
8. Institutions of democratic control and oversight

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INTRODUCTION

The fundamental premise underlying civil–military relations in democracies is that the military obeys legitimate orders passed by its civilian leaders. In that sense, conceptually, there is a principal–agent problem wherein the civilians are the principals, and the military are the agents (Feaver, 2003). Like all agency relationships, the main concerns pertain to control, oversight, and compliance. How do civilians ensure that the military faithfully implements their orders regarding tasks, missions, and other aspects of defence policies, when it is the military who has expertise in these areas? We argue that institutions of control and oversight are among the most important elements of democratic civilian control. They direct the military to take specific actions, monitor progress of said directives, and serve as a watchdog with the power to punish recalcitrant officials if necessary.

Studying institutions of control and oversight is important for several reasons. First, such institutions are central to upholding both the principle and practice of democratic civilian control. Analysing them therefore informs us about the quality of civilian control and, more broadly, about the strength of a democracy. Indeed, as we discuss later, strengthening institutions of control and oversight is a key feature of countries transitioning from authoritarian to democratic rule (Serra, 2010; Croissant et al., 2010). Second, institutions of control and, perhaps to a lesser extent, oversight, shape military power and almost all aspects of defence policies. They are the tools that civilians wield, if they so desire, to enhance the effectiveness and efficiency of the military and to decide its terms of engagement with society. Indeed, these institutions can shape almost all aspects of military sociology—from recruitment, training, and socialization, on the one hand, to gender policies and veteran care, on the other. Third, analysing institutions of control and oversight is also revealing in terms of public administration. It provides us with an opportunity to examine the functioning of different administrative agencies, such as ministries and financial audit agencies. Doing so provides insights into the effectiveness of these institutions.

This chapter proceeds as follows. It begins with a conceptual discussion on the civil–military relations and institutions of control and oversight. Thereafter, we briefly explore institutions of control and oversight in India—which is among the few post-colonial states with a history of firm and unchallenged civilian control over the armed forces. The penultimate section emphasizes some insights emerging from India’s experience. We conclude by identifying areas for future research.

CONTROL AND OVERSIGHT

In a democracy, what are the typical institutions of control and oversight over the military? Institutions of control are organizations with a specific mandate, either by law, administrative

rules or by norm, to direct the activities of the armed forces. This includes both direct administrative control as well as activities, like budgetary powers, which impose an element of indirect control over the military. Oversight, on the other hand, refers to institutions which supervise the functions of the military. To be sure, there can be significant overlap between these two functions and it is difficult to conceptually disaggregate these two terms. For instance, as part of its mandate to *control* the military, ministries of defence also *oversee* its activities. Nonetheless, there are certain agencies, like audit and legislative committees, whose sole function is oversight and therefore can be analysed as such. Later in this section, we analyse institutions that carry out both control and oversight functions and others that have only oversight authority. Within both these institutions, however, civilians and the military often disagree on the scope and the limits of civilian control. As described below, this ongoing and inconclusive debate complicates the functioning of institutions of both control and oversight.

Democratic control over the military is based on the premise that civilians have the prerogative to determine defence policies. Democratic control is different from civilian control as the former presupposes the existence of a democracy, whereas the latter is focused narrowly on control of the military by civilians (Kohn, 1997). Therefore, one could have civilian control without necessarily being a democracy, like in the single party states (China and Vietnam) or in authoritarian monarchies (Saudi Arabia and the United Arab Emirates). In both instances, however, theorists are divided on the line demarcating civilian and military domains. The question is whether civilians determine all aspects of defence policy—including those pertaining to military organizations and its operations—or do they defer to the military’s judgement on certain matters? Military officers, unsurprisingly, prefer to have institutional autonomy based on their experience and expertise. Theoretically, this adheres closely to what Samuel Huntington described as “objective civilian control” (Huntington, 1957). Such an approach is based on the premise that militaries—as professional organizations—are best able to manage matters pertaining to the use of force and that civilians have limited expertise to interfere in this domain. Intellectually, there are many theorists who are partial to this line of logic (Betts, 2009; Desch, 2011/12); however, the notion of objective control diminishes, or attaches limited value to, the idea of civilian oversight (Brooks, 2020).

Contrary to this Huntingtonian approach, other theorists believe that the notion of democratic civilian control gives politicians and bureaucrats the right to—if necessary—intervene in all aspects pertaining to the military. Peter Feaver (2011, p. 96) classifies such theorists, broadly, as those favouring intrusive civilian control, based on the premise that “civilian leaders [should] involve themselves more forcefully and directly in the business of war making, even to the extent of pressing military officers on matters that the military might consider as being squarely within their zone of professional autonomy”. This logic allows for greater civilian intervention into virtually all activities pertaining to the military. Unfortunately, there is no academic consensus on this, as theorists of civil–military relations are divided on the proper demarcation of civilian and military prerogatives.¹ This highlights the problems of delineating distinct and separate civil and military domains. As described by a former U.S. Chairman of the Joint Chiefs:

Military leaders generally believe that the less civilian oversight in the conduct of operations the better. Not surprisingly, civilian leaders generally believe that they should have whatever oversight they deem necessary ... Consequently, there can often be an unhelpful debate about what constitutes oversight and what constitutes micromanagement. (Dempsey, 2021, pp. 6–11)

This debate is not just of academic interest but has practical implications for the design and functioning of institutions of control and oversight. Proponents of civilian prerogative, for example, would prefer to empower institutions of control and oversight over the military. On the other hand, supporters of objective control would bolster the notion of military autonomy and limit institutions of civilian control and perhaps even oversight. Such debates and their institutional outcomes are unique to every country. The following describes institutions of control and oversight which are found in most democracies.

