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Intelligence Reform in Europe

Intelligence reform in Europe has not necessarily coincided with ongoing democratization. As a result, argues Peter Gill, many intelligence agencies appear to be operating outside of established democratic norms, to include transparency and parliamentary oversight.

By Peter Gill for ISN

Democratization of the major coercive institutions of the state became a major enterprise in Europe after the end of the Cold War, with the primary focus of security sector reform (SSR) mainly on the police and armed forces. By comparison, however, the intelligence structures that were once central to authoritarian regimes have been relatively ignored.

Democratizing Intelligence

In the 'old' democracies of Western Europe (as well as North America, Australia and New Zealand) intelligence reform has been taking place since the 1970s, with the main impetus for change being scandals involving abuses of power and human rights by the agencies. Typically, such scandals gave rise to legislative or judicial enquiries that resulted in new legal and oversight structures that could satisfy the European Convention on Human Rights. In the Netherlands and what was then West Germany, some democratic oversight of intelligence was established after the Second World War, in light of the experience of the Gestapo, but it was not until the start of Samuel Huntington's so-called 'Third Wave' of democratization that further changes occurred. In Greece, Portugal and Spain, for example, the demise of dictatorships in the mid-1970s started the de-militarization of intelligence, although it was ten years or so before civil intelligence agencies became firmly established. In the countries of the former Soviet bloc, no agency has been immune to change since 1989 - even if the amount of real, as opposed to nominal, reform varies widely.

Whether scandal or the collapse of former authoritarian regimes (and often both together) have been the impetus for change, the main emphasis of reforms until 2001 was on increasing the legality and propriety of intelligence operations. However, intelligence 'failures' such as 9/11 gave rise to concerns about effectiveness, along with the concomitant risk that democratic gains might be swept away in the naïve belief that agencies 'unhindered' by democratic oversight are more efficient and effective.

How Far has Europe Come?

The analysis of democratization can be organized around three key questions: the nature of the authoritarian regime, the change process and where states are now. In all authoritarian regimes, the objective of security and intelligence agencies was the containment or elimination of 'internal

enemies'. In Eastern Europe the relationship with the Soviet KGB was the main factor that accounted for national variations. Agencies in East Germany, Poland and Czechoslovakia, for example, were essentially KGB surrogates, while those in Romania, Yugoslavia and Albania operated more autonomously, even if just as ruthlessly.

Despite symbolic moments such as the fall of the Berlin Wall or the execution of Nicolae Ceaușescu, democratization is not an event but a long process – and one that can be reversed. The names of agencies can be changed quickly but reforming intelligence priorities and policies often takes much longer. In Romania, for example, there were organizational changes during the 1990s but it was more than ten years after the end of the Cold War before key reformist demands such as access to former files and lustration of personnel were met. The clearest example of regression is Russia where, after the brief democratic opening of the 1990s, Putin's accession to power enabled the Federal Security Service (FSB) to re-establish political and economic power akin to the Soviet era.

The European Union (EU) and NATO have been especially important to SSR in Europe through the 'carrot' of membership. However, they have had less impact on intelligence governance than has bilateral advice and support from Western intelligence agencies seeking more effective partners. Intelligence co-operation since 9/11 has led to the increased harmonization of intelligence technologies and methods, but democratization has been less important than the search for security, as evidenced by the [location of secret CIA prisons](#) in Lithuania, Poland and Romania. Similarly, the policy of extraordinary rendition exposed the fragility of intelligence oversight arrangements even in older democracies such as United Kingdom and Germany. So, although it may be possible to say that democracy *in general* has been 'consolidated' in a country, the question of 'where the state is now' with respect to intelligence must be answered more tentatively.

When an authoritarian regime falls, how does the economic situation impact upon the legitimacy and capacity of the successor regime? Whether reflecting the wish of national populations or at the behest of foreign donors, the demand was not just for political change but also transition from command to market economies. Such transitions often had a profound impact upon the newly-democratic state's 'formal' and 'informal' economies as well as criminal markets. One unintended side effect may be that inappropriate interconnections between the 'overworld', 'underworld', intelligence agencies and their former employees may become widespread. Accordingly, corruption is a recurring theme in the legacy of authoritarianism. Even in democracies, the secrecy enveloping most intelligence activities provides fertile ground not only for subverting electoral and governing processes but also for rent-seeking behavior.

Intelligence beyond the State

Unsurprisingly, literature on the democratization of the former Soviet space primarily concentrates on state structures. Yet the very existence of states may be contested. The former Yugoslav republics of Bosnia and Kosovo have both recently established national intelligence agencies but they operate in a context of low state capacity, significant border disputes, and, especially in the latter, an alphabet soup of international and informal intelligence organizations that impinge upon sovereignty. Where states' 'reach' is inadequate to provide security, other sometimes 'uncivil' community groups can emerge to fill the security gap. Militias, paramilitary units and even criminal groups may enjoy some popular legitimacy, at least in certain areas, despite violating human rights and weakening the rule of law. In Serbia and Kosovo, for example, political parties have had [their own private intelligence organizations](#) for personal protection, countering other parties and, reportedly, corrupt business practices.

But it is not just in new and emerging democracies that intelligence 'beyond the state' must be examined. Even if unregulated 'community' intelligence groups are insignificant, there has

nevertheless been a rapid growth in corporate intelligence. Business or 'competitive' intelligence has been a long-standing activity but is now supplemented by the private sector taking up the 'security' slack left by diminishing state intelligence budgets in the 1990s. The private sector is the main developer, manufacturer and supplier of the information processing software and hardware on which intelligence work depends and there is much movement of personnel between the state and corporate intelligence sectors. Continuing pressure on state budgets encourages further outsourcing of intelligence processes and, to the extent that the corporate sector is poorly-regulated, may provide the temptation for state agencies to 'sub-contract' unauthorized if not actually illegal operations.

Control and Oversight of Intelligence Networks

Consequently, intelligence must be examined in terms of networks across the three main 'sectors': state, corporate and 'community'. This constitutes a major challenge to conventional notions of democratization. Only the state can secure adequate resources and protect the general public interest in matters of security and intelligence. There are two key aspects to this: control and oversight (for legal and policy guidance see <http://www.dcaf.ch/Publications/Overseeing-Intelligence-Services-A-Toolkit>). Control refers to the managerial relationship between elected ministers and intelligence agencies. The task is to ensure that agencies become neither the creatures of the ruling group (as under authoritarian regimes) nor so autonomous from elected and responsible officials that they become 'states within the state'. Legislation is required in order to define the agencies' mandates, powers, budgets and the procedures by which covert measures might be authorized.

Oversight takes place at several levels and seeks to maximize public confidence in intelligence agencies by ensuring that they act effectively and properly. Active and informed civil society organizations are required in order to foster awareness of and trust in a reformed intelligence structure, but such organizations may be slow to develop, if they develop all. In practice, the well-grounded public suspicions of security officials may persist for a long time in new democracies even if the secrecy is only what is necessary to maintain the security of intelligence sources and methods. Similarly, an independent and inquisitive mass media makes an important contribution to oversight, despite problems associated with the thoroughness of investigations and a notable lack of specialist journalists.

Parliamentary committees are a central element of almost all new systems developed in the last quarter century. However, some are barely more than symbolic given their lack of resources and powers to conduct investigations. Judges have a permanent role in some countries, for example, in authorizing covert surveillance or the *post hoc* review thereof. But their involvement is usually occasional *via* legal cases or inquiries into specific controversies. Another type of external oversight comes from specialist bodies such as the [Dutch Review Committee on the Intelligence and Security Services](#) and [Belgian Standing Intelligence Agencies Review Committee](#). If oversight is only external, however, it may well fail because it is easy for practitioners to see judges and parliamentarians as interfering 'know nothings'. As a result, real reform to organizational cultures and practices requires complementary methods within both the controlling ministry and the agency itself.

Intelligence reform throughout Europe has achieved much in terms of both management and oversight during the last thirty years but more remains to be done if progress is to be consolidated, not reversed. Times of intensified security uncertainty can too easily breed intelligence practices that cause more harm than good to public safety. Therefore, enhancing democratic governance requires state capacity not only to develop intelligence as part of reformed national security policies, but also to regulate non-state intelligence and provide the necessary oversight of international intelligence co-operation.

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