

# Who is Policing the Police? – The Role of Parliament in Police Governance in Asia and Europe\*

Mario J. Aguja and Hans Born

**Abstract:** The objective of this article is to explore the role of parliament in police governance in selected countries in Asia and Europe, including Belgium, Germany, India, Indonesia, the Netherlands, the Philippines, Thailand and the United Kingdom. Based on a comparative framework of analysis, the country case studies demonstrate that parliaments apply their generic functions to the police, including the legislative, budget control and oversight function. Furthermore, parliaments in all case studies have a dedicated committee or sub-committee dealing with police affairs, endowed with subpoena and contempt powers to compel government and police officers to appear before committee meetings and to submit required documents. In addition, for police to be fully accountable, parliaments have legislated and set up independent oversight bodies, including independent police complaints bodies, ombudspersons and national human rights institutions as well as anti-corruption/financial audit bodies and data-protection commissioners.

**Keywords:** security sector governance, police, parliament

**Stichwörter:** Governance des Sicherheitssektors, Polizei, Parlament

## 1. Introduction

As the primary agency for law enforcement, the police operate at close proximity to the public and exert significant influence over the security of individuals and communities through its behaviours and performance. Therefore, ensuring accountability of both the individuals and institutions of the police is a fundamental condition for good governance of the security sector in democratic societies.<sup>1</sup> The parliament, as the highest representative body in a democratic system, and its committees play a significant role in maintaining police accountability. This has been emphasised in international and regional conventions and codes of conduct.<sup>2</sup> Indeed, in many countries, parliaments apply their generic functions of law-making, budget control and oversight to the organisation and functioning of the police. While parliament is not the only external accountability mechanism, outside the executive and outside the police, it is one of the most important institutions for ensuring public accountability of the police.

Despite the recognition of the importance of the role of parliament in police governance, this topic has received little attention in academic studies, and only a few scholarly articles briefly explore police accountability to parliament. This article aims to contribute to filling the knowledge gap by exploring the role of parliament in police governance in Asia and Europe. The next section will provide a brief overview of the literature on the

role of parliaments in police governance. This is followed by the development of a comparative framework of analysis, based on the three primary generic functions of parliament (legislative, budget control, oversight), which – in the main section of this article – will be used for a comparative across-case analysis of a sample of eight country case studies, four each from Asia and Europe.<sup>3</sup> The article concludes with a brief presentation of the main lessons learned from this study.

## 2. Conceptualizing the role of parliament in police governance

Police governance involves actors across multiple layers of the democratic system, including first the police itself, as well as executive, judicial and legislative bodies and independent oversight bodies.<sup>4</sup> While various other actors tasked with the management or oversight of the police have received attention in the literature, only a few publications discuss parliamentary oversight and focus on its particular role regarding the police. The IPU-DCAF Handbook on Parliamentary Oversight of the Security Sector offers practical guidelines for parliamentary oversight of the security sector, and allocates a few pages to further introduce practical instruments and tools for parliamentarians.<sup>5</sup> Gareth (2006) presents an overview of the parliamentary oversight committees and their roles, followed by a case study of Policy Integrity Commission and its role in police accountability in Australia.<sup>6</sup>

\* This article draws on the empirical results of a mapping study on the role of parliament in police governance, carried out in the framework of a EU-mandated project “Support to Reform of the Myanmar Police Force” – See M. J. Aguja and H. Born (eds.), *The Role of Parliament in Police Governance: Lessons Learned from Asia and Europe*, DCAF, Geneva, 2017 (forthcoming).

1 Geneva Centre for the Democratic Control of Armed Forces, *The Police*, SSR Backgrounder Series, DCAF, Geneva, 2015, p. 1.  
2 United Nations, *Code of Conduct for Law Enforcement Officials*, Adopted by General Assembly Resolution 34/169, 17 December 1979; Council of Europe, *European Codes of Conducts for Public Officials*, Resolution No. R (2000) 10 of the Council of Ministers to Member States, Adopted by the Committee of Ministers at its 106th Session on 11 May 2000; Council of Europe, *European Code of Police Ethics*, Recommendation Rec(2001)10 adopted by the Committee of Ministers of the Council of Europe on 19 September 2001; Organization for Security and Co-operation in Europe, 1994, *Code of Conduct on Politico-Military Aspects of Security*, adopted at the 91st Plenary Meeting of the Special Committee of the CSCE Forum for Security Co-operation in Budapest on 3 December 1994.

