonia, all of which retain some form of a 'roster' of subject matter specialists. While delegating tasks that require specialist expertise to external stakeholders is resource-intensive, it ensures a certain continuity of knowledge that cannot be lost due to the high turnover of parliamentarians or their staffers. As an alternative to a more rigid roster of experts, parliaments may rely on ad hoc public hearings that engage civil society organizations, academia, and the media. This is an established practice in Colombia and North Macedonia, and it allows lawmakers to thoroughly review draft legislation while also contributing significantly to the transparency of parliamentary activities.

unsuccessful, the process – and the threat of prosecution with the high crime of treason, among others, by military justice mechanisms – has had a chilling effect on the willingness and attitude of all MPs to enact security sector scrutiny. Such self-imposed parliamentary restraint and censorship was also rife in The Gambia under Jammeh's rule, due to the wide array of mechanisms through which the executive could impose political sanctions.

A democratic culture of oversight is also challenged by the routines and practices that shape parliamentary activities. One of the greatest challenges in North Macedonia, for example, has been the political culture that prevailed prior to the beginning of extensive reform efforts in 2015, which was characterized by the long unfettered habit of individual parliamentarians and security sector officials to exploit loopholes without fear of sanction from oversight bodies. The success of current reform initiatives increasingly depends on the political will to change that political culture. *Some practices that inhibit a functioning culture of oversight take on more subtle forms*. A lack of effective parliamentary routines for oversight and scrutiny is observable in both The Gambia and Tunisia, for instance. In the former, legislation tends to be scrutinized in plenary rather than by the relevant standing committee; yet, allowing all members of parliament to re-introduce amendments – after the careful formulation of a given draft law on a clause-

by-clause basis in the respective committee – undermines the role and effectiveness of parliamentary committees. It also runs counter to a culture of effective oversight when parliaments fail to hold hearings open to citizens and CSOs (as in The Gambia and North Macedonia), when parliamentarians condition support for security and defence bills on personal favours (as in Colombia), or when parliamentarians themselves explicitly support a limited role for parliament in SSG (as in Tunisia).

Across cases, one effective remedy in this context has been the development of strategic plans and common visions with various stakeholders, including security sector institutions and CSOs, which nurtures a greater understanding of respective mandates and the mutual benefits of striving to achieve good SSG. Successfully nurturing a culture of oversight is often dependent on local political will and the commitment and perseverance of individual parliamentarians, though. To increase pressure on MPs in a way that affects their attitude, parliamentarians who are committed to democratic oversight may consider leveraging the capacity of CSOs and the media, as seen in North Macedonia.

COVID-19

The outbreak of COVID-19 has posed yet another challenge to parliaments across the globe, fundamentally testing the interaction between legislative and executive branches of government. There has been a general trend – not limited to the countries under study – towards executive dominance in law-making and the marginalization of parliaments.¹² Parliamentary activities in The Gambia, Tunisia, and Colombia have largely been suspended or delegated to the executive during the pandemic. This has had significant ramifications for the capacity of parliaments to oversee the security sector, but it has also provided parliamentarians with unique opportunities.

In Colombia, where the executive already dominated on security and defence issues, the decoupling of legislative and executive agendas has allowed parliament to develop a parallel agenda. This has actually increased its legislative output and the number of hearings held by the body (over Zoom), though opinions among legislators are split as to whether the quality of control and oversight has decreased as a result. In Tunisia, the COVID-19 crisis has highlighted the need to better define the scope of the CSD, an issue that failed to gain sufficient traction in the five years prior.

Similarly, in North Macedonia and The Gambia, the pandemic has unveiled legal ambiguities and worrying gaps in the enforcement of parliamentary prerogatives. The pandemic reached North Macedonia shortly after parliament had self-dissolved in anticipation of a snap election and subsequent attempts by the temporary technical government to declare a state of emergency exposed legal inconsistencies within the constitutional text, an item that will undoubtedly feature on the parliament's agenda once it reconvenes. In The Gambia, the parliamentary prerogative to end the state of emergency was unilaterally ignored by President Barrow, highlighting the potentially worrying possibility that he may continue his predecessor's practice of ignoring the constitutional rights of parliament with impunity. The COVID-19 pandemic has also worsened political tensions in The Gambia, as elsewhere, and has eroded trust between security forces and local populations. Though the capacity of parliament to perform meaningful oversight and scrutinize potential abuse by security forces has been limited, incidents of rights violations have been exposed in The Gambia, Tunisia, and Colombia.

¹² Elena Griglio, "Parliamentary oversight under the Covid-19 emergency: striving against executive dominance," *The Theory and Practice of Legislation* 8, no. 1-2 (2020): 49-70.

Recommendations

The following recommendations – which align with the themes of *institutional and legislative architecture, technical expertise, and a culture of oversight*, observed across case

studies – were intentionally developed to be broadly applicable to parliamentary contexts around the world.

Strengthening the Institutional and Legislative Architecture of Parliament

The role of parliaments in SSG must be matched by sufficient normative and legal authority, vested in laws, rules of procedure, and standing orders – which define and shape the institutional architecture that parliamentarians navigate. Parliaments with well-developed institutional and legislative architectures are typically better able to fulfil their role in SSG and do so effectively. Thus, parliaments should:

- Recognize that **parliamentary authority to firmly govern security sector activities is determined and influenced by an array of factors, even if strong legal language embedded in the constitution grants parliamentarians the sufficient authority to effectively fulfil their role** in theory. For example, a minimalistic interpretation or improper implementation of the law may significantly diminish parliamentary authority in practice. Hence, parliamentary assistance programmes seeking to improve the authority of parliament by strengthening the legal framework should aim to expand the internal regulations of parliaments through standing orders and rules of parliamentary procedure, as these lower order laws specify, delineate, and institutionalize parliamentary authority. Furthermore, parliamentarians should be trained in how to apply and wield these laws to achieve their intended effect.

- **Consolidate parliamentary immunity** to ensure that parliamentarians can fulfil their role and responsibilities without fear of prosecution. An effective parliamentary role in SSG is often impeded in contexts marked by recent democratic transitions or democratic backsliding, due to an institutional and legislative architecture that fails to ensure the full protection of civic space, often stemming from authoritarian legacies within the military and/or intelligence services. Notably, where parliamentary immunity is challenged, parliamentarians may be subject to military jurisprudence; a situation further compounded when a judicial branch is weak, ineffective, or unable to intervene.
- **Resist executive dominance.** It is important to take lessons from the COVID-19 pandemic, and the role parliaments played in SSG during the crisis. In many instances, the balance of power shifted heavily towards the executive, which was frequently shielded from scrutiny due to the disruption of the pandemic. Grappling with COVID-19 measures raised awareness within some parliaments of deficiencies and gaps in their legislative and institutional architecture in this context, to the detriment of effective parliamentary functioning in times of crisis. Against this backdrop, engagement and assistance to parliaments is crucially important, now more than ever.

Enhancing Technical Expertise

Parliamentarians often lack the capacity to effectively govern the security sector due to insufficient technical expertise. In many cases, this stems directly from an insufficiency of the resources needed to build, maintain, and transfer technical expertise. Yet, this expertise is vital to the functions of parliament, for example by ensuring that the intent of lawmakers is translated accurately into proposed legislation or by allowing parliamentarians to adequately scrutinize security sector activities in alignment

with established good practices and standards. Efforts to build capacity by improving the knowledge of parliamentarians on core SSG/R principles, and to maintain this capacity over time, are therefore crucial to the ability of parliament to engage effectively in SSG. To that end, Parliaments should:

- **Engage actors and institutions not bound by term-limits in efforts to strengthen technical expertise.** A major challenge to capacity building is related to parliamentary

term-limits, which is further compounded in parliaments with high member turnover. To mitigate these limits and avoid institutional knowledge loss, capacity building programmes should include actors and institutions unrestrained by term-limits, such as parliamentary staff, in-house advisors and trainers, parliamentary academies, and external stakeholders like CSOs and academia. These stakeholders also feed new knowledge and ideas into the parliamentary process, expanding the available knowledge base from which parliamentarians can draw.

- **Utilize lessons-sharing** – both among parliamentarians and between former and current parliamentarians – to foster and deepen SSG/R knowledge and facilitate the consolidation and documentation of good practices. It may also be helpful to develop knowledge sharing between members of

parliaments operating in similar contexts, for instance by establishing regional platforms for exchange.

- **Tailor innovative and pragmatic approaches to the specific needs of parliamentarians.** This can offer applied knowledge with great practical value through interventions that align and integrate with the parliamentary calendar and legislative agenda, focus on building routine through technocratic means, and are mindful of the fact that many parliamentarians are currently working from home due to the pandemic. These interventions may seek to strengthen basic standard operating procedures in contexts marked by low levels of institutionalization, for example, or use role-playing exercises to meet the specific needs of parliamentary committee members.

Fostering a Culture of Oversight

To strengthen the role of parliament in SSG, the authority and ability of parliament must be strengthened as well; but parliamentarians must also be willing exercise that authority and ability in the context of SSG. Assistance programmes should therefore foster a culture of oversight by ensuring that all parliamentary dimensions (authority, ability, and attitude) are thoroughly addressed and given equal weight. International assistance mechanisms and parliaments alike must be aware that:

- **The politics of SSR matter**, especially in challenging environments. Where a political system fails to encourage or even disincentivizes efforts to strengthen parliament's role in SSG, this has a marked effect on parliamentary assistance programmes or interventions.
- **Culture follows structure, and structure follows culture.** Structural factors manifest in the legislative and institutional architecture in which parliamentarians operate, such as the legal framework or available channels of engagement between parliament and the security sector. This legal framework must be conducive to a culture of oversight and interventions should aim to build bridges and facilitate communication between parliamentarians and security sector actors, in part to raise awareness of the mutually beneficial outcomes of SSG. Moreover,

factors that inhibit a culture of oversight should be readily discarded. For instance, when parliamentarians face the threat of legal sanction for exercising their oversight responsibilities, this has an understandably chilling effect on the effective exercise of parliamentary power.

- **Inclusive multi-stakeholder approaches, such as joint activities involving parliamentarians and external actors from CSOs and academia, are effective at fostering a culture of oversight** by developing mutual trust and a common understanding of national security. These efforts raise awareness among relevant stakeholders of the benefits of good SSG. Engagement with CSOs and the media also has the potential to increase pressure on parliamentarians in a way that positively impacts their attitude vis-à-vis SSG, as their role and purpose in SSG is effectively communicated to constituents.



DCAF Geneva Centre
for Security Sector
Governance

DCAF Geneva Headquarters

P.O.Box 1360
CH-1211 Geneva 1
Switzerland

✉ info@dcaf.ch

☎ +41 (0) 22 730 9400

www.dcaf.ch

🐦 [@DCAF_Geneva](https://twitter.com/DCAF_Geneva)