INSTITUTIONS OF CONTROL

As mentioned earlier, it can be difficult to distinguish control and oversight as separate or distinct functions in organizations that have either direct administrative or legislative powers. Indeed, control inherently requires oversight. For this chapter, however, we specifically identify two institutions which play perhaps the most important role in civilian control—the ministry of defence and the legislative branch.

Ministries of Defence

In a democracy, ministries of defence are singularly responsible for civilian control. It is the institution where civilians and the military meet on an everyday basis to deliberate upon almost all aspects of defence policy. Typically, defence ministries exercise administrative, procedural, and financial control over the armed forces. Despite their importance, however, ministries of defence are relatively understudied. There are a range of approaches that can be used to study the relations between the ministry and the military, including sociology, public administration, and history. From the perspective of institutional control, however, the three most important aspects are organizational structure, personnel, and its budgetary powers.²

Among the most important indicators of the functions of the ministry of defence is the administrative structure of the institution. This structure—best captured by its organization chart—provides not just information about its offices and functions, but also significantly determines its ability to exercise civilian control. For instance, does the ministry have offices which allow for crucial deliberations regarding the activities of the armed forces which can range from weapons acquisitions to war plans and doctrines, to foreign engagements as well as the training and handling of its personnel? By creating an organizational structure within the ministry to assess these issues, civilians can not only obtain decision-making control but also limit the military's veto options. Of course, sometimes organizational charts can also be mere bureaucratic shells and one must not presume that simply having such offices will automatically translate into strong civilian control. Instead, the pattern of civil–military relations could be shaped by other factors, including domestic politics and political interest. In France, for example, civil–military relations have been characterized as an “unstable equilibrium” with shifts in the balance of power between civilians and the military, which, in turn, are largely compartmentalized (Maire and Schmitt, 2022).

Another crucial aspect of civilian control pertains to the composition of the ministry, more specifically on whether it is staffed by civilians or military officers. An analysis of the personnel and the staffing pattern indicates its institutional capacity to exercise control. Simply put, if civilian officers serve in senior leadership positions in the ministry with decision-making

powers, then logically it gives them a greater ability to exercise civilian control. Once again, one should not assume that civilian staff automatically equates with greater civilian control as there can be instances wherein the loci of decision-making may reside within the military headquarters. In South Korea, for instance, despite greater ‘civilianization’ of the ministry, policymaking in critical areas—including formulation of defence strategies, weapons procurement, officer education, as well as joint plans and operations—are delegated to the military, which effectively reduces civilian control (Kim and Kuehn, 2022).

The powers of the ministry vis-à-vis the military are the third important aspect indicating civilian control. These powers include formal administrative or legal rules and norms. In almost all democracies, defence ministries exercise financial control over proposals and projects emanating from the military. Financial planning and budgetary control are therefore a key responsibility. In some countries, however, it is often the case that though the ministry may have formal powers, in practice, the military enjoys autonomy by obtaining agenda setting powers. In these cases, the military relies on the ‘information asymmetry’ inherent in civil–military relations—and the principal–agent relationship more broadly—to shape preferred policy outcomes in ways that are not always easy for the civilian principals to detect. In Indonesia, for instance, the military is able to “reinterpret” civilian guidance and carry out roles in a manner that suits institutional interests while effectively “overriding” both the intent of political leaders and legal constraints on their actions (Sebastian et al., 2018, p. 70). Institutionally, one can try to prevent such outcomes by creating an appropriate organizational structure that grants a more prominent role to civilians who possess a sufficient level of defence expertise to intellectually engage with the military (Bland, 1999; Schröder, 2006; Pion-Berlin and Martinez, 2017, pp. 214–15).

Legislative Control

The other institution which has the powers to control the military is the legislature. Again, like the ministry, legislatures have both control and oversight functions. In most democracies, legislatures are invested with law-making functions which give them considerable powers. Among scholars, however, “there is little agreement on how much of a role the legislature should play at different stages of the policy process and across the wide range of defense issues” (Giraldo, 2006, p. 39). In practice, there is wide variation in the powers exercised by legislatures across different countries.

