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Review by Christopher Gennari, Camden County College (cgennari@camdencc.edu).

Parliaments and Military Missions is a petite collection of four papers delivered at the Symposium Parliamentary Control and Military Missions hosted by the Montesquieu Institute Maastricht in October 2009. It “aims to provide the reader with a general overview of the problems which arise in the context of parliaments and military missions, and to give an in-depth view of the legal situation in the United Kingdom, Germany and the Netherlands” (4). It could well be subtitled “How the War on Terror broke European constitutions.” For all the talk in 2003 about the unhelpfulness of “Old Europe,” both the Netherlands and United Kingdom took part in the war in Iraq and, together with Germany, sent troops to Afghanistan. Yet, the unpopularity of those wars has affected deep-seated assumptions about the balance between executive prerogative and legislative oversight. In this context, the volume helpfully clarifies the legal frameworks of the use of military force by three Western European countries, especially against non-state actors.

In the collection’s first essay, “Parliamentary War Powers around the World: An Overview,” Wolfgang Wagner (Vrije Univ. Amsterdam) discusses the creation and analysis of a dataset¹ concerning the right of parliaments to veto military operations. His findings reveal the rarity of wars in the period 1989–2004 (half of the forty-nine states surveyed had not engaged in any military conflict) and the imprecision of legal constraints on military force. Wagner’s piece is sharply focused and cogently argued but short on context, examples, and detailed explanations. Why, for instance, was Chile the only state in sixty years to use its army (in Haiti in 2004) without the supposedly mandatory approval of parliament? And why did some states—like the Czech Republic—give up a parliamentary veto? These questions go unanswered. The United States in the period entered into conflicts both with (Kosovo, Afghanistan, Iraq) and, surprisingly often, without any act of congress (Libya, Panama, Granada). The recent debate over using force in Syria illustrates the clash between constitutional legality (what a president can do) and perceived reality (what a president should do) in an advanced democracy.

In two of the three discussed states, military authority was once vested in a monarch. Nigel White observes that “nowadays [“monarch”] means the executive branch of government” (49). In both the Netherlands and the United Kingdom, the executive enjoys wide latitude in deploying military forces—as in a national crisis—without approval of Parliament (14, 23–24). By contrast, Germany, as a republic, has more diversity in its decision-making institutions; for example, the German Constitutional Court plays a critical role in setting the balance between executive and legislative powers.

All the authors admit that, practically speaking, parliamentary powers of oversight and finance play a part in (at least tacitly) limiting the executive’s ability to send troops to war zones. They contend that the Dutch, British, and German governments have had to adapt to the realities of military missions in the twenty-first century. NATO has been using force in Afghanistan for over a decade—longer than the World Wars combined—and the global War on Terror has seen troops deployed from the Horn of Africa to Central Asia and the Pacific, with attendant constitutional strains in the Netherlands, Germany, and the United Kingdom.

Paul Ducheine (Univ. of Amsterdam) points out in “Parliamentary Involvement in the Netherlands’ Military Missions Abroad” that, while the executive branch has the right to use military force without approval, it would be “inconceivable that the Netherlands would participate in a peace support operation without political support in Parliament” (23). Just how does a state maintain the flexibility of its executive while allowing demo-

1. Wolfgang Wagner, Dirk Peters, and Cosima Glahn, *Parliamentary War Powers around the World, 1989–2004: A New Dataset* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2010) – www.miwsr.com/rd/1412.htm.

cratic representatives to limit its powers? In the Netherlands, unless parliament cuts off funding for the troops—a politically risky move in a multiparty system—there is no clear way to end a war, however unpopular, that the executive is determined to fight.

Germany, Heike Krieger (Freie Univ. Berlin) maintains in “Parliamentary Control in Germany,” has created something of a “Parliamentary Army,” whereby the parliament has the right of approval but not of control (36). This represents a major shift in the purview of German armed forces from strictly self-defense operations to peacekeeping missions (for instance, with the United Nations in the former Yugoslavia and Africa) and the allied intervention in Afghanistan. The Parliamentary Army is meant to ensure more transparency in decision making and a more responsible use of troops (37). Krieger, like Ducheine, raises the question “who ends an unpopular war?” If the legislature is intended to check the executive, who checks the legislature once it authorizes or approves a conflict? Who ends unending conflicts? The executive? The Parliament? The voters? Beginning wars is constitutionally far easier than ending them.

In his essay, “The House of Commons and Military Missions,” Nigel White (Univ. of Nottingham) discusses similar questions with regard to the United States’ closest ally in the War on Terror, the United Kingdom, where there have been strong demands for an approval/veto right “anchored in Parliament” (56). As in the Netherlands, but not Germany, the executive branch in Britain has a constitutional monopoly concerning the deployment of the armed forces. As White puts it, “the democratic deficit is so severe that we might question whether we have a system that is little different from that which surrounded the king in the fourteenth and fifteenth century [sic]” (50).

Surprisingly (and perhaps by design), Parliament did not approve the use of a large British force in Iraq in 2003 until two days before the invasion (50). Moreover, the United Kingdom, like the United States, follows no discernible pattern in authorizing military actions: the missions in Korea, Egypt (Suez), and Iraq (in 1991) were sanctioned by Parliament, while those in the Falklands, Kosovo, and Afghanistan were not. Yet, as in the Netherlands, a Prime Minister’s use of troops without the support of the dominant party/coalition is inconceivable. Since the executive seat is held by the head of Parliament, there is less separation between the branches than in the federal systems of Germany and the United States. Again, we are in the murky space between theoretical legality and practical reality so typical of modern non-state conflicts involving representational democracies.

One especially glaring omission is an article on the differences between aggressive military actions and humanitarian intercessions. The authors allude to this distinction but offer no detailed analysis. Present-day soldiers are often the “first responders” in global humanitarian crises. Do executives have a freer hand to deploy troops to provide, for instance, earthquake relief (Haiti, 2010) than to bring about regime change (Haiti, 2004)? Do they prefer to use their militaries rather than work through the UN or NGOs, or does it just seem that way? Do parliaments provide the same level of oversight in such cases?

As conference proceedings rather than chapters in an extended monograph, these essays give less attention to detail, nuance, and context than a historian would like. Too many questions go unasked: for example, why did the British get parliamentary approval for military action at Suez and not in the Falklands? And why did the German Constitutional Court thrust itself into foreign policy? Still the papers serve a valuable purpose in whetting the reader’s appetite for more information about the constitutional implications of modern warfare. All are clearly written and well researched. Though produced for a specific occasion and audience, they will give a wider readership a good introductory overview of issues of constitutional war powers in the target countries (and beyond). Finally, they will stimulate further study in the subject area. No small feat in fifty-seven pages.