

Balancing Effectiveness and Transparency in Intelligence Community: A Challenge for Consolidating Democracies

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Intelligence agencies usually face a recurring dilemma: transparency versus effectiveness. Intelligence community has a tendency to think that the more transparent they are the less effective they will become. This dilemma stems from the nature of the intelligence business, which requires secrecy in order to be effective. As consolidating democracies try to establish intelligence agencies that respect democracy and the rule of law, they are also challenged with many security issues that require effective intelligence. Finding the balance between effectiveness and transparency takes time and requires commitment to democratic values. While states try to find the best solution for this dilemma, they will face many problems such as accountability, corruption, and partisanship in their intelligence community. Accountability is the most pressing problem consolidating democracies face in trying to transform their intelligence agencies from “a political police” into “a bureau of intelligence” because accountability requires an effective bureaucratic system and respect for rule of law, which take time and commitment to develop. The cases of Argentina and Croatia illustrate the importance of these factors. While Croatia created an effective state bureaucracy and enforced the rule of law, Argentinian government was not successful at limiting the power of its intelligence community through effective oversight mechanisms.

It is important to understand the difference between “political police” and “bureau of intelligence.” Political police serves the interests of the government rather than the interests of the state. It is a tool that authoritarian governments use in order to gain political advantage and maintain their grip on power. In these states, intelligence agencies use blackmailing and coercion on their own people in order to advance government policies. A bureau of intelligence, however, respects democratic values and the rule of law by operating within the established boundaries. A bureau of intelligence maintains a fine balance between transparency and effectiveness. In consolidating democracies, it takes time and systematic approach along with commitment to democratic values to develop intelligence agencies from a political police into a bureau of intelligence.

According to Juan et al. [1], democracy is consolidated when it becomes “the only game in town” behaviorally, attitudinally, and constitutionally [1]. Behaviorally, democracy is consolidated when people, especially powerful groups in the country accept elections and democratic change of government. Attitudinally, democracy is consolidated when people seek democratic solutions in the face of a political crisis. Constitutionally, democracy is consolidated when people trust democratic bureaucracy and institutions to apply change and development [2]. It is important that Intelligence agencies also accept democracy as “the only game in town” in order to achieve democratic consolidation. Intelligence community must operate within the rule of law and respect democracy. Consolidation requires states to establish a state bureaucracy that oversees intelligence activities and hold intelligence agencies accountable for their actions. The power and authority of the state bureaucracy must be clearly defined in order to make up for the secret nature of intelligence activities.

Accountability of intelligence agencies is the most pressing problem

that consolidating democracies face. It requires the intelligence community to forego unlawful practices of the authoritarian era and respect the rule of law established by the civilian authority. In an undemocratic environment, intelligence services are usually free to carry out unlawful practices such as coercion and blackmailing. The oversight mechanisms are too weak or politicized to hold the intelligence services accountable for their unlawful practices. As the government tries to maximize its power and repress any opposition, intelligence agencies become indispensable tools in achieving this objective. In consolidating democracies, while the government tries to establish democratic institutions, intelligence agencies might resist democratization and change. Because democratization means more transparency and accountability for intelligence practices, intelligence agencies will be unwilling to give up their advantageous position, which allows them to operate with impunity. Getting the intelligence community respect the rule of law takes time and commitment, which require behavioral, attitudinal, and constitutional acceptance of democratic values.

Accountability also requires an effective bureaucratic system that prevents unlawful practices through effective oversight mechanisms. State bureaucracy and the rule of law go hand in hand. The state must have institutions that uphold and carry out the rule of law. These institutions enable the government to carry out its policies and the intelligence agencies to carry out their operations according to the laws. State bureaucracy such as the legislative and judicial branches of the government includes institutions that keep the power of the intelligence agencies in check. Legislative branch can monitor intelligence activities through the committees in the parliament. It can also influence these agencies through budget control. Judicial branch can keep the intelligence agencies in check by trying the intelligence personnel who overstep the limits of their power and violate the laws. Effective state bureaucracy can limit the power of the intelligence agencies and ensure that the community is upholding the rule of law.

Two of the consolidating democracies, Argentina and Croatia, have had different experiences of intelligence reform. Argentinian democracy is still haunted by the unlawful practices of the military junta, which was in charge between 1976 and 1983. During this time, which is called the dirty war, military administration used the intelligence agency, State Information Secretariat (SIDE), for coercion

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and blackmailing in order to advance its grip on power [3]. Intelligence community was not held accountable for its unlawful practices. When the civilian government came to power in 1983, there were swift reforms, which included appointing a civilian head to the SIDE and firing almost all of its military personnel. The fast demilitarization was welcomed, but it decreased intelligence capability. The terrorist attacks in Argentina against Israeli Embassy and the Jewish community center in 1990s questioned the effectiveness of Argentinian intelligence. After these incidents, military started to regain its power in the intelligence community. Even though the National Intelligence Law of 2001 tried to make Argentinian intelligence community more democratic and efficient, there have been recurring problems such as the misuse of secret intelligence budget, wiretapping, and domestic espionage. Argentinian bureaucracy lacks the ability to hold its intelligence community accountable for its unlawful actions. The Law of 2001 changed the name of SIDE to Secretariat Intelligence, but it has not diminished the public aversion of intelligence community, which needs to adopt democratic values to gain public support and confidence. Even though Argentina tried to establish a state bureaucracy to oversee its intelligence agencies, it failed to create behavioral, attitudinal, and constitutional acceptance of democratic values in the intelligence community. Lack of oversight and resistance to the rule of law enable Argentinian intelligence to carry out its unlawful practices and postpone the consolidation of the Argentinian democracy [4].

Croatia, on the other hand, has been more successful than Argentina in democratization of its intelligence services. Until the beginning of democratic transition in 2000s, Croatia's state bureaucracy lacked the power to oversee its intelligence agencies. The authoritarian presidency of Franjo Tudjman between 1990 and 1999 created a strong intelligence community that promoted the interests of the government through unlawful practices. After Tudjman's death, with the motivation to become a member of the European Union and NATO, Croatia began a democratization process, which also included reform in intelligence. Most reforms were aimed at holding intelligence community accountable through executive, legislative, judicial, and civilian oversight mechanisms. Croatian government guides intelligence activities through the Office of the National Security Council (UVNS). The government carries out executive oversight through inspections to make sure that intelligence agencies spend funds appropriately, cooperate with each other, and operate within the limits of laws. Legislative oversight is carried out through the Domestic Policy and National Security Committee in the parliament. The committee may call in the directors and employees of the intelligence services to review financial management issues or inquire details about specific operations. Legislative branch reviews and ratifies the intelligence budget and makes sure it is spent accordingly [3]. Civilian Council is an oversight mechanism that is unique to Croatia. The Council consists of a chairperson and six members, one of whom must have a law degree, one a political science degree, and one an electrical engineering degree. Members cannot be among the leadership of a political party. Any Croatian citizen with a university degree can apply. The Committee in the parliament nominates applicants who pass the security screening and the parliament selects them.

“The Council monitors the legality of the work of security agencies, monitors and oversees application of measures for confidential data gathering which limits constitutionally-guaranteed human rights and fundamental freedoms. The Council also provides information about

method son how citizens, governmental bodies and legal persons may file complaints on observed illegal or irregular procedures in the work of security and intelligence agencies, particularly in cases of violation of constitutionally-guaranteed human rights and fundamental freedoms” [4].

The role of intelligence agencies is influential in consolidation of democracy. If the intelligence power is not checked with laws and oversight mechanisms, it could be a substantial block in front of democracy. In the democratization process, Croatia's advantages compared to Argentina were external support from the EU and NATO and its economic prosperity, which gave the Croatian government public support and confidence. With the help of external factors, Croatia created an effective state bureaucracy to oversee its intelligence community. Croatian intelligence has so far demonstrated behavioral, attitudinal, and constitutional acceptance of democratic values. Even though it has not been tested by a serious crisis yet, Croatian intelligence community seems to have adopted democracy and the rule of law as “the only game in town.”

Effective intelligence is important for the security of a state, and transparency of intelligence system is indispensable for consolidation of democracy. As new democracies try to achieve consolidation, they are faced with the challenge of balancing between effectiveness and transparency of their intelligence community. The case Croatia demonstrates that it is possible to achieve democratic consolidation in a relatively short time; however, one cannot overlook the external factors in Croatia's success story. Argentina however, lacked internal and external incentives for consolidation and Argentinian intelligence has been an important block in the way of democracy. Accountability is the most pressing problem consolidating democracies face in trying to transform their intelligence agencies from “a political police” into “a bureau of intelligence” because accountability requires an effective bureaucratic system and respect for rule of law, which take time and commitment to develop. In order to achieve a consolidated democracy, citizens, statesmen, and law enforcement personnel should be committed to upholding the rule of law and making democracy “the only game in town.”

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