3 Belgium, Germany, India, Indonesia, Netherlands, Philippines, Thailand and United Kingdom.  
4 OSCE, *Guidebook on Democratic Policing*, OSCE, Vienna, 2008; Council of Europe, *European Code of Police Ethics*, 2001, paras. 16 and 5; Cheung, Jocelyn, “Police accountability” *Police Journal*, vol. 78, 2005, and Commonwealth Human Rights Initiative, *Police Accountability: Too important to neglect, too urgent to delay*, New Delhi, Commonwealth Human Rights Initiative, 2005, p. 20; Osse, Anneke. *Understanding policing: A resource for human rights activists*, Amnesty International Nederland, 2006.  
5 Born, Hans, Philipp Fluri, and Anders Johnsson, *Handbook on Parliamentary Oversight of the Security Sector*, IPU-DCAF, Geneva, 2003.  
6 Griffith, Gareth, “Parliament and accountability: the role of parliamentary oversight committees, Paper from the 2005 ASPG Annual Conference: Parliament and Accountability in the 21st Century: The Role of Parliamentary Oversight Committees,” *Australasian Parliamentary Review* 21, no. 1 (2006): pp. 32-3.

Some policing scholars study the role of the parliament within the framework of police accountability. Caparini and Marenin introduce the role of parliament in police accountability as “passing laws that regulates the police and their power, as well as parliamentary ombudspersons or commissions who may launch investigations into complains by the public.”<sup>7</sup> Den Boer and Fernhout present various models of parliamentary oversight of the police in several European countries.<sup>8</sup> Punch discusses the police’s use of fatal force and accountability issues, and argues for a more robust role of parliament in policing the police. In this context, Punch highlights the demarcation line between the professional autonomy of the police for operational decision-making and the rights and powers of the executive and legislature within a democracy. In the context of the police’s use of force and firearms, he pleads for close parliamentary scrutiny, while not exposing operational policing to political interference.<sup>9</sup> The demarcation line between professional autonomy of the police and accountability to political institutions is also highlighted in the Patten Report on the role of policing in Northern Ireland, which states that: “[i]n a democratic society, all public officials must be fully accountable to the institutions of that society for the due performance of their functions, and a chief of police cannot be an exception. No public official, including a chief of police, can be said to be ‘independent’.”<sup>10</sup>

The Commonwealth Human Rights Initiative and United Nations Office on Drugs and Crime (UNODC) Handbook on Police Accountability each allocate a short chapter for police accountability to parliament. They emphasise parliament’s legislative, budgetary and oversight powers, as well as the role of parliamentary committees in ensuring police accountability.<sup>11</sup> In particular, in the context of the legislative function, the UNODC publication underlines parliament’s role to oversee that (inter)national human rights principles are included in national police laws as these human rights principles set limits on the action of the police in their exercise of coercive powers and also provide parameters for complaints against abuse of power by the police. Furthermore, the UNODC Handbook gives guidelines for elements to be included in the legal framework of the police including the mandate, powers, organisation and accountability of the police. In addition, the UNODC Handbook points out that effective parliamentary oversight over the police is contingent on the knowledge of parliaments not only of the police but also how they can apply their powers and tool to policing. Furthermore, members of parliament need to develop their own expertise and sources

of information in order not to be depending on information given by the government and the police.<sup>12</sup>

Lastly, the journal *Police Practice and Research* published a special issue in 2013 on the subject of civilian oversight over police. While the editors of this special issue acknowledge that oversight of the police, in terms of external scrutiny and judgement, can be conducted by various institutions, including the courts, parliaments, financial auditors, and human rights organisations, most of the attention in the volume is given to civilian oversight in the sense of citizen oversight or external oversight as carried out by oversight agencies such as an ombudspersons, commission, office, authority or citizen review board. While no systematic attention was given to the role of parliament in police governance, it transpires that parliament plays an important role in legislating, supervising and evaluating these special police oversight and complaints bodies, as is the case in the United Kingdom (UK).<sup>13</sup> In the cases of Canada and South Africa, parliaments decide on the remit and powers of police complaints bodies through the enactment of legislation.<sup>14</sup> In New Zealand, the annual reports of the police oversight body are presented to parliament.<sup>15</sup> Therefore, it can be concluded that in many countries parliament has defined the mandate, powers, functioning and accountability of police oversight and complaints bodies.

### 3. A comparative framework of analysis

Based on the brief literature overview, parliaments fulfil three generic functions in the governance of the police, i.e. legislative function, budget control function and oversight function. While not every parliament performs these functions in the same way, the table below gives an indicative overview of these functions in relation to police governance (Table 1), which will be addressed in the country case studies in the next section.

In most countries, parliaments have set up special committees or sub-committees to deal with police affairs and exercise the functions mentioned above. Apart from the plenary, the committee system, including staff support, is the most important institutional arrangement for parliament to perform these functions. Various types of committees that are relevant for police governance can be distinguished:

- committees with a broad mandate, for example, bills, public accounts, foreign affairs, justice, and human rights;
- committees broadly covering the security sector, for example, security policy, and defence and security; and
- committees specifically covering the police.

7 Caparini, Marina, and Otwin Marenin, “Transforming Police in Central and Eastern Europe,” *Process and Progress*, Münster (2004), pp. 5-9.

8 Boer, den Monika., and Roel Fernhout, *Policing the Police – Police Oversight Mechanisms in Europe: Towards a Comparative Overview of Ombudsmen and Their Competencies* (2014).

9 Punch, Maurice, *Shoot to Kill: Exploring Police Use of Firearms*, Bristol, Policy, 2010.

10 The Report of the Independent Commission on Policing for Northern Ireland, *A new Beginning: Policing in Northern Ireland*. (“Pattern Report”) 1999, p. 32, <http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf>

11 United Nations Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity*, Criminal Justice Handbook Series, UNODC, Vienna, 2011, pp. 93-6; Commonwealth Human Rights Initiative, *Police Accountability: Too important to neglect, too urgent to delay*, New Delhi, Commonwealth Human Rights Initiative, 2005.

12 United Nations Office on Drugs and Crime (UNODC), *Handbook on police accountability, oversight and integrity*, Criminal Justice Handbook Series, UNODC, Vienna, 2011, pp. 93-94.

13 Graham Smith, ‘Oversight of the police and residual complaints dilemmas: independence, effectiveness and accountability deficits in the United Kingdom’, *Police practice and research*, 2013, vol. 14, no. 2, pp. 92-103.

14 Frank V. Ferdik, Jeff Rojek and Geoffrey P. Alpert, ‘Citizen oversight in the United States and Canada an overview’, *Police practice and research*, 2013, vol. 14, no. 2, p. 108; Julie Berg, ‘Civilian oversight of police in South Africa: from the ICD to the IPID’, *Police practice and research*, 2013, vol. 14, no. 2, p. 145.

15 Garth den Heyer and Alan Beckley, ‘Police independent oversight in Australia and New Zealand’, *Police practice and research*, 2013, vol. 14, no. 2.

Table 1: Parliament's functions in police governance

Parliament's generic functions in police governance	Description of activities
Legislative function	<ul style="list-style-type: none"> <li>■ Reviewing the comprehensiveness of the legal framework relevant to the police;</li> <li>■ Enacting and amending laws relevant to the police, including police service laws, legislation on the authorization and use of special powers by the police, states of emergency laws, riot control and crowd management; and</li> <li>■ Legislating the remit, powers and accountability of police oversight and independent complaints bodies.</li> </ul>
Budget control function	<ul style="list-style-type: none"> <li>■ Approving, rejecting or amending the budget of the police service;</li> <li>■ Scrutinising the effects of changes of government funding for the police;</li> <li>■ Scrutinising the effectiveness and efficiency of the police and if the police is properly funded; and</li> <li>■ Receiving and reviewing audit reports on the expenditures of the police.</li> </ul>
Oversight function	<ul style="list-style-type: none"> <li>■ Conducting parliamentary oversight of the following aspects of the police: police vision, doctrine, government white paper on the police; organisation and size of the police; and the authorisation and use of special powers;</li> <li>■ Scrutinising top appointments within the police service;</li> <li>■ Scrutinising the rules of engagement of the police, especially the use of force and fire arms; and</li> <li>■ Conducting special parliamentary inquiries into policing and oversight of police reform projects.</li> </ul>

Typically, the laws and/or rules of procedure of parliament or of these committees specifically would regulate the mandate, powers, chair, membership and procedures. They would answer the following questions: What is the mandate of the parliamentary committee/s dealing with police affairs? Who and how are the chair and members appointed? Do committee members have access to classified information? How are visits to police stations organised? To what extent, and how, can the committee rely on dedicated staff? Is the committee entitled to receive complaints from the public? Are committee meetings open or closed?

In addition to the generic functions of parliaments concerning police governance, as well as the committee as the primary institutional arrangement in parliaments to carry out those functions, it is important to address the relationship between parliaments and other oversight institutions. As mentioned, in many countries, parliaments play an important role in legislating, supervising and evaluating other oversight bodies, including police oversight and complaints bodies, ombudspersons institutions and human rights committees.

#### 4. A comparative analysis of the role of parliament in police governance

What is the role of parliaments in police governance? This section will provide a comparative analysis based on a sample of eight country case studies. The focus will be on the application of parliaments' three generic functions on police governance –

as set out in the comparative framework above – as well as the role of parliamentary committees dealing with police affairs.

The countries covered by the case studies are from different geographic regions (Western Europe, South and Southeast Asia), with different historical, legal and political backgrounds.<sup>16</sup> Concepts and practices of police governance do exist in all countries, and in all cases, parliaments do play a role in police governance, however, these need to be carefully assessed against the backdrop of specific contexts. Table 2 gives an overview of the rather wide variety of states from Asia and Europe that are included in the sample. Some notable contextual factors are: the centralised/decentralised structure of the state and the police; the nature of the political system; the structure of parliament; and the recent history of democratisation of the state.

Table 2: Contextual factors influencing the role of parliament in police governance

Country	Continent	Centralised/decentralised state structure	Political system	Structure of Parliament	Recent history of democratisation (after 1945)
Belgium	Europe	Federal	Parliamentary	Bi-cameral	
Germany	Europe	Federal	Parliamentary	bi-cameral	Constitution 1949; unification in 1990
India	Asia	Federal	Parliamentary	Bi-cameral	Independence in 1947
Indonesia	Asia	Centralised	Presidential	Bi-cameral	'Reformasi' in 1998
Netherlands	Europe	Centralised	Parliamentary	Bi-cameral	
Philippines	Asia	Centralised	Presidential	Bi-cameral	1986 People Power Revolution
Thailand	Asia	Centralised	Parliamentary	Bi-cameral	Latest military coup in 2014
United Kingdom	Europe	Mixed	Parliamentary	Bi-cameral	

As mentioned above, this study forms part of the wider EU project to support the reform of the police in Myanmar, including its accountability to parliament. The different case studies were carefully selected as a result of a number of considerations: geographical balance, since Myanmar looks for models in the West and East, as it grapples with the challenges of reforming

<sup>16</sup> For each country case study, a local expert conducted field research and analysis on the basis of a terms of reference, which was uniformly applied to all case studies: Belgium (Marleen Easton, Jeffrey Vincent, and Arne Dormaels), Germany (Hartmut Aden), the Netherlands (Peter Dillingh), the United Kingdom (Vic Hogg), India (Arvind Verma), Indonesia (Aditya Batara Gunawan), the Philippines (Mario J. Aguja), and Thailand (Srisombat Chokprajakchat). The authors examined the role of parliament in police governance regarding the legislative, budget control and oversight functions as well as the relevant parliamentary committees. The country case studies were authored in 2014 and will be published in Born, H. and M.J. Aguja, *Role of Parliament in Police Governance: Lessons Learned from Asia and Europe*, DCAF, Geneva, 2017 (forthcoming).

its own security sector and strengthening its own parliament. As a member of ASEAN, it is important that lessons from its neighbours, such as Indonesia, the Philippines and Thailand, are included, as police institutions in the region interact with each other. It is also **partly historical**. As a former British colony governed via India, the progress on police governance in the UK and India is an important input for Myanmar whose social institutions continue to have an imprint of its colonial past. Most of the current, though antiquated, police laws in Myanmar were crafted during colonial times. Furthermore, as part of an EU project, it is but equally important to include cases from EU member states. Finally, it was considered to be useful that the country case studies include centralised and federal state structures as well as parliamentary and presidential political systems as this might influence the role of parliament in the governance of the police.

#### 4.1 The legislative function

All the case studies demonstrate that parliaments exercise wide latitude of legislative powers. With specific reference to the police, parliaments provide for an updated legal framework. Such updating aims to address issues relating to decentralisation and deconcentration (as in the cases of **Belgium** and the **United Kingdom**), or demilitarisation/democratisation as in the case of the **Philippines**, **Indonesia**, or nationalization of the police as is the case in the **Netherlands**. Current legislation governing the police go beyond the structure, qualification and promotions, ranks, retirement, etc. of the police. New laws introduce accountability mechanisms such as complaint bodies, internal affairs units, and roles of local elective officials in the governance of the police. While formally parliaments have the constitutional right to initiate and table legislation, in most cases, the executive prepares the draft law which is sent to parliament for deliberation and approval. Nevertheless, while the initiative in most cases is not coming from parliament, this latter does have the final say on the mandate, structure as well as organisational model of the police service. Table 3 gives an overview of key laws enacted by parliament in the context of police accountability.

In various case studies, authors have cited the growing interest on demilitarisation/democratisation, creation of a national police, community policing, and decentralisation as reasons for the updating of legal frameworks governing the police. This is a response to the growing public clamour to make the police service increasingly accountable, especially to the locally elected authorities, while simultaneously addressing the need for efficient and effective policing. The different studies show that, aside from addressing police organisations, parliaments are equally preoccupied with passing legal measures that strengthen police accountability mechanisms through the creation of independent police oversight bodies, mandated to receive and investigate complaints of members of public concerning the police. These independent bodies, including dedicated police oversight bodies, national ombudspersons, data protection commissioners and anti-corruption bodies, are set up by parliaments in all eight countries of the sample.

Table 3: Legislative function of parliament and police governance (2014)

Country	Examples of legislation related to the police	Remarks
Belgium	Police Reform Law 1998	To strengthen the decentralisation of the police
Germany	Various detailed laws pertinent to policing at federal and state level	No tradition of independent oversight bodies; oversight of the police by federal and state level parliaments
India	Police Act V 1861	Legal framework of colonial period defines the organisation, functions and powers of the police
Indonesia	Law no. 2/2002	Establishment of a civilian police, which is separate from the military and under supervision of the president
Netherlands	Police Act 2012	Creation of a (centralised) national police service
Philippines	Police Law 1990	Introduction of a civilian police under civilian supervision, including citizen's complaints bodies for the police
Thailand	Royal Thai Police Act of 2004	Defining organisation, powers and accountability of the police
United Kingdom	Police Reform and Social Responsibility Act 2011	Making police services accountable to elected police and crime Commissioners

#### 4.2 The budget control function

All case studies highlight the important role played by parliaments in passing the national budget, including that of the police. Table 4 gives an overview of selected examples of the parliaments' budget control function in police affairs. It scrutinizes the proposed budget and eventually passes it. It is apparent in all case studies that members of parliament have full access to budgetary information, including analysis of the proposed budget as prepared by their respective in-house think-tank (i.e. Bureau of Research of the Parliament of the **Netherlands** or the Congressional Policy and Research Department for the **Philippines**).

Two case studies mention the existence of extra-treasury budgets of the police. In the **United Kingdom** case study, Hogg noted the different sources of funding for the police. One source is from the Home Office and the Department for Communities and local Government (or Welsh Assembly in the case of the four police services in Wales). There are also locally sourced funds from a proportion of Council Tax known as the "police precept", which is estimated to represent 14 to 20 per cent of the central funding. In addition to the sources of income of the police, the author details further sources from the PCCs from charges for the policing of commercial events (e.g. sporting and entertainment events) and from investments. In 2013/14, Hogg reported that the ratio of central to local funding is roughly 75 to 25 per cent respectively. The author raised no issues related to off treasury budget of the police, for example, charges for

policing commercial events and locally sourced funds (“police precept” which is a proportion of the Council Tax).

In **Indonesia**, despite the parliamentary power over the budget of the ministries, parliament remains weak in terms of controlling the non-tax revenue usage of the police. Government Decree No. 31/2004 authorized the police to use up to 90 per cent of certain non-tax revenues, such as driving license and car license registrations, driving courses, criminal record letters and arms ownership licenses to support its operation. The non-tax revenues of the Indonesian police are not without its share of controversies, as the case study revealed. In 2011, the Indonesian media reported that the police received USD 71.9 million from PT Freeport Indonesia for its services in providing security for the port. In 2012, the Corruption Eradication Commission arrested a top-ranking police chief of traffic for corruption. It was discovered that the money was sourced from the revenues of the driving simulator.

Table 4: Budget control function of parliament and police governance (2014)

Country	Budget control function (selected examples)
Belgium	Court of Audit provides external review of police budget and reports to Parliament
Germany	Parliament’s influence to amend the budget is limited as the majority in parliament (represented in government) will rarely act against the government proposals
India	Comptroller and Auditor General audits police budgets at different levels of government and reports to Parliament
Indonesia	Weak parliamentary control over non-tax revenues of the police; media plays an important role in revealing police corruption
Netherlands	Parliamentary Bureau of Research supports budget control through analysing and assessing police budgets; Court of Audit verifies the police accounts and reports to Parliament
Philippines	Congressional Policy and Research Department provides budget analyses for Congress Members; The Commission on Audit submits its audit report, including that of the police, to Congress annually.
Thailand	–
United Kingdom	National Audit Office scrutinises public spending (including the police) on behalf of parliament; The police is funded by local and central government, as well as charges of policing of commercial events (e.g. sport or entertainment events).

### 4.3 The oversight function of parliament

All case studies show that oversight functions or the power of inquiries are inherently exercised by parliaments, albeit with variations of the mechanisms and intensities and thus with differing levels of effectiveness. Table 5 gives an overview of practices of parliamentary oversight of the police in the eight case studies. Inquiries are exercised either in the plenary or via the committees. Members of parliament could raise matters of public concern during parliamentary question hours, either in writing or orally (as in the case of the **United Kingdom**), when a concerned minister may respond to queries. However, the most dominant expression of the power of inquiry/oversight

is exercised by the committee system through a select/standing committee or commission that existed in all case studies.

In the case of the **United Kingdom, the Netherlands, Belgium, Germany, Indonesia, the Philippines, and Thailand**, parliamentary inquiries are open to the public. In fact, the case study authors of **India, Netherlands, the Philippines and the United Kingdom** mentioned that the inquiries are broadcasted live on television and/or recorded on video unless the committee members agree to keep inquiry meetings behind closed doors due to justified reasons. In the case of the Philippines, congressional proceedings including inquiries, as a general rule, are open to the public except when the President requests that it be held in an executive session or when the committee determines that national security necessitates that it be held *in camera*.

Table 5: Oversight function of parliament and police governance (2014)

Country	Oversight function (selected examples)
Belgium	<ul style="list-style-type: none"> <li>■ Parliamentary committee conduct field visits, fact finding missions</li> <li>■ Parliamentary inquiries are public</li> <li>■ Parliamentary committee possess powers to compel witnesses to cooperate</li> </ul>
Germany	<ul style="list-style-type: none"> <li>■ Regular committee meetings are in camera; parliamentary hearings are public</li> <li>■ Only parliamentary inquiry committees have the right to summon government officials as witnesses</li> </ul>
India	<ul style="list-style-type: none"> <li>■ Parliamentary committee meetings are recorded on video</li> </ul>
Indonesia	<ul style="list-style-type: none"> <li>■ Parliamentary inquiries are open to the public</li> <li>■ Parliamentary committee conducts field visits</li> <li>■ Parliament lacks powers to compel government officials and police officers to attend or to submit documents</li> <li>■ Media plays an important role in revealing police corruption and as such supports parliamentary oversight of the police</li> </ul>
Netherlands	<ul style="list-style-type: none"> <li>■ Parliamentary inquiries are public (broadcast live on television)</li> <li>■ Parliamentary committee conducts field visits</li> </ul>
Philippines	<ul style="list-style-type: none"> <li>■ Frequent use of subpoena and contempt powers directed against those who fail to appear before Congressional meetings or who refuse to cooperate.</li> <li>■ Parliamentary inquiries are open to the public (broadcast live on radio and television)</li> <li>■ Parliamentary committee conducts field visits</li> </ul>
Thailand	<ul style="list-style-type: none"> <li>■ While parliament possesses subpoena and contempt powers, there is no record that such powers have been used</li> <li>■ Parliamentary inquiries are open to the public</li> </ul>
United Kingdom	<ul style="list-style-type: none"> <li>■ Parliament rarely uses its formal powers to compel individuals to personally appear or to turn over documents, instead parliament relies on adverse media and public criticism against those who fail to cooperate</li> <li>■ Parliamentary inquiries are public (broadcast live on television)</li> <li>■ Parliamentary committee regularly conduct field visits</li> </ul>

The majority of the case studies affirm the power of inquiry/ investigation of parliamentary committees to compel or summon individuals to appear before or to submit documents to the committee under pain of penalty. This system is institutionalized in **Belgium, Germany, the Philippines, Thailand** and the **United Kingdom**. The exercise of these

powers to compel individuals to appear before or to submit documents to parliamentary committees, is considered necessary for the effective conduct of inquiry. In the case of **Indonesia**, the author highlighted that one of the source of weakness of parliamentary oversight is the lack of the inherent power of parliament to compel witnesses, especially top-ranking government executives, to attend or submit documents to inquiring committees. In the **United Kingdom** case study, the author observed that parliament rarely uses its contempt powers against those who fail to personally appear or turn over documents. Accordingly, with its transparent process, parliament relies more on adverse media, public criticism and influence against those who fail to heed the parliamentary order. Failure or refusal to attend or submit documents to the inquiring parliamentary committee is believed to bring severe reputational damage to the concerned parties.

#### 4.4 The role of parliamentary committees

Parliamentary committees are the core actors for parliaments' oversight role of public administrations. Members of parliament specialised in a policy, often with a relevant professional background, meet in specialised parliamentary committees. As shown in the case studies, parliamentary committees vary in types (standing committees, special committees, ad hoc commissions, and commissions of inquiry), size of membership, and rules on membership and leadership (majority and minority representation). Table 6 gives an overview of key parliamentary committees with police affairs in the eight case studies.

Table 6: Parliamentary committees dealing with police affairs (2014)

Country	Name of Committee	Members	Committee Secretariat/staff
Belgium	Standing Police Monitoring Committee (external committee reporting to special parliamentary commission on police oversight)	5	36 administrative staff; 48 experts/ auditors
Germany	Home Affairs Committee	37	–
India	Standing committee on ministry of home affairs	29	6 staff
Indonesia	Commission III Legal Affairs and Laws, Human Rights and Security	49	7 staff
Netherlands	Standing Committee on Security and Justice	26 (and 26 alternate members)	18 staff (shared with various other parliamentary standing and ad hoc committees) as well as 1-2 clerks
Philippines	Senate Committee on Public Order and Illegal Drugs; House Committee on Public Order and Safety	9 (Senate); 55 (House)	5 (Senate); 4 (House)
Thailand	Committee on Police Affairs	15	–
United Kingdom	Home Affairs Committee	Minimum of 11 members	4 administrators and 3 specialist advisors

All case studies show the existence of different types of parliamentary committees with varying mandates. The **United Kingdom** has four types of committees (i.e. select committees, joint committees, general committees, and grand committees); the **Philippines** has three (standing committees, special committees, and joint congressional committees); **Belgium** has three (standing committees, special committees, and inquiry committees); and, **Indonesia** has commissions and special committees.

The case studies show different levels of transparency in the procedures of parliamentary committees. In the case of the **Philippines**, **Indonesia**, the **Netherlands**, and the **United Kingdom**, parliamentary proceedings are public and open to the media. In **India**, committee proceedings are *in-camera*, or not open to the public, in “consideration of the subjects discussed” and to ensure that “members perform their duties in non-partisan ways.” In **Germany**, it is attempted to keep parliamentary committees free of party politics and “window dressing” for which reason committee meetings are generally not open to the public – with possible exceptions, especially for hearings with invited external experts.

In terms of staff support, availability of experts and resources for the disposal of the committee, the case studies revealed that there is a great variation between continent and countries. Some authors, in fact, highlighted the need for additional resources. In **Indonesia**, for example, the author notes that “support of parliamentary staff is still far from ideal requirements.”

The case studies show different levels of focus in terms of police matters. Some countries have committees that are primarily and directly, but not necessarily exclusively, responsible for police matters. Most are not directly responsible for police matters, but have them as one of their mandates (i.e. in the **Philippines**, these are the human rights committee, Blue Ribbon committee, public finance and budget).

Among the countries studied, **Thailand** and **Belgium** have committees exclusively focusing on the police. The House of Representatives of **Thailand** has a committee on police; its Senate counterpart, the Committee on Justice System and Police, however, does not focus exclusively on police matters. The **Belgium** Parliament has a special committee dealing with the police. The Committee P (see the section on independent police oversight bodies) reports to the special committee in parliament. In **Germany**, on the federal level, two Bundestag committees deal with police affairs, including the Home Affairs Committee and the Budget Committee, with further parliamentary committees dealing with police affairs within each of the parliaments of the states (“*Länder*”). In other countries, police matters are subsumed under general social concerns committees such as: the Home Affairs Committee (HAC) and Public Accounts Committee (PAC) of the House of Commons of the **United Kingdom**; the Standing Committee-Ministry of Home Affairs of **India**; the Standing Committee on Security and Justice for the **Netherlands**; the Committee on Public Order and Safety for the House of Representatives; and Committee on Public Order and Dangerous Drugs for the Senate in the **Philippines**.

To enable committees to effectively exercise their oversight role, they are provided with different levels of power. In the Philippines, the **Philippine** Congress is clothed with the power

to subpoena persons to appear before the committees and/or to subpoena documents (*subpoena duces tecum ad testificandum*). It also has contempt powers against those who disobey the orders of Congress and/or its congressional committees. It can detain those who violate its orders or rules.

Such subpoena and contempt powers are also available in inquiry committees of **Belgium**, or to the select committees of the **United Kingdom, Thailand** and **Indonesia** have the power to invite but have no power of contempt or have never used said power, as the police in these countries is directly under the head of state, the President/Prime Minister. Such organisational set-up, and the absence of contempt power limit the oversight power of parliament.

The size of the committee varies, as the case studies revealed. It is often dependent on the size of the parliament or of a specific chamber. Regarding the composition of the committees, most case studies have shown that there are systems of proportional representation of majority and minority parties. In fact, in some parliaments, the committee is headed by a member of parliament from the opposition, as in the cases of the United Kingdom, India, and the Netherlands. As a matter of convention, the chair of the Public Accountability Committee (PAC) in the UK Parliament is from the opposition party.

## 5. Conclusions

The case studies show that the governance and structure of the police is a complex matter, with a great variety of governance models between states, due to contextual matters including the legal framework, political system and other factors discussed in the introduction. Nevertheless, invariably in all states the executive, parliament, judiciary and independent oversight bodies play a role in police governance. In all case study countries, the police is accountable to the law rather than to the government of the day. This is achieved by enacting a comprehensive legal and institutional framework for the governance of the police in compliance with the constitution and international human rights law. The legal and institutional framework includes the definition of the police's mandate, powers, competences, structure, functioning, independent complaints mechanism as well as the setting up of a system of checks and balances that limits and details the tasking and reporting of the police. The parliament plays an important role in the system of checks and balances and, in particular, parliament fulfils three generic functions that are applied to police governance. These generic functions are legislation, budget control and oversight.

To improve the accountability of the police to parliament, the following seven lessons drawn from the case studies can be useful:

- a. Parliament involves the public in adopting and amending the legal framework of the police.
- b. For parliament to be successful in its inquiries, it must be granted subpoena and contempt powers to compel witnesses to appear or submit documents needed to shed light onto the subject of inquiry.

- c. It is common practice for parliament to provide members of parliament access to all information relevant to the police budget.
- d. It is common practice for parliament to establish a parliamentary committee or a sub-committee dealing with the police.
- e. For police to be more effectively accountable, parliaments legislated and set up independent oversight bodies, including independent police complaints bodies, ombudspersons and national human rights institutions as well as anti-corruption/financial audit bodies and data-protection commissioners.

The findings of the case studies can be taken into account when considering options for improving the accountability of the police to parliament. However, it must be emphasized that these good practices always need to be adapted to the exigencies of the local context.



Dr. **Mario J. Aguja** is Professor at the Department of Sociology, Mindanao State University, Secretary General of the Inter-Parliamentary Forum on Security Sector Governance in Southeast Asia (IPF SSG); Former Member of the House of Representatives, Philippines Congress.



Dr. **Hans Born** is Assistant Director and Head Policy and Research Division at the Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, Switzerland.