

# INTELLIGENCE CHALLENGES IN LATIN AMERICA AND PROSPECTS FOR REFORM: A COMPARATIVE MATRIX ON DEMOCRATIC GOVERNANCE

**Abstract:** For many reasons, the classic debate between security and civil liberties has been reopened in recent times - 9/11 attack of Twin Towers and subsequent reforms of intelligence, coupled with technological advances and leaks from Snowden who revealed the existence of a massive wiretapping program-. This is particularly important in Latin America where remains a considerable authoritarian legacy in the intelligence agencies which are still going under a democratization process that is partial, discontinuous, belated and reactive to crisis. The paper presents shortcomings and obstacles to democratize intelligence sector in Latin America: a confusion between legal, and a structural and cultural reform; unsuitability of civil management; politicization; weak management capacity of secret expenditures; access and lack of control over sensitive technologies, among others. In order to this, the paper, based on Peter Gill (2016), presents a matrix with a number of dimensions to assess the degree of democratization and the level of accountability of intelligence services, with particular attention to the context of Latin America.

**Keywords:** intelligence, democratization, matrix.

## Desafíos y perspectivas de reforma de inteligencia en América Latina: una matriz comparativa sobre gobernabilidad democrática<sup>1</sup>

**Resumen:** Por diversas razones, el clásico debate entre seguridad y libertades civiles se ha reabierto en los últimos tiempos -atentado del 9/11 a las Torres Gemelas y las subsecuentes reformas de inteligencia, sumados a los avances tecnológicos y las filtraciones de Snowden quien reveló la existencia de un programa de espionaje electrónico masivo-. Ello cobra especial relevancia en América Latina donde subsiste un pesado legado autoritario en los organismos de inteligencia que aún se encuentran, en muchos casos de manera parcial, discontinua, tardía, reactiva ante episodios de crisis, en proceso de democratización. La ponencia plantea falencias y obstáculos para democratizar el sector de inteligencia en América Latina: confusión entre una mera reforma legal y una estructural y cultural; falta de idoneidad de la conducción civil; politización; escasa capacidad de gestión de gastos secretos; acceso y falta de control sobre tecnologías sensibles, entre otros. En orden a lo anterior, la ponencia, basada en Peter Gill (2016), presenta una matriz con una serie de dimensiones para evaluar el grado de democratización y el nivel de rendición de cuentas de los servicios de inteligencia, con particular atención del contexto de América Latina.

**Palabras clave:** inteligencia, democratización, matriz.

## Desafios e perspectivas para a reforma de inteligência na América Latina: Uma matriz comparativa sobre a governação democrática

**Resumo:** Por várias razões, o debate clássico entre segurança e liberdades civis foi reaberto nos últimos tempos - atentado 11/9 às Torres Gêmeas e subseqüentes reformas da inteligência, juntamente com os avanços tecnológicos e vazamentos Snowden que revelaram a existência um programa de masivo de escutas telefônicas. Isto é particularmente importante na América Latina, onde continua a haver um legado autoritário nas agências de inteligência que ainda estão no processo de democratização, em muitos casos parcialmente, descontínuo, e como reação tardia a episódios de crise. O artigo apresenta deficiências e obstáculos para democratizar o setor de inteligência na América Latina: uma confusão entre reforma jurídica e um estrutural e cultural; inadequação da gestão civil; politização; fraca capacidade de gestão dos gastos secretos; de acesso e falta de controle sobre tecnologias sensíveis, entre outros. Com este objetivo, o papel, com base em Peter Gill (2016), apresenta uma matriz com um número de dimensões para avaliar o grau de democratização e o nível de accountability dos serviços de inteligência, com particular atenção para o contexto da América Latina.

**Palavras chave:** inteligência, democratização, matriz.

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ALEJANDRA OTAMENDI\*  
EDUARDO E. ESTÉVEZ \*\*

## INTRODUCTION

Today at the international level there is a strong debate concerning the powers and practice of intelligence services. On the one hand, they seem not be able to prevent attacks such as the one against Charlie Hebdo in Paris. On the other hand, the level of intrusion of intelligence in the lives of citizens and their associated political uses facilitated by technological developments in the information age have generated a strong shock following the unveiled by Julian Assange (Wikileaks) and Edward Snowden. Indeed, “the publication of ‘leaked’ internal Intelligence and National Security Agency (NSA) documents since June 2013 has detailed governments’ attempts to achieve total surveillance of the Internet and other communications” (Andregg & Peter Gill, 2014: 490). As a reaction to this crisis and debate, the USA Freedom Act (2 June 2015) replaced the so-called Patriot Act (Eskens et al, 2015).