Perhaps the most important legislative control is over decisions regarding the deployment and missions of the military. Some countries require legislative approval for employment of military force (Born et al., 2007; Peters and Wagner, 2011; Ostermann, 2017); however, there is wide variation in the use of such legislative powers. Among European democracies, parliament’s power to shape the executive’s use of military force ranges from “very strong” (Germany, Italy, and Hungary) to “very weak” (UK, France, Cyprus, and Greece) (Dieterich et al., 2010). At a more routine level, legislatures also exercise budgetary control over the military—approving the size of defence budget or debating and determining allocations for specific programmes. In addition, countries have different legislative systems with a unique approach to policy approvals for issues like the purchase of major weapons systems, the formulation of defence strategies, and personnel policies, all of which enhance legislative control. In the United States, for example, senior military officers need to be confirmed by the Senate and can be called to testify before the Congress. Westminster-style democracies

occupy a middle ground in that senior military officers are selected by the executive without parliamentary input, but parliamentary committees can call them to testify. On the other end of the spectrum are countries with weak to non-existent legislative control. In Indonesia, for example, the military still retains significant institutional autonomy vis-à-vis the legislature (Ng and Kurniawan, 2022).

INSTITUTIONS OF OVERSIGHT

From the perspective of civilian control, institutions of oversight are those organizations which have a remit to oversee the activities of the military and to ensure that they properly follow the instructions and guidance from their civilian masters. According to Bruneau and Matei (2008, p. 917), effective civilian control requires “not only the formal oversight mechanisms, and their staffing, in the executive, legislative, and judicial branches, but also the media, NGOs, and think tanks”. Following from that logic, this section begins by re-examining the legislature, but this time focusing on its oversight capability. Next, we examine other institutions of oversight including the judiciary, financial auditors, and organizations like the media, think tanks, and other non-governmental organizations (NGOs).

Conceptually, scholars have differentiated oversight mechanisms into active “police patrol” or reactive “fire alarm” strategies (McCubbins and Schwartz, 1984, pp. 165–79). The former is highly centralized and requires proactive, but routine, oversight, which consumes time and resources, whereas the latter is more reactive and is triggered after a problem has been brought to light by a decentralized range of actors including citizens, interest groups, and the media. Since “fire alarm” oversight is event driven, it is episodic and does not consume as much legislative time and attention (Balla and Deering, 2013). Building on this model, others have proposed that some countries, like Belgium and New Zealand, rely on a “community policing” approach to oversight—characterized by a partnership between civilians and the military (Lagassé and Saideman, 2019, pp. 20–40).

Legislative Oversight

As with the issue pertaining to control, powers of legislative oversight vary from country to country. Most democracies have some form of defence committee, which has the power to summon officials—both civilian and military—engage with experts, requisition documents, and obtain information to write publicly available reports. Such reports then inform public debates and thereby shape perceptions about the executive’s performance. However, the effectiveness of the committee system is dependent upon its scope, access to information, supporting staff, and its procedural powers.

- In terms of scope, it is important to examine the remit of legislative committees. The preferred approach is for committees to be singularly dedicated to examining defence issues whereas, in some cases, like in New Zealand and Norway, they are dual-tasked to also examine foreign affairs. The latter approach dilutes the focus on defence and is not conducive to effective legislative oversight (Auerswald et al., 2023, p. 8).
- Access to information, both ordinary and classified, as well as the ability to obtain documents and other kinds of data, is another important aspect facilitating legislative oversight.

In the defence realm, legislatures, “often face difficulties in understanding the vast and complex security sector, [in] getting relevant information and [in] assessing military data” (Born, 2010, p. 34). To overcome these difficulties, some countries—like Belgium—allow legislators to have access to classified information. On the other hand, legislative committees which do not have procedures for security clearances, handling secrets, or obtaining information from different bureaucracies, are hobbled in their functioning (Giraldo, 2006). The quality of support and research staff is a third issue which shapes legislative oversight. Since legislators are busy and usually lack subject matter expertise in military affairs, some countries have invested in support and research staff. Such staff, sometimes available to individual legislators and otherwise serving defence committees and subcommittees, once again vary from country to country. The United States has the most developed support and research staff with large budgets and personnel to serve the legislative branch. In other Western countries—like the UK and Ireland—the number of support and research staff is limited (Giraldo, 2006). In Japan, increased staff positions at the committee level have been found to enhance the oversight capabilities of its legislature (Hikotani, 2018).

- Lastly, though perhaps most critically, legislative oversight is shaped significantly by its procedural powers and that of its committees. For instance, the United States Congress has formal powers to conduct hearings, requisition information, and to force the executive to comply with its requests. It also has procedures to create ad hoc congressional commissions on specific topics which have significantly shaped defence policies (Tama, 2015). On the other hand, in parliamentary democracies—based on the Westminster model, elected officials may ask, very detailed, public questions which the ministries are duty bound to answer. Privileges of the House, however, prevent committees from being able to summon ministers—who are sitting Members of Parliament—to testify; they can only be ‘invited’. Many countries have Public Accounts Committees—which allows legislators to critically examine a bureaucracy or an issue—including those pertaining to the military. Conceptually, these represent different approaches, and philosophies of oversight and of legislative–executive relations. Parliamentary questions and routine congressional hearings, for instance, could indicate both a ‘police patrol’ and ‘fire-alarm’ approach to oversight whereas congressional committees or parliamentary inquiry committees created in response to specific events are examples of a ‘fire-alarm’ approach. Depending on the issue under examination, Public Accounts Committees can be a mix of both. In addition, partisan politics can shape the deliberations and outcomes of legislative oversight mechanisms (Auerswald et al., 2023).

Beyond structures and delegated powers, it is important to examine the background of legislators charged with oversight. Some of them may have experience in the military or have cultivated expertise which improves their capability to engage with key national security issues. Of course, this presupposes an intent to use such knowledge to enhance oversight. If the committees are staffed with former military officers intent on preserving or protecting the military’s institutional autonomy, then it undermines civilian control. Even when Russia was still considered a democracy, for example, it was characterized by weak legislative oversight with committees dominated by active or retired military officers (Betz, 2002).

To sum up, legislative oversight is a desirable concept, especially for democratic theorists, but is difficult in practice. Indeed, a cross-national study of 15 democracies found that only two—the United States and Germany—“lives up to the ideal type of an empowered legisla-

ture ... [and] most [other] legislatures lack the powers and willingness required to engage in serious oversight” (Auerswald et al., 2023, p. 7).

OVERSIGHT BY JUDICIAL, FISCAL, AND NON-GOVERNMENTAL AGENCIES

Apart from the legislature, there are other institutions in a democracy which have an oversight function, either through their charter or indirectly. In this section, we examine judicial, fiscal, and oversight exercised by non-governmental agencies like the media and NGOs. At a broader level, oversight mechanisms could include intelligence and domestic law enforcement agencies. Indeed, in some countries, intelligence agencies, police, and paramilitary forces can serve as watchdogs for the regime; however, this chapter focuses more narrowly on institutions that play a conventional oversight role.

In a democracy, an independent judiciary is an important institution of oversight over the executive. Depending on the cases brought before it, the judiciary also plays an oversight function over the military. Citizens can approach the courts for justice if they feel aggrieved against the military. Depending on the country-specific laws in place, citizen-soldiers can also approach civilian courts in cases they feel that the organization has wronged them. There is wide variance among countries, however, in the jurisdictions of military and civilian courts. According to Kyle and Reiter (2021), there are three distinct categories which best capture military subordination to civilian control in the legal domain—full subordination, jurisdictional contestation, and military overreach. Table 8.1 describes these categories, giving examples of each.

Table 8.1 Military subordination to civilian control

Category	Definition	Examples
Full subordination	“Military courts exercise legal power over their own personnel for the offenses necessary to maintain good order and discipline within the forces. In the event of disagreement between civilian and military authorities over a case, military authorities routinely cooperate by transferring cases and personnel to civilian jurisdiction”	Portugal, United States, Malaysia
Jurisdictional contestation	“Military courts have expanded jurisdiction over their personnel for nearly all crimes, including human rights abuses. In these systems, the supremacy of civilian courts is not guaranteed, militaries are routinely uncooperative with civilian authorities, and military courts serve as a shield of impunity”	Bangladesh, Indonesia, India
Military overreach	“Military courts have legal control over their own forces and extend their jurisdiction over civilians, putting them on trial for a broad array of offenses such as crimes against the state or violations of martial law regulations”	Pakistan, Brazil, Thailand

Source: Author’s compilation based on Kyle and Reiter (2021).

In countries with strong civilian control (i.e. categorized as full subordination or jurisdictional contestation, depending on the issue) militaries have to respond to the directives of civilian courts and adhere to the judicial process. In principle, this grants an oversight function to the judiciary and the powers of the judiciary vis-à-vis the military have been employed as a proxy measure for civilian control (Kyle and Reiter, 2012). Indeed, in countries like the UK, the military feels that it is under a “legal siege or encirclement” as all manner of issues, from human rights and conduct of military operations to personnel policies, come under judicial scrutiny (Self, 2022).

Another set of institutions that help in civilian oversight of the military are audit and financial accountability agencies. Most democracies have agencies such as a comptroller general or an auditor general empowered to audit the finances and performance of government organizations, including the military. The main focus of such audit agencies is on ensuring transparency, accountability, procedural integrity, and competency. Such oversight mechanisms are ‘police-patrols’ as they oversee the finances of various defence projects. In turn, the reports of these audit agencies help civilians to monitor and oversee the military. Once again—like with the judiciary—the presence of audit agencies, and their ability to monitor military expenditure, can serve as an indicator of the strength of civilian control. In the United States, United Kingdom, and other Western democracies, audit agencies are non-partisan, empowered entities which are able to obtain information from the military and publish periodic reports. On the other end of the spectrum, the state comptroller in Russia is often denied the most rudimentary information by its military and, even when it does publish reports, they are not acted upon by the legislature (Makarychev, 2013).

In addition, at a much broader level, there are other institutions that help in civilian oversight over the military. These include the media, think tanks, and certain NGOs. By exposing wrongdoings within the military as well as by them, the media can be a powerful watchdog, albeit one that mainly undertakes event-driven ‘fire-alarm’ oversight. There are innumerable instances across different countries where the media has played a key role in shaping civil–military relations and the tone and tenor of civilian control (Sammonds, 2001, pp. 213–27; Ulrich, 2011, pp. 86–100). In the United States, for example, critical media coverage has brought to light the misuse of public funds in the reconstruction of Iraq, the bribery of senior naval officials for logistics contracts in the ‘Fat Leonard’ case, and substandard provision of housing on military bases, among other recent episodes (Dowdy, 2019). The media is particularly important in countries where there are limited mechanisms for legislative oversight. For instance, in post-Maidan Ukraine (after 2014), the media played an important role in enforcing “societal oversight” over the military, forcing legislators to take an active role on a variety of defence issues (Puglisi, 2017, pp. 55–8).

Though not as powerful, think tanks and NGOs can also act as institutions of oversight. The former provides a forum, usually independent, for researchers to analyse military policies from a particular approach, ranging from human rights and accountability to transparency (Colli and Reykers, 2022, pp. 1–19). By focusing on a variety of subjects, both think tanks and NGOs add expertise to otherwise intricate aspects of defence policies, thereby providing informal civilian supervision of the military and enhancing the ability of legislators to fulfil their oversight duties. However, this is shaped significantly by the government’s willingness to share information.

To this point we have discussed conceptual issues underlying institutional control and oversight. In the following section, we illustrate some of the problems and facets associated

with these concepts by examining their functioning in India. This is an important case as India is among the few non-Western democracies with firm civilian control. Despite such a laudable achievement, as we argue, institutions of civilian control and oversight are largely under-developed, and the military retains considerable institutional autonomy. This has resulted in weaknesses in many areas, most prominently in joint operations, professional military education, and overall military effectiveness (Mukherjee, 2017, 2019).

INSTITUTIONS OF CONTROL AND OVERSIGHT IN INDIA

To better understand institutions of civilian control and oversight, we begin by analysing the Ministry of Defence (MoD). Next, we analyse the strengths and weaknesses of legislative control and oversight. Thereafter we examine judicial and fiscal supervision before turning attention to the role played by the media, NGOs, and think tanks.

Ministry of Defence

The MoD in India handles civil–military relations on a day-to-day basis and embodies civilian control. In many respects, the defence ministry is strong—obtaining procedural control over most aspects of defence policy. Indeed, the ministry has significant powers on matters pertaining to budgets, plans, weapons acquisitions, military promotions, and appointment of senior officers (Mukherjee, 2019). Moreover, until very recently, the ministry was staffed almost entirely by civilians. This is not in and of itself problematic—the US Pentagon has significant civilian staff—however, in India’s case many of the top bureaucrats are generalists who are rotated between ministries and possess little defence expertise (Cohen and Dasgupta, 2010). The rules of business, organizational design, and office procedures therefore symbolize strong civilian control. This combination of a civilian-dominated ministry, strict procedural control, and a lack of expertise caused considerable resentments within the military and perpetuates an unhealthy ‘us versus them’ sentiment (Prakash, 2014).

Despite strong procedural control, in practice the military possesses considerable autonomy over most of its professional activities. Hence, in matters pertaining to doctrines, force structures, operational plans, and force design, there is minimal civilian intervention or even guidance. For some, India represents a Huntingtonian ideal of “objective control”—characterized by civilian control and military autonomy and of a clear demarcation between the two (Rosen, 1996, p. 265). Others have, however, characterized ministry–military relations as an adversarial “depthless interaction” (Koithara, 2012, p. 184). This form of civilian control and oversight compromises on the effectiveness of the Indian military (Mukherjee, 2023).

Acknowledging aspects of these problems, the Modi government has undertaken wide-ranging defence reforms. In 2019, the government created the post of Chief of Defence Staff (CDS), fulfilling a long-pending institutional reform. Without such a post, the heads of the army, navy, and air force were co-equals which hindered efforts to develop joint approaches to warfighting as well as the ability to properly project the military’s institutional perspectives. The government concurrently created a Department of Military Affairs (DMA), to be headed by the CDS (Mukherjee, 2022). This DMA consists of both military and civilian officials and is designed to handle all military-related matters. Such an office may address issues accruing from a lack of civilian expertise; however, this may inadvertently empower

the military vis-à-vis civilians. Since the charter of the DMA includes activities pertaining to all three services, for example, the role and powers of civilian officials within the defence ministry on military-related issues stand diminished.

Legislative Control and Oversight

With the government structured on a Westminster-model, the Indian parliament exercises relatively weak influence over defence policy in comparison to a more potent legislature such as the US Congress. Formally, article 53 of the Indian constitution identifies the president as the commander-in-chief of the armed forces. In practice, however, decisions of war and peace effectively rest with the prime minister who acts with the consent of the Cabinet Committee on Security. The Indian parliament does not have an *ex ante* veto over decisions to deploy the armed forces. The structure of the Indian government provides significant autonomy and freedom of action to the executive, whereas parliament lacks the particular ability to curb the executive's behaviour that might be found in a system where powers are more separated. Insofar as a particular government cannot continue if it loses the confidence of the lower house (Lok Sabha), the opinions of its members on policy matters theoretically poses a constraint on the government (Nikolenyi, 2014). In practice, however, it is the executive who usually ends a parliament by calling fresh elections. As Thakur and Bannerjee (2003) contend, "while in principle the executive is subject to parliamentary control, in fact parliament is malleable to the executive's will" (p. 189). In India, as in many countries employing a Westminster-style system, parliamentary influence on the executive is not primarily demonstrated in the making of legislation or the allocation of budgets, but rather indirectly in the threat that debate and oversight could generate negative press (Franks, 1987).

Despite the constraints identified above, there are several avenues by which parliamentarians can try to exercise control and oversight on defence matters. Parliamentary committees can review budget proposals and pending legislation, providing comments to the government as well as suggestions for changes. Individual members can ask parliamentary questions which require the government to explain or defend its particular policy choices. MPs can also propose their own legislation on issues, though very few so-called private members bills have been passed in the history of the Lok Sabha.

A key mechanism by which the Indian parliament monitors the actions of government ministries is the committee system.³ The House formally sits for an average of 70 days a calendar year. Consequently, parliamentary committees—which function throughout the year—play an important role behind the scenes, helping compensate for the limited amount of time the legislature is in session. The Standing Committee on Defence contains 21 members from the lower house (Lok Sabha) and 10 members from the upper house (Rajya Sabha) nominated by the Speaker and the Chairman of those two chambers, respectively. All members serve a one-year term of office. The primary duty of the Standing Committee is to examine the government's budget proposals to ensure the MoD utilizes the resources allocated to it in an effective manner. Senior officials from the ministry are required to appear before the committee to explain the proposals and answer questions. When necessary, outside experts may also be drawn upon to provide independent assessments.

The committee's secondary function is to review draft legislation, but this is not an automatic undertaking. Discretion to refer a government bill for review lies with the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha, though they typically do so at the request

of the government minister under whose domain the legislation falls. Defence is typically subject to less legislation than other policy areas like Finance or Home Affairs. Between 1999 and 2019, just three bills were referred to the Standing Committee on defence for review: the Cantonments Bill, 2006, the Armed Forces Tribunal Bill, 2007, and the Armed Forces Tribunal (Amendment) Bill, 2012.

One of the great weaknesses of the Standing Committee system in India is the fact that when it comes to examinations of policy matters or reviews of a ministry's demand for grants, the recommendations that the committee makes are non-binding. The government is asked to implement the committee's suggestions or explain why it has declined to do so within three months. In turn, the committee publishes a yearly 'actions taken' report indicating which proposals have been put into action, which have not, and whether it accepts the government's justification for failing to implement the recommendations. Between 1999 and 2019, the Standing Committee on Defence tabled 2,718 recommendations to the MoD.⁴ Of these, 66.6 per cent were accepted by the ministry. In the cases where a ministry declined to adopt the committee's guidance, parliamentarians were satisfied with its reasoning for doing so in 5 per cent of cases, rejected the government's decision-making in 23 per cent of cases, while another 5 per cent of recommendations received no response. By comparison, long-term trends across all ministries indicates that 55 per cent of parliamentary recommendations are adopted, committees are satisfied with the government's reasoning for not doing so in 14 per cent of cases, rejected the government's failure to implement recommendations in 19 per cent of cases while 12 per cent of recommendations receive no response.⁵ Thus, defence would appear to be an area where parliamentary interventions achieve an above average rate of adoption and MPs are critical of the failure to adopt their suggestions.

The parliament also has other routine committees which have oversight functions—namely the Estimates Committee which examines ministries' utilization of funds and the Public Accounts Committees who reviews audits of the government's budget. Periodically both these committees have examined aspects of India's defence policy. These resemble routine police patrol oversight; however, there are also instances where the legislature conducts 'fire-alarm' oversight—typically responding to a news report. Most famously, in 1987, the parliament constituted an investigative Joint Parliamentary Committee to inquire into the Bofors artillery gun arms procurement scandal.

In order to render effective oversight of the armed forces and MoD, parliament must have expertise and resources at its disposal. Unfortunately, in India politicians are typically at a disadvantage vis-à-vis the military and civil service in terms of subject matter expertise. Moreover, there is little incentive to cultivate such knowledge. Most defence issues in India are believed to have relatively low levels of public salience; consequently, savvy politicians who wish to be re-elected will focus on the issues that are most important to their constituents, which tend to be local matters.⁶ In theory, committees provide an avenue for MPs to develop expertise in specific policy areas; however, in contrast to the UK where all committee members are appointed to their role for the full five-year duration of a parliament, the one-year committee appointments in India pose challenges for the cultivation of expertise and institutional memory.

The lack of individual expertise could be mitigated by experienced, long-serving staff members and specialized research support. Unlike the powerful committees of the US Congress or even their Canadian counterparts, committees in India do not have a permanent cadre of professional staff who possess deep subject matter expertise. Instead, committees can

only draw on the parliament's general support staff. In the absence of professional staffers and research support, parliamentarians can solicit outside input to support their investigations of policy issues, but there are no internal experts who can assess facts and adjudicate competing claims.

Beyond subject–matter expertise, parliamentarians also require the ability to access the people, places, documents, and information necessary to evaluate the workings of the MoD and armed forces. Although the Standing Committee on Defence can summon government representatives to attend their meetings, they cannot call the defence minister or any of the Service Chiefs. The defence secretary or vice-chiefs of the three services (army, air force, and navy) are the highest-ranking officials that can be called to appear. In effect, the senior-most civilian and military defence officials do not report to the parliament's oversight committee.

Given the asymmetry of information between the government and parliamentarians on security issues, in order to provide oversight, MPs are reliant on information provided by the very actors they are supposed to be regulating. Consequently, parliamentary attempts to supervise a specialized policy area like defence may sometimes be perceived as unwelcome meddling by those on the receiving end.

One method of obtaining information is parliamentary questions, which in the Indian Lok Sabha are formal queries about the government's activity. Members have the right to ask government ministers about any aspect of their portfolio and demand an official response either orally or in writing, justifying the government's policy or decision-making. By asking questions about the activities of the executive or the bureaucracy, MPs have an ability to publicly hold the government accountable. Obtaining detailed information necessary to monitor the actions of government agencies can also facilitate the detection of problems.

There are some who discount parliamentary questions as “weak” tools of oversight that are primarily “symbolic” in nature since they only ask for the government to respond, not take a substantive action (Otjes and Louwerse, 2018, p. 498). Even if the sanction is limited to negative publicity, forcing the government to comment on a specific issue calls attention to it and thus represents a form of oversight that is particularly valuable for opposition parties or coalition partners (Saalfeld, 2000; Höhmann and Sieberer, 2020). Criticism of the government's actions, whether through committee reports or parliamentary questions, can bring a degree of pressure to bear that leads the executive to prevent future failings.

Fiscal Oversight

Parliament is not the only public body charged with monitoring the performance of executive agencies. The office of the Comptroller and Auditor General (CAG) is responsible for auditing the expenditures of all government ministries and state governments as well as public bodies that receive large portions of their financing from government sources (Sharma and Kumar, 2018). The CAG's reviews of government spending and programme efficacy are a means of insisting on government accountability to parliament and the people. Empowered by constitutional provisions, the CAG of India is appointed by the president—on the advice of the prime minister—to oversee the operations of India's supreme audit institution and is neither part of the government nor parliament.

Audits by the CAG provide critical assessment of the MoD's performance. Once CAG reports are tabled in parliament, the institution makes a concerted effort to publicize its findings to the media and other stakeholders as well as academics and the broader public to

enhance the openness of government operations and increase accountability. This, in turn, allows an educated public discussion of national security issues and can bring pressure to bear on both politicians and bureaucrats to address faults that might not otherwise happen if the audit results are shrouded in secrecy. At various points in time, the MoD has objected to the fact that CAG reports are public. Since 2017, the current government has given in to the logic of this argument and has refused to upload CAG reports on its website, thereby making it difficult for researchers and preventing a public debate around defence policies. Their stated reasoning is that revealing deficiencies in India's military establishment could be beneficial to hostile nations like Pakistan or China, but sceptics suspect that the real reason is embarrassment at the public revelations of their shortcomings (Shukla, 2010). Outside observers have identified audit and accountability—including reports by the CAG—as one of the key reasons that the Indian military has remained “a functional and honest organization” (Shukla, 2010).

Judicial Oversight

As noted in Table 8.1, judicial oversight in India has been categorized as a case of “jurisdictional contestation” (Kyle and Reiter, 2021, p. 232). In these countries the military “have jurisdiction over their personnel for nearly all crimes, including human rights abuses ... [and] the supremacy of civilian courts is not guaranteed” (Kyle and Reiter, 2021, p. 49). Indeed, legislation such as the Armed Forces Special Powers Act—which empowers the armed forces to restore order in disturbed areas—restricts the ability of civilian courts to prosecute cases against members of the military deployed domestically unless the government grants explicit permission to do so.

With the Indian army frequently deployed domestically in support of civil authority, human rights issues in the north-east and Kashmir have attracted both domestic and international attention. Despite the proliferation of NGOs in India, human rights are an issue where civil society oversight of the armed forces is limited. This is best illustrated by the National Human Rights Commission (NHRC), the apex national body for the defence and advancement of human rights in India. Established by the 1993 Protection of Human Rights Act, the NHRC is an independent investigatory and advisory body that reports to parliament. In probing allegations of governmental violations of human rights or carelessness leading to the same, the commission can demand official documents, summon witnesses, intervene in judicial proceedings and, upon reaching a determination, recommend compensation to victims.

When it comes to questions of human rights abuses by the armed forces, however, the NHRC has several limitations. The general weakness of the commission is the fact that it can only issue recommendations and present reports for consideration in parliament. It has no power to compel the enactment of its proposals. More specifically, however, under the terms of the Protection of Human Rights Act, the commission is specifically prohibited from investigating allegations of human rights abuses by members of the armed forces. Instead, the NHRC can only ask the government to scrutinize such allegations and then comment on the resulting report. As the office of the UN High Commissioner for Human Rights notes, “in nearly three decades that the law has been in force in Jammu and Kashmir, there has not been a single prosecution of armed forces personnel granted by the central government” (Office of UNHCR, 2019, p. 4).

Nonetheless, the Indian Supreme Court is also a powerful institution which frequently adjudicates all types of policy matters pertaining to the military—including personnel and on

broader aspects of defence policy. The military mainly invokes impunity to shield its personnel from jurisdictional actions in insurgency-affected areas; however, military officers can be arrested, tried in civilian courts, and even sentenced to prison for criminal offences. In short, there is a continuous and ongoing tussle between the civilian courts and the military over jurisdiction and oversight.

Oversight by Media, Think Tanks, and NGOs

As with other democracies, India also has a host of media outlets, think tanks, and other NGOs that act as institutions of oversight. Most prominently the media has historically brought to light instances of corruption and other wrongdoing, forcing the military to institute corrective actions. For instance, in 2010, the media broke the story on senior military and civilian officials misappropriating housing meant for war-widows—which led to considerable embarrassment and a subsequent police investigation. This episode—referred to as the Adarsh Housing scandal—led to the censure and arrests of senior officers and had a salutary effect on the military community. In addition, there are a number of governmental and non-governmental think tanks which house experts on defence policies. Their research and media interventions act as an informal oversight mechanism on the defence sector, forcing officials to respond to the issues raised by these think tanks. In contrast, NGOs have had a very difficult experience—especially those working in the defence and security arena. In recent times, they have faced greater obstacles as the current government has denied funding to many NGOs citing secrecy concerns and amidst suspicions over sources of funding and ‘foreign’ agendas. For instance, in 2020, Amnesty India, which had established its offices in 1966, halted its operations in India after its bank accounts were frozen by the government. In short, due to governmental policies, NGOs are not as effective in assuming oversight responsibilities in the defence and security realm in India as they may perhaps be in other countries.

CONCLUSION

This chapter examines civil–military relations through the prism of institutions of control and oversight. For the main part, it focuses on facets of civilian control pertaining to the MoD and the legislature. In addition, it also discusses other institutions including the judiciary, audit agencies, and the media—and their role as oversight agencies. Apart from a conceptual discussion, the chapter also provides a brief overview of how such institutions work in India. Despite being a ‘mature democracy’, defined as one where civilian control has never been threatened, its institutions of control and oversight suffer from a range of infirmities that largely stem from a lack of civilian expertise which is exacerbated by the design of institutions in a manner that does not correct for this deficiency.

The discussion in this chapter suggests several areas for future research. First of all, there remains a need for further comparative study of defence ministries and legislatures across different categories of democracies and the ways in which they do or do not exercise control and oversight. A second area for examination is the role of civilian expertise: how it can be created and sustained, as well as its importance in exercise of civilian control. Finally, there could be in-depth single-country studies on the functioning of such institutions of control and oversight in different political systems. This chapter focuses mainly on democracies although institu-

tions of control and oversight may exist in other forms with other priorities (coup-proofing) in authoritarian and single-party states. Such institutions in non-democracies could also be an area for further research. In sum, institutions of control and oversight offer a rich field of study for the future.

NOTES

1. For a good account of this divide between military and civilian prerogatives, see Tier (2021, pp. 157–64). Feaver previously termed this as a divide between the professional and civilian “supremacists”: see Feaver (2011, pp. 89–97).
2. For more on the importance of the Ministry of Defence and its institutional ability to obtain civilian control, see Mukherjee and Pion-Berlin (2022, pp. 787–90). Also see Bruneau and Goetze (2006).
3. For a good overview of the committee system in the Indian parliament, see Sen (2022, pp. 179–209).
4. Data collected from various annual review reports for the Departmentally Related Standing Committees at http://loksabha.nic.in/Committee/Summary_of_work.aspx?type=Dep&tab=5.
5. These figures cover the period from April 1993 to February 2009: Shimla (2013, p. 111). During the 15th Lok Sabha (May 2009 to May 2014), 54 per cent of parliamentary recommendations were adopted, committees were satisfied with the government’s reasoning for not doing so in 13 per cent of cases, rejected the government’s failure to implement recommendations in 21 per cent of cases, while 12 per cent of recommendations received no response: Madhavan (2017), <https://www.thehindubusinessline.com/opinion/columns/strengthening-indias-miniparlaments/article9898334.ece>.
6. MPs in India with a strong electoral performance are also more likely to be selected as cabinet ministers: Ladwig (2020, p. 471).

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