

Making Intelligence Accountable:
Legal Standards and Best
Practice for Oversight of
Intelligence Agencies

Hans Born and Ian Leigh



*Geneva Centre for
the Democratic Control
of Armed Forces*



*Human Rights Centre,
Department of Law,
University of Durham (UK)*



*Norwegian
Parliamentary
Oversight Committee*

Authors

Hans Born and Ian Leigh.

Editorial Assistants

Thorsten Wetzling and Ingrid Thorburn.

Advisory Board

Ian Cameron, Alistair Corbett, Alain Faupin, Hakon Huus-Hansen, Kalman Kocsis, Fredrik Sejersted, Fred Schreier.

Consultees

Andrew Butler, Marina Caparini, Richard B. Doyle, Willem F. van Eekelen, Peter Gill, George Lotz, Barry Wickersham.

Language Editor

Oliver Wates.

Copyrights

All rights reserved. No part of this publication may be produced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the Geneva Centre for the Democratic Control of Armed Forces or the Norwegian Parliamentary Intelligence Oversight Committee or the Human Rights Centre of the University of Durham (UK). This publication is circulated subject to the condition that it shall not by way of trade or otherwise, be lent, sold, hired out or otherwise circulated without the publisher's prior consent in any form of binding or cover other than in which it is published and without a similar condition including this condition being imposed on the subsequent publisher.

Disclaimer

The views and opinions expressed (unless otherwise declared) are those of the authors and do not necessarily reflect those of the Geneva Centre for the Democratic Control of Armed Forces or the Norwegian Parliamentary Intelligence Oversight Committee or the Human Rights Centre of the University of Durham (UK).

ISBN

92-9222-017-9

Publisher

Publishing House of the Parliament of Norway, Oslo.

Original version: English, Oslo, 2005.

Preface

Establishing a system of intelligence service accountability that is both democratic and efficient is one of the most daunting challenges faced by modern-day states. This arduous task is indispensable, however, as political guidance and direction to the reform of intelligence services contributes to the avoidance of abuses as well as to the enhancement of efficiency for all participating branches of government.

Little systematic international comparison of democratic accountability over intelligence services has been carried out; as a result, no set of international standards for democratic intelligence accountability has evolved. The Geneva Centre for the Democratic Control of Armed Forces, the Norwegian Parliamentary Intelligence Oversight Committee and the Human Rights Centre of the University of Durham have teamed up to produce this publication which seeks to fill this gap by cataloguing and evaluating the legal standards that currently exist regarding democratic accountability of intelligence services. In doing so, this report also identifies and recommends best practice applicable to both transition countries and well-established democracies.

These standards and examples of best practice do not make the assumption that there is a single model of democratic oversight which works for all countries. Rather, the system of democratic oversight of intelligence services depends on a country's history, constitutional and legal system as well as its democratic tradition and political culture.

The rules and practices that are accepted and effective in one place may be less relevant in another. Given these different realities, some of the suggestions within the handbook will inevitably appear unsuitable for some countries. This said, from a democratic governance point of view, the oversight of the intelligence services is a shared responsibility of the executive, the legislature and the judiciary. A sound system of checks and balances is necessary, in which the executive does not have the exclusive privilege of overseeing the intelligence services. Thus, the intelligence agencies themselves, national parliaments, as well as external review bodies all have a role to play in this endeavour.

It is hoped that this publication will enhance public awareness of this complex and important field of governance and that it will contribute to ensuring that security policy and practices genuinely reflect the aspirations of the people they are meant to serve.

Ambassador Leif Mevik
Chairman, Norwegian Parliamentary
Intelligence Oversight Committee

Ambassador Dr. Theodor Winkler
Director, Geneva Centre for the
Democratic Control of Armed Forces