Also, some authors argue that intelligence communities are still governed by obsolete doctrines or intelligence paradigms such as those based on international relations realism, and that they still work under assumptions more typical of the Cold War than attuned to the current conflicts and international setting (Sheptycki, 2008; Coyne et al, 2014). Given this, a new doctrine based on human security has been proposed instead, offering alternatives to the application of power and of military action, even more relevant in the presence of non-state actors and networks threats (Sheptycki, 2008). In addition, in the context of the post-modern information age, the proliferation of information and the availability of new investigative tools, make the role of intelligence professionals more irrelevant for decision-making, limited to techniques for obtaining secret information, without sophisticated analysis (Coyne et al, 2014). After the end of the Cold War and before the attacks of 9/11, many voices advocated, “a massive slashing of intelligence budgets” and even the abolition of intelligence services by merging their functions into other government agencies (Schreier, 2007: 25). As stated by Coyne et al (2014: 65) “Now may be an appropriate time for the intelligence profession to re-examine and fundamentally challenge the underlying assumptions that underpin intelligence theory and practice.”

In this international and sectoral context, the debate on the use of intelligence in Latin America where the intelligence structures still respond to authoritarian legacies of military dictatorships, is even more pressing (Andregg and Gill, 2014). Indeed, intelligence agencies are still in the process of democratization, in many cases partially, discontinuous, late and reactive to episodes of crisis, remaining as “authoritarian enclaves” (Estevez, 2015). Thus, numerous episodes occur where intelligence agents appear involved in cases of political and corporate espionage, rather than providing services for national security in still fragile democracies.

However, these problems appear not only in countries in Latin America where they “must often deal with enduring legacies of repressive intelligence and security agencies”, but even in mature democracies (Born & Jensen, 2007: 257). In a more general vein, the classic debate between security and civil liberties has been reopened. Indeed, there is a renewed tension between “the relative value placed on the community’s collective need for security on the one hand, and

individual rights and freedoms on the other hand” (Caparini, 2007:3). However, “reductions in rights and freedoms do not make for greater security; they make for less democratic societies in which the possibilities of abuse and harm by the state or vengeful populations are increased” (Gill, 2007). Thus, the challenge of vigorous control, oversight and review of state security intelligence activities is renewed in every democratic society (Caparini, 2007; Gill, 2007).

Taking into account these tensions at international and regional levels, but also the large resources they consume, the frequent political scandals they generate and the lack of productivity they achieve, the question of the need for state intelligence activities in Latin America arises. Given that question, this paper reviews, first, the remaining challenges of democratization processes of intelligence in Latin America as "authoritarian enclaves" of civil-military dictatorships in the region, but also general difficulties found in the intelligence sector. Second, the need for control and oversight mechanisms of intelligence services in Latin America. Finally, a matrix with dimensions to evaluate the degree of the democratization process and the level of accountability of intelligence services is introduced.

## **Challenges and difficulties to democratize intelligence sector in Latin America**

From new institutionalism and path dependence perspectives, it could be argued that each historical moment of a country has its counterpart in the security and intelligence structure. This in turn is conditioned by its strategic context, history, political culture, traditions and legacies (Brandão, 2010, Bruneau and Boraz, 2007; Coates, 2013; Estevez, 2014a, Markowitz, 2011; Piedra Cobo, 2012; Ravndal, 2009; Zegart, 1999).

In the case of intelligence services, there is a consensus that one of the main challenges of new democracies is to leave behind agencies dedicated to monitor and operate domestically against inhabitants, to collaborate with or become instruments of repression for military regimes, and to commit abuses and violations of human rights such as extra-legal detention, torture, and extra-legal executions. In fact, through ‘political policing’, “intelligence services in repressive regimes are often a key means of maintaining power”, that could also be used as such in transitional democracies (Caparini, 2007: 21). However, even when structures are modified in democratic regimes, the legacies of authoritarian regimes affect the way intelligence is performed in such countries (Marques Kuele et al, 2015).

The omnipresence of intelligence surveillance on society was well established in the case of Peru (see Basombrío and Rospigliosi, 2006: 245-251), but also in the case of Mexico as revealed after the declassification of the archive of the Interior Ministry containing intelligence reports generated by the “General Department of Political and Social Investigations” and the “Federal Security Department” during the 1947-1985 period, which showed the immense amount of mundane information on almost all sectors of society (Padilla and Walker, 2013: 4).

