

Effectiveness and Transparency Dilemma in Consolidating Democracies

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Abstract— *Many countries in consolidating democracies faced challenges of striking a balance between effectiveness and democracy/transparency, especially when they transformed non-democratic regimes into democratic regimes. As Huntington describes the beginning of the “third wave” of democratization process many Latin American countries, Europe and some parts of Asia underwent fundamental changes of democracy in the state bureaucracy and the intelligence community. This included establishing free and fair elections, instituting market economies, creating civil societies and completely reforming intelligence apparatuses. However, the lack of democracy in non-democratic regimes in the past haunted the people of the country, has resulted in creating mistrust and a lack of credibility between the intelligence community and civil society. As such, this paper will argue that ‘building trust between the Intelligence Community and Civil Society is one of the most critical issues for achieving effectiveness and transparency in consolidating modern democracies.’ Therefore, this paper discusses what is the effectiveness and transparency dilemma in intelligence, comparative analysis of Argentina, Mongolia and Brazil to identify the fact that why mistrust between civil society and the intelligence community are more demanding, and how to build the trust between civil society and the intelligence community. In this regard, fundamental changes of democracy in these countries, particularly in the state bureaucracy and intelligence community will be used to elaborate the effectiveness and transparency dilemma in consolidating democracies. The author will adopt mix method to gather data relevant to the subject matter.*

Keywords— **Intelligence community, effectiveness, transparency, dilemma, democracy**

I. INTRODUCTION

Intelligence agencies usually face a recurring dilemma because of the trade-off between transparency and effectiveness. More often intelligence community has a tendency to think that more transparency has less effectiveness of the results that they achieved. As Cristiana Matei identifies, effectiveness is “ability of the intelligence system to successfully carryout assigned role and mission;” whereas, transparency is “access to

intelligence information,” and credibility of the actions. (Matel 2007). In other words, intelligence involves covert operations to achieve secrecy and effectiveness; whereas, democracy constitutes the accountability and openness of the intelligence functions. The transparency and effectiveness dilemma appears when the intelligence community tries to establish democracy, the rule of law and accountability during the consolidation (from a political police to a bureaucratic intelligence) period.

In most of the cases though a democratic transition has been completed, there are many tasks that need to be accomplished and conditions that are required to be addressed in the process of consolidation for democracy. As Linz and Stepan’s identify, “behaviourally democracy becomes the only game in town when no significant political groups seriously attempt to overthrow the democratic regime or secede from the state.” Juan, Linz, Stepan, 1996). In other words, citizens seek for overall quality of the democracy from political society and the intelligence community.

Additionally, public opinion demands that democratic procedures and democratic function of institutions are the most appropriate way to build the trust between civil society and the intelligence community to ensure better transparency and the effectiveness. As such, apart from the other demanding issues like, political issues, economic issues, external influences and the media challenges, the paper will analyse building trust between the intelligence community and the civil society, as one of the most critical issues when consolidating modern democracies.

II. THE MISTRUST BETWEEN CIVIL SOCIETY AND THE INTELLIGENCE COMMUNITY

Argentina: Most of the non-democratic countries used the intelligence community as a “political police” to serves the interests of the government rather than interests of the state. (Davis and Kristian, Gustafson, 2013). This is a tool that most authoritarian regimes exercised to gain political advantages to maintain their power. As a result, that gap between civil society and the intelligence community always widen in terms of accountability. For example: Argentina’s intelligence community consisted of powerful intelligence services (the services of each branch of armed

forces and the small services of the federal police and security forces). As such, the military coup in 1930, characterized as starting point for the use of “cohesive power” of the state against opposition, and the growth of a secret state (lack of external control, and accountability) within the state, which included surveillance, instigation, espionage, blackmail and vetting. (Davis and Kristian, Gustafson, 2013). Further, Argentina’s unlawful practices of the military junta from 1976 to 1983 still haunted the country. The “dirty war” designed to blackmail people in order to advance its grip of power by using the intelligence community has not been held accountable for its unlawful practices, which resulted in overwhelming mistrust between civil society and the intelligence community. (Davis and Kristian, Gustafson, 2013).

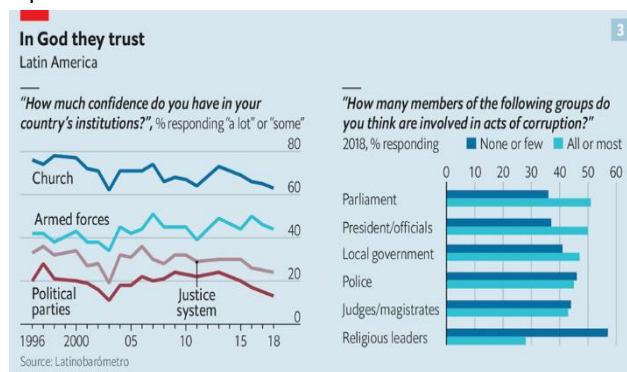
Mongolia: On the other hand, Mongolia is quite different from Argentina. In 1960, intelligence and other security institutions in Mongolia balanced its relationship with Soviet Union against a threat from China. However, in 1989, Soviet Union lost its interest and influence toward Communist blocks states, which resulted in Mongolian democratization with the “third wave.” Most importantly, in 1990 the Mongolian democratic revolution took place when the political bureau of the “Mongolian People’s Party” agreed to resign from collectively conduct multiparty election, and after totally removal of party organs from the security sector. During this period, intelligence community of Mongolia became fully interoperable with its Soviet allies because of the similar style of Soviet intelligence system existed in the country. As a result of that, the level of public awareness and understanding of intelligence turned to low and misleading. The increases in public demand for disclosure of information, facts and materials about political eliminations during the democratic revolution discredited the intelligence community and led to public fear and suspicion about its credibility.

Brazil: Brazil and Argentina exhibit similarities in terms of use of the intelligence community as political police. After the military regime, the Brazil government created its post-doctoral intelligence agency, the Brazilian Intelligence Agency (ABIN), while maintaining a large number of former SNI personnel, who consisted of the ruins of the non-democratic National Information Service (SNI). The intelligence community had been involved in numerous scandals and abuses such as illegal wiretapping, incriminating taps frequently found in press releases. Additionally, many complaints have been forwarded by the Brazil Muslim community about the ABIN illegal surveillance of Muslims in recent years. On the other hand, during the military regime (1964-1985), the civilian authority lacked intelligence operational commitments. Therefore, the monopoly of the military regime continued

until 1985; thus, neither reforms nor changes in the legal framework in the intelligence system in the present context carries a “stigma” among the civil community for the Intelligence community having been a tool of repression under the old regime.

III. ANALYSIS

Throughout the 20th century, most of the Latin American countries, suffered due to political instability and military rule, resulted in large scale human rights violations. Further, considering Argentina, Mongolia and Brazil even those countries have transformed from authoritarian regime to democratization process, still can witness some laps in democratic control and oversight of the institutional



The Economist

process. Figure A provide clear understanding, how people of Latin American countries have built trust on country’s institutions.

Figure 01: The Confidence on Country’s Institutions
Source: The Economist

The figure A indicates that the most Latin American people seem dis-satisfied with new democracy; dis-satisfied figure has increased from 51% in 2009 to 71%. Further, it also indicated that the public confidence over political parties reduced from 20% to 0% from 1996 to 2018. Hence, the figure One and Two depicts that even the Latin American countries transformed from autocratic to democratic regime, they still not satisfied with institutional transparency and effectiveness in democracies. As Huntington describes, several military uprising in most of Latin American countries generalized the sentiment of demanding democracy, as a result of that countries like Argentina, Mongolia and Brazil have failed to achieve democratic control and oversight in their political institutions. Intelligence Community, similarly acted as a “political police” to serves the interests of the government rather than interests of the state. As a results of that there had been civilian uprising and social revolutions took place, especially in Argentina. Offences related to missing of children during the dirty war can be a classic example of lack democratic control and oversight of Intelligence Community. Above all there were number

of other issues provoked for eg., even countries like Argentina, Brazil and Mongolia, enacted new intelligence legislations but not into force, resulted a lack of credibility between the intelligence community and civil society. The role of intelligence community is to ensure and influence in consolidation of democracies. If the intelligence power is weak and substandard that will reflect in oversight mechanism. In the democratization process and the post democratization period, these three countries, the intelligent power have not checked with laws and oversight mechanism, as a result of that oversight mechanism was substantially block in front of democracy. Intelligence accountability is often considered institutionally as a set of distinct formal mechanisms: executive control, legislative oversight, and judicial review (Richard E. Neustadt, 1990). However, among all these government oversight has created the most interest. Most of the democratic countries including Sri Lanka have provided the keystone of democratic intelligence accountability. However, for political and structural reasons, a legislature it-self hardly provide an umbrella to protect the stable system of accountability (Richard E. Neustadt, 1990).

A. Building Trust between Civil Society and the Intelligence Community

Creating new Intelligence Agencies: Creating new intelligence agencies includes reforming organizations and personnel who are deemed necessary to build trust between the intelligence community and civilians during the consolidating of democracies. According to Loch K. Johnson, "intelligence agencies carry a stigma of their non-democratic past and transgression, which linger for decades in the peoples' hearts and minds. In other words, in most of the cases especially Argentina, and Brazil (Mongolia, in this case, is different from these two countries; but, the concept are similar in nature due to influences by communist Russia) new agencies are built on the ruins of the former non-democratic intelligence community during the period of democratization that created the mistrust between the civilian community and the intelligence community. Brazil, however, to compensate for the loss of legacy personnel, opened the doors for the younger generation in the intelligence community.

Most importantly, democratic transition came not only in the intelligence community, but also in the military and the federal police. Mongolia on the other hand, is in the process of training new professionals of effective use in the intelligence operations. On the other hand, Argentina's democratization of the intelligence community through reforming organizations have been a consistently weak in terms of political commitment. Therefore, it mirrors the need to build both transparency

and effectiveness of the intelligence community; it is necessary to create new intelligence agencies by reforming organizations and personnel to the avoid legacy of the past and to build trust.

Establishing a Legal Framework: Establishing a legal framework is necessary in intelligence to achieve better transparency and effectiveness during consolidating democracies. As Loch K. Johnson notes, "establishing a completely new legal frame work for intelligence, which pledges that the new intelligence system serve the security interest of their nations, and citizens verses a privileged class, is hence cardinal in the emerging democracies." Loch Johnson's point is that the legal frame works need to be included with clearly defined responsibilities and powers of the intelligence community that reflects control and oversight, especially, legal boundaries for the activities of the intelligence community. So far, Argentina underwent many reforms and legal changes in their constitution and legislation. For example, the Internal Security Law enacted in 1992 established the civilian management of the police and security forces. Mongolia on the other hand, established the General Intelligence Agency in 2001, and expanded it in 2008 to respond to all public inquiries and to provide official positions and explanations. Further, many academic conferences pertaining to legal matters which included intelligence activities and role of intelligence in a democratic society held from 2003 to 2011. Compared to Argentina and Mongolia, Brazil however, has shown no real improvement in reforming the legal system. For example, so far no action has been taken to include intelligence functions in the Brazil constitution of 1988, and no action has taken to either present or pass a constitutional amendment to define legitimate Brazil's intelligence function from 2011. Therefore, ABIN remains ineffective due to the legal and institutional frame work, constantly wreaked by scandals. As such, to increase the powers of intelligence communities, foster intra-agency coordination and effectiveness requires proper legal frame works and constitutional reforms in consolidating democracies.

Ensure Accountability by Placing Intelligence Community under Democratic Civilian Control: Ensure accountability in the intelligence agencies by placing intelligence under democratic civilian control becomes a key focus in emerging democracies. According to Loch K. Johnson, "control is needed to ensure intelligence agencies work within specific limits and represent legal frame work imposed upon them." Basically Jonson's point is that intelligence control and oversight is ensured by the executive, legislative and judicial branches of the government to achieve democratic accountability of the intelligence community. As Davies and Gustafson believe,

Argentina, the Ministry of Defence took control of the entire military intelligence through civilian control and oversight for better accountability and transparency, and by decree 10976 of the August 17, 2006 allowing access to all military intelligence information. Mongolia on the other hand, has given more freedom to the intelligence agencies and now intelligence experts and chiefs are available for media interviews and information outreach the public. Brazil, in 2002, introduced seminars under subtitle "contributions for sovereignty and democracy" with media coverage aimed to publicize the importance of intelligence in democracy. However, Brazil needs many more steps to ensure accountability in its emerging democracy.

Parliamentary Accountability: The ultimate legitimacy and authority of intelligent community should be derived from legislative approval in order to avoid political abuse. On the other hand, by placing intelligent services under total parliamentary control and oversight, which creates effectiveness dilemma due to lack of expertise and professionals in the parliamentarians; especially in the area of sensitive information and other related secret activities that are important parliamentary question or parliamentary commissions inquiry. Parliamentary oversight also carries with it antagonist relationship with other parliamentary members, especially in presidential regimes, where the president has control over internal security matters and intelligent community.

IV. CONCLUSION AND RECOMMENDATIONS

Considering all challenges and actions taken by consolidating democracies in reforms by Argentina, Mongolia and Brazil, the first focused on making intelligence accountable, more open and transparent as previously mentioned. The lack of accountability rather than effectiveness was the main issue during the non-democratic regimes. As a result of past experiences, intelligence agencies carry a stigma of their non-democratic past, which had created mistrust between civilian society and the intelligence community. Further, mistrust is developed due to most non-democratic countries used by intelligence community as a "political police" to serves the interests of the government rather than interests of the state. The consolidating democracies and related new services are built on the ruins of former non-democratic intelligence agencies, which widen the gap between the civil community and the intelligence community in terms of transparency and effectiveness. However, Argentina, Mongolia and Brazil took many steps during the consolidating democracies such as creating new intelligence agencies, establishing a legal frame work and establishing democratic civilian control and oversight, yet some areas, still need improvements to build trust between the intelligence community and the civilian

community in consolidating democracies. As such, this paper identified that building trust between the intelligence community and civil society is one of the most critical issues in consolidating modern democracies.

Following recommendations can be made in the view of the difficulty faced by states everywhere have to control intelligence, and considering the dangerous legacy of intelligence services to achieve transparency and effectiveness.

i. Democracies must establish a 'clear and comprehensive legal framework' for intelligence activities. It also essential to develop a model in order to comparatively analyse relationship between the state and the intelligence community by involving three major pillars in the parliament, which together should clearly define and structure the intelligence system.

ii. The next is to develop a strategy to ensure the balance between civilian and military involvement in intelligence, in terms of both production (collection and analysis) and consumption. One alternative is to give the military responsibilities only for military intelligence, and have civilians assume responsibility for strategic intelligence and counterintelligence, or prepare a policy, and define responsibilities for the parties who logically involved the matter of coordination among the intelligence organizations.

iii. Establish a common mechanism to ensure de-centralize control of intelligence services by separating it into different agencies within the legal framework, to prevent any single entity from having a monopoly on its production or use.

iv. The country must implement proper policies to achieve information and that information should be publicised through authorized channels.

v. The enhancement of interagency coordination on classification, declassification, and practices among information management professionals is also undeniable

REFERENCES

- Cristiana Matei, "Factors Supporting Arresting," p 607- 610.
Florina Cristiana Matei, "Reconciling Intelligence Effectiveness and Transparency: Romania," 2007,
Jargalsaikhan Mendee and Adiya Tuvshintugs, "Mongolia," p 244-246.
Juan J. Linz & Alfred Stepan, "Problems of Democratic Transitions and Consolidation." P 3-5.

Loch K. Johnson, "National Security Intelligence," p 759-762.

Philip H. J. Davis and Kristian C. Gustafson, "Argentina," p 220-222.

Richard E. Neustadt, *Presidential Power and the Modern Presidents: the politics of leadership from Roosevelt to Reagan* (New York: Free Press 1990) p.29

Thomas C. Bruneau, "Brazil," p 510-512.

CAPT Timothy J. Doorey, *USN Intelligence Secrecy and Transparency: Finding the Proper Balance from the War of Independence to the War on Terror* (Strategic Insights, Volume VI, Issue 3 (May 2007).

Samuel P. Huntington *Democracy's Third Wave, Can Yugoslavia Survive?* Spring 1991.

Damien Van Puyvelde. *Intelligence Accountability and the Role of Public Interest Groups in the United States: Intelligence and National Security* 28, no.2 (2013) pp.139-158.

<http://dx.doi.org/10.1080/02684527.2012.735078>

Amy Zegart and Julie Quinn, 'Congressional Intelligence Oversight: The Electoral Disconnection', *Intelligence and National Security* 25/6 (2010) pp.744-766.

Richard Aldrich, 'Regulation by Revelation? Intelligence, Transparency and the Media', in Robert Dover and Michael Goodman (eds.), *Spinning Intelligence: Why Intelligence needs the Media, Why the Media Needs Intelligence* (New York: Columbia University Press 2009) pp.13-36

BIBLIOGRAPHY OF THE AUTHOR

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