

14. Parliament

Key definitions: what role does parliament play in security?

Parliaments draft, amend and approve the laws that determine what the public and the nation expect of its security providers and how they will operate. But this is not their only means of influence: parliaments also represent the constituents' views on security in debate, raise awareness and inform the public of critical decision points, make critical budget decisions, and oversee the work of security providers directly. Parliaments may discuss or be asked to approve national security strategies, decisions on states of emergency, war, and peacemaking, as well as international treaties and alliances. Because plenary sessions are a space of public discussion, the speeches, debates and questions about security are important in making the public aware of important issues and developments. Since most systems provide some kind of legal immunity to representatives (e.g., parliamentary privilege, congressional or legislative immunity), plenary sessions of parliament can also become places where information about security is revealed that may not otherwise be made publicly available.

Parliaments also have the power to call ministers responsible for security policy, and sometimes officials of security institutions, to account for their decisions and performance. Journalists are essential to this process because the public is most likely to learn of these issues through their reporting; press galleries were designed to give journalists direct access to parliamentary sessions (although much of the substantive work of legislators often happens outside parliamentary chambers).

Parliaments also influence security through their authority to create laws and regulations, determine budgets, demand audits and oversee the workings of the security providers under special provisions, much of which takes place in specialized committees (or commissions). Specialized committees usually exist to deal with issues of defense, the armed forces, veterans' affairs, intelligence, police, prisons or justice among others. In a system where there is more than one chamber of parliament, there may be multiple committees dealing with the same issues or actors. Aspects of security also feature in the work of other parliamentary committees, such as budgets and appropriations, foreign affairs, national development, public health or education. Although the responsibility for managing security institutions belongs to executive authorities, parliaments can influence decisions about public and national security by withholding approval where they considered there is just ground to do so or to challenge executive policy. In some cases, parliaments can reallocate funds according to their priorities, or even launch their funding initiatives. To serve the public interest, parliamentarians should be elected, rather than appointed, and security sector personnel should not be sitting members of parliament.

Key issues for security sector reporting on parliament

The right laws? If the law does not reflect the values and operational realities in which security providers work, security officials will find themselves forced to choose between either upholding a bad law or acting against their values or missions. This happens often when human rights commitments are not adequately reflected in security sector legislation, and when the law is out of step with current administrative processes or changes to work or organization of security institutions. Around the world, many security providers operate under laws that have not been updated in years or decades. Parliaments are responsible for ensuring security sector legislation is working well, and for revising laws that may be outdated or no longer appropriate. If the laws that determine how the security sector works are causing problems in security provision or oversight, it is the responsibility of parliament to pass new and better laws. In some cases, the failure of parliaments to update legal frameworks reflects their weakness in a political system where they may only function as a rubber stamp for executive power. Even when parliaments are not beholden to the executive,

new legislation for the security sector will be worked out in consultation with the executive. This is because the executive leads the parliamentary agenda in a fusion of powers system, while also ensuring new laws avoid an executive veto in a separation of powers system. Moreover, security institutions can work with parliaments to consult on draft legislation that will best fit needs.

→ **Journalists can ask:**

- ✓ Do problems in security provision or policy stem from poorly made or outdated legislation?
- ✓ Is parliament aware of these issues and taking action to solve them?
- ✓ What is preventing security law reform projects from advancing?
- ✓ Is democratic civilian oversight across all relevant parts of government adequately provided for in law?
- ✓ Are human rights protections adequately included in security sector legislation?
- ✓ How do existing protections or exclusions affect people's experiences of security?
- ✓ Are there differences in the security and safety people are provided because of differences in legal status (e.g., due to gender, age, ethnicity, religion, migrant status or any other factor)?
- ✓ How are competing interests within the security sector reflected in new legislation?
- ✓ What plans are in place to implement new legislation and monitor impact and effectiveness?
- ✓ What have investigations or reports by independent oversight bodies, civil society or security experts revealed about the adequacy of existing laws?
- ✓ What is the experience of communities or individuals affected by specific aspects of security legislation?
- ✓ What are the views and experiences of security sector personnel in implementing current or past law and what does this suggest about the need for reform?

Active oversight? Parliamentary committees are responsible for ensuring that security providers are fulfilling their missions effectively, efficiently, and with positive benefits for the public and the nation. This means they may conduct detailed and thorough investigations into the way security providers work, or sometimes specific events (often scandals or instances of failure, or suspected abuse). They are usually equipped with legal powers that give them special access to information (including classified information) and can compel security sector actors to cooperate with their enquiries. The quality of oversight that committees provide depends on the powers the law provides for representatives but also their willingness to use it. The relationship with security providers is an important aspect: they should not hold seats in parliament, but they do need to work with respect for parliamentary authority which will be reflected in the degree of cooperation and openness they show in working with committees e.g., through testimonies and site visits.

→ **Journalists can ask:**

- ✓ What are security-relevant parliamentary committees working on and is their work serving the public interest?
- ✓ How is the work of security-relevant parliamentary committees politically influenced and how does this affect outcomes?
- ✓ What influence do special interests have over the work of parliament, e.g., foreign interests, or private sector lobbyists?

- ✓ Are parliamentary committee members and members of parliament asking the right questions in their work?
- ✓ Are parliamentary committee members and members of parliament using their powers in a way that is proactive and assertive?
- ✓ What measures are in place to strengthen the power and position of security-relevant committees that might lack power or motivation?
- ✓ Are security providers cooperating with parliamentary enquiries?
- ✓ Are security institutions providing all the access and information the law requires from them?
- ✓ Is the law limited or flawed in the powers it provides parliamentarians for investigating the security sector?
- ✓ What assessment of the quality of parliamentary security oversight do independent oversight bodies, civil society and security experts make?
- ✓ Are the public aware of, and do they understand the processes of parliamentary oversight of security?

Up to the task? For parliaments to provide effective oversight, representatives need to be well informed about the policy areas they are scrutinizing. Representatives serving in committees usually bring very little personal experience or understanding of security to their role, so they depend on staff to understand the issues at stake and the work of the security sector institutions under examination. Staff turnover (whether because of resource constraints or political changes) can undermine the effectiveness of committees. Lack of access to information and resources necessary for effective investigations might also undermine effectiveness. When staff are not up to the task of supporting representatives, parliamentary oversight can be compromised. Depending on the system, staff may be members of a professional public service who work for a committee and become subject area experts, or they may be generalists hired directly by representatives with the task of achieving that representative's legislative agenda. Understanding how the staff organization of parliament affects law making about security is a key first step for reporting on the role of parliament in shaping public safety and national security.

➔ **Journalists can ask:**

- ✓ How is parliamentary support for representatives organized and resourced?
- ✓ Are parliamentary staff sufficiently well trained, experienced, informed, paid and supported to provide expert support for parliamentarians on security matters?
- ✓ Are staff supporting enquiries affected by political bias?
- ✓ How are parliamentary staff decisions made?
- ✓ What use do parliamentary staff make of expert opinions outside government such as civil society or independent security experts?

Box 29 Practical example: “Australian federal police to be grilled over media raids when parliament returns”

In 2019, the Australian Federal Police raided the home of a Canberra journalist, and raided the Sydney offices of the Australian Broadcasting Corporation the following day. Further raids were cancelled in response to public outrage that followed reports of the operations. The Australian federal police were called before a parliamentary committee. The reporting surrounding this incident covered aspects of parliamentary oversight that potentially need to be strengthened, as well as the nature of secrecy laws and the use of police powers. This example shows how coverage of parliamentary scrutiny of the security sector can provide information that widens and deepens public knowledge of the security sector and discussion of its roles and powers.

Source: Australian federal police to be grilled over media raids when parliament returns”, June 2019, <https://www.theguardian.com/media/2019/jun/07/australian-federal-police-to-be-grilled-over-media-raids-when-parliament-returns>



Image: Southern Sudan
Legislative Assembly Speaker
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