However, the challenges that intelligence poses to democracy are not restricted to new democracies. Indeed, “the intelligence sector's unique characteristics –expertise in surveillance,

capacity to carry out covert operations, control of sensitive information, and functioning behind a veil of secrecy– may serve to undermine democratic governance and the fundamental rights and liberties of citizens” (Caparini, 2007:3). In fact, the imperative for secrecy “can be abused and may lead to inefficiency, unauthorized actions, or the misuse or politicization of intelligence agencies”, violating ethical principles, evading political control, and even becoming “a threat to the society and political system they are meant to serve” (Born & Jensen, 2007: 257).

Although “intelligence and security services are key components of any state, providing independent analysis of information relevant to the external and internal security of state and society and the protection of vital national interests”, in a democratic state, security as a value must coexist and compete with other values such as respect for civil rights, free speech, the rule of law, checks and balances, and other democratic values (Caparini, 2007:3). Thus, “a trade-off between these diverging interests” has to be found in a manner that is politically and legally sound (Schreier, 2007:34). In fact, secrecy as a core aspect of the definition of intelligence for some authors clashes with the democratic principle of transparency (Crosston, 2016).

Thus, in democracy, the functions and activities of security intelligence must be subject to mechanisms of “control and oversight in the interests of effectiveness, efficiency, legality, propriety and respect for rights” (Andregg & Gill, 2014: 489). In transitional democracies, many of these mechanisms may not only be enforced, but even created as part of a democratization process. However, the dynamics of democratization of intelligence in Latin American countries has not been homogeneous, with variations in the formulas used, timing, and the results achieved, conditioned by particular legacies, historical circumstances and strategic environments (Estevez, 2014a).

One frequent path to democratize the sector is the building of a new regulatory framework adequate to a democratic concept of intelligence, which ideally should be based on a broad consensus in order to grant legitimacy. However, regulatory reform is not enough. In fact, while the basis for legality is a legal framework for intelligence services, “legitimacy can, however, only be achieved if democratic control of intelligence services is perceived to work and the value of accurate knowledge and unbiased intelligence is recognized as a condition of good governance in the globalized world” (Schreier, 2007: 26). In this sense, legality and legitimacy are both important for any democracy, but particularly in transitional democracies where intelligence services were used against civil society during authoritarian regimes.

Thus, as part of the reform process, intelligence agencies should have examined their organization - structure, functions, procedures and staff - as a means to adjust and improve their performance to assist democratically elected decision-makers. However, at this point in history, it is evident that in the new democracies intelligence services are not going to democratize or reform themselves, even with a new law passed by legislators with a consensus. Rather than legislation, it is the internalization of democratic “political values and ideas within the political culture, especially among the political elite, that provides the most essential indicator of democratic governance of the (internal) security sphere” (Lustgarten, 2003: 326 quoted in Caparini, 2007:17).

Indeed, policymakers of a democratic government are an integral part of the intelligence cycle, they are the "alpha" and "omega" of the cycle: they are the customers that require intelligence services and they are the final recipients of products made by the agencies (Matei and Bruneau, 2011b: 660). Thus, when democratization of intelligence is promoted, the responsibility of policymakers to implement changes resulting from the new democratic legislation comprises not only changes in the structure, but also in the culture and practices of the intelligence services. However, as noted by Professor Robert Jervis (2007: vii), and except few examples (Cepik and Ambros, 2012 for the case of Brazil; Morales, 2016 for El Salvador; Basombrío and Rospigliosi, 2006 for Peru; Estévez, 2015 for Argentina, among others), this relationship has enjoyed little attention despite its important role on the way to the democratization of intelligence in new democracies.

In this section, some other difficulties that affect the democratic governance of the intelligence sector are identified (based on Estévez, 2015). One is to consider, as stated before, that the enactment of democratic legislation alone means that changes will occur in practice. Another is to assume that a civilian leadership of the intelligence sector ensures its functioning according to the new legislation. In this regard, it is important to bear in mind the weight of professional bureaucracies against a mere formal civilian chief. Another mistake from the political sphere is to issue dual or mixed messages on what is expected from the intelligence services. In these cases, when uncertain, the bureaucracy of the sector continues to reproduce illegal practices of authoritarian rule. More specific shortcomings of management that may be mentioned include having poor ability to control and manage secret expenditures; lack of access and lack of control over sensitive technologies; and lack of ability to deal with crisis when an intelligence scandal emerge.

However, one of the most important challenges in a democratization process is the trend towards politicization, that is, the temptation to make partisan political use of the state intelligence apparatus. This can occur in two ways: down, i.e., political authorities require intelligence professionals the products they want or need for domestic politics becoming a "political police" (Matei and Bruneau, 2011b: 663). And upward, in this case the intelligence professionals voluntarily provide products that they know or infer that policymakers want on domestic issues, with the risk of producing 'intelligence to please' and "ignoring danger signals that the policy is misguided" (Caparini, 2007:7).

This trend is particularly serious for Latin American countries, since it does not only mitigate the efforts to reform, but also reproduces flawed intelligence practices from the authoritarian legacies. As Maldonado (2009: 55) argues, "even countries with stronger institutions cannot get rid of this evil", as verified cases of politicization could be found in Argentina and Brazil, but also in countries like Ecuador, Colombia, Peru and Venezuela. At a subnational level, Margaría and Schnyder (2014) while studying the case of Santiago del Estero province of Argentina, agree that the police intelligence service rather than a mere instrument of politics, is a constitutive element that has taken part in the development of the political order, even in democracy.

Apart from the trends of politicization, Matei and Bruneau find a serious reluctance on the part of policymakers to get involved with intelligence reform issues, what leads to "incomplete or hasty



fixes to improve intelligence efficiency and ensure accountability” (Swenson, 2015:4). In order to understand this unwillingness, Peruvian experts Basombrío and Rospigliosi (2006:248) suggest that what the politicians think about intelligence as an unavoidable order should be analyzed. According to them, politicians tend to believe that: *i*) the intelligence services should be in the hands of the military because they are those who know such matter, the intelligence professionals; *ii*) the intelligence services always spy on politicians and all kinds of people and institutions in any government. Therefore, every government should use that to their own advantage; and that *iii*) intelligence services must conduct ‘psychosocial’ procedures operating covertly and with secret funds. However, as the authors point out, it is wrong, essentially undemocratic and often illegal. Thus, these beliefs are an obvious obstacle to develop intelligence sector policies as public policy in a democracy.

However, not everything depends on the Executive branch. As part of the regulatory reform of intelligence, legislative oversight committees have grown in number in the region. Some cases include the establishment of a special oversight committee to carry out investigations into the abuses, corruption, human rights violations or breach of the legislation (Gomez de la Torre, 2013). Nevertheless, in heavily presidential systems, such as those seen in Latin America, the activity of parliamentary control is relatively weak in any subject, including the exercise of control over the intelligence services. Some experiences indicate that the media may also appear as a monitoring tool more effective than formal mechanisms, as an alternative or complementary to the formal mechanisms (Matei, 2014; Shiraz, 2015).

Even when national specific laws or regulations are not in place, an ethical sensibility by intelligence professionals and internal oversight should determine what choices are to be made regarding intelligence activities (Gill, 2007). In addition, international standards such as international human rights covenants, conventions, and treaties “could be effective moral and even legal substitutes for national guidelines” (Swenson, 2015:6). Thus, a legal framework, effective oversight and an ethical identity are “critical if democracy is to survive the corrosive effects of intelligence agencies turning on the peoples who create and empower them” (Andregg & Gill, 2014: 495).

As part of an ethical approach, a debate on the scope of secrecy, whose derivations make the legitimacy of intelligence, is also taking place. One of the good practices identified by the United Nations Human Rights Council (A/HRC/14/46, 2010: 6) states that

The mandates of intelligence services are narrowly and precisely defined in a publicly available law. Mandates are strictly limited to protecting legitimate national security interests as outlined in publicly available legislation or national security policies, and identify the threats to national security that intelligence services are tasked to address.

However, this does not always happen because intelligence agents often continue with the inertia of Cold War conflicts and they do not direct their activities to current security requirements. As Crosston points out, “national security interests are combined with domestic consolidation priorities, and softened by the mitigating factors of foreign policy, relationship legacies, and culture” (Crosston, 2016: 128). Thus, it is also part of a democratic intelligence system to reflect local priorities and the general well-being.

## Democratization of Intelligence Matrix for Latin America

As noted by Gill (2016) intelligence systems are usually developed by two factors: scandals and democratization processes (Piedra Cobo, 2011). As for the latter, it should be noted that not only occur in countries that went through general recent democratic transitions as they could be in Latin America, Africa, and Eastern Europe, but democratic governance of intelligence is still very young, even in old democracies (Gill, 2016: 5). Therefore, their study is useful for both oldest democracies where setbacks can occur, as well as lessons for new democracies.

To describe and explain the processes of democratization of intelligence is difficult, particularly for secrecy and suspicion prevailing in that domain. However, this secrecy and suspicion makes its study more necessary (Gill, 2016). Indