

Parliament has relatively weak war powers compared to legislatures in other democracies

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By Democratic Audit UK

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*Parliament is today being recalled from its summer recess to discuss the possibility of British military intervention in Syria. In the [2012 audit](#) of UK democracy, **Stuart Wilks-Heeg**, **Andrew Blick**, and **Stephen Crone** considered Parliament's powers in this area. Although Parliament has debated Britain's involvement in recent conflicts it has no formal role in decisions over whether to deploy military force. In this respect, Parliament's war powers are significantly weaker than those of legislatures in other countries.*



Parliament has limited formal powers over the use of military force. Credit: Prime Minister's Office (CC BY-NC-ND 2.0)

Civilian control of the military through the medium of elected representatives is one of the cornerstones of democracy. It is essential to maintaining the accountability of armed forces personnel to the people, and also provides a vital – if not in itself sufficient – prerequisite for the legitimation of military entanglements by the state both at home and abroad. Fortunately, in the UK there are few serious concerns as to the likelihood of the armed forces ever wresting completely free of democratic control – for example, in a *coup d'état* aimed at controlling the state, in the same way that the military does openly in other countries. However, there are longstanding concerns that the balance between executive and legislative power over the military may not be configured in such a way as to ensure the highest possible level of democratic, accountable and transparent military decision-making.

The legal authority under which the UK armed forces operate is complex, involving a mix of statutory powers, which are within the formal remit of Parliament, and royal prerogative powers, through which the executive can act without parliamentary approval. Formally speaking, the UK's armed forces are accountable to Parliament. Each year, it must

vote either in favour of or against the level of defence expenditure; and every five years, it must renew the legal basis for the existence of the armed forces and the UK's system of military law through the passage of an Armed Forces Bill. Taken together, these arrangements satisfy the stipulation, set out in Article VI of the Bill of Rights 1689, "That the raising or keeping of a standing army within the kingdom in time of peace unless it be with the consent of Parliament is against the law." However, beyond these provisions, Parliament's powers arguably amount to very little.

The government, by contrast, enjoys virtually untrammelled power over the day-to-day running of the military by virtue of the powers vested in it through the [royal prerogative](#). Under the royal prerogative, the government has the authority to recruit members of the armed forces; appoint commanders and grant commissions to officers; establish the Defence Council; and make agreements with foreign states about stationing troops on their soil. There is [no legal requirement](#) for Parliament to ratify military commitments which the executive proposes or commences; and even where parliamentary votes are granted at the discretion of the executive, the decision-making of Parliament is liable to be handicapped by its ineffective powers of scrutiny over government, as well as a general lack of resources.

Among other European countries, the UK Parliament has long stood out, in this regard, as a legislature with [extraordinarily weak powers](#) with respect to either determining military policy, or otherwise circumscribing the war-making capabilities of the executive. As Table One shows, Dieterich *et al*'s survey of parliamentary war powers placed the UK among four European democracies in which such powers were found to be 'very weak', alongside Cyprus, France and Greece. It is notable, moreover, that 15 of the 25 European democracies surveyed, a clear majority, have either 'very strong' or 'strong' parliamentary war powers. Among the three European comparators used throughout this Audit – Ireland, the Netherland and Sweden – parliamentary war powers were defined to be 'strong'.

Table One: Typology of parliamentary war powers in 25 European democracies

Extent of Parliamentary War Powers	Description of typical powers	No. of cases	Countries
Very strong	Prior parliamentary approval required for each government decision relating to use of military force; parliament can investigate and debate use of military force	11	Austria, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovenia
Strong	Prior parliamentary approval required for government decisions relating to use of military force but exceptions for specific cases (foreign troops on national territory, minor deployments, arrangements with international organisations); parliament can investigate and debate use of military force	4	Denmark, Ireland, Netherlands, Sweden
Medium	Ex post parliamentary approval, i.e. parliament can demand troop withdrawal; parliament can investigate and debate the use of military force	2	Czech Republic, Slovakia
Weak	No parliamentary approval but deployment notification to parliament required; parliament can investigate and debate use of military force	4	Belgium, Poland, Portugal, Spain
Very weak	No parliament-related action required for use of military force; no specific parliamentary control or debate relating to use of military force	4	Cyprus, France, Greece, UK

Source: Derived from Sandra Dieterich, Hartwig Hummel, Stefan Marschall (2010)

It was only following the invasion of Iraq that the issues raised by the UK's almost 'exceptional' constitutional arrangement became a significant focus of domestic political debate. Prior to the invasion in 2003, alarming intelligence claims publicised by the government had formed a crucial part of the case for war – undoubtedly influencing many MPs in advance of the Commons' vote in favour of military action in March that year (see the case

study below). When those claims were later shown to be either exaggerated or false, however, various proposals – including a number of ultimately unsuccessful private members’ bills – were put forward to strengthen the role of Parliament in deciding whether or not to deploy troops in future instances. In 2004, a [report by the House of Commons Public Administration Select Committee](#), which investigated the use of prerogative powers in general, recommended that legislation be quickly introduced to increase parliamentary control over their use. In 2006, meanwhile, an [investigation by the House of Lords Select Committee on the Constitution](#) on the subject of Parliament’s role in war-making specifically concluded that ‘the exercise of the royal prerogative by the government to deploy armed forces overseas is outdated’ and recommended the establishment of a parliamentary convention outlining the role which Parliament ought to play in such instances.

Case study: the Iraq war and Parliament

Circumstances surrounding the Iraq War of 2003 served to highlight the pitfalls associated with the concentration of power at the executive level, and the difficulties that Parliament can experience in contributing to the democratic process

Parliament was unable to recall itself from recess in the autumn of 2002, when it seemed an invasion of Iraq was looming, because the power to reconvene it effectively resides with the executive.

The votes that were held in the Commons in advance of the operation in February and March 2003 took place not because they were formally required, but because the government decided they were politically necessary. Furthermore, ministers – and in particular the Prime Minister – enjoyed significant flexibility over such matters as the timing of the votes, the information that was provided to parliamentarians and the motions that were put.

Parliament could not obtain expert advice of its own on the international legality of the action, and did not have a right to view all the work of the government’s most senior law officer, the attorney general.

Finally, when the time came to investigate the Iraq War, inquiries held outside Parliament obtained better access to witnesses and evidence, and received more public attention, than those held within Parliament.

[Previous research](#) by Democratic Audit and partner organisations has shown that around 85 per cent of the public believe that ‘Parliament as a whole’ should decide Britain’s foreign policy objectives. Yet talk of giving parliament an entitlement to approve troop deployments – whether by statute or some other means – has thus far amounted to nothing. The Blair government was unmoved by appeals to establish such a right, arguing bluntly that it must be the government which takes the decision to make war, not Parliament. And while Gordon Brown on a number of occasions indicated his desire to give Parliament a codified role on troop deployment – as part of a wider review of the royal prerogative – [this did not materialise](#) during his time as Prime Minister, either. Since its formation, the coalition government has itself appeared sympathetic to the idea of creating an explicitly legal commitment for government to consult Parliament before engaging in military action. However, it seems that little has been done so far to bring forward the legislation necessary to do so. Indeed, while the government did seek the approval of Parliament to use military force [in the case of the Libyan intervention in 2011](#), it is arguably telling that it did so only after attacks against Muammar Gaddafi’s forces had already begun.

It is also worth noting that the royal prerogative extends to cover the conduct of diplomacy, which has a direct association with military policy. Until 2010 and the Constitutional Reform and Governance Act 2010, Parliament had (with certain exceptions) no formal role in treaty-making. Once again, this is an area of government activity with a direct bearing on the deployment of the armed forces – for instance UK involvement in Afghanistan since 2001 has been in fulfilment of its obligations under the North Atlantic Treaty mutual defence clause. Under the 2010 act,

Parliament was given a statutory part in treaty-making, but one which seems unlikely to make a substantial difference to its practical power.

This post is based on extracts from the 2012 audit of UK democracy. For further discussion see section 2.5.1 [Civilian control over the armed forces](#) and section 2.4 [The democratic effectiveness of Parliament](#).

[Stuart Wilks-Heeg](#), [Andrew Blick](#), and [Stephen Crone](#) are the authors of the 2012 Democratic Audit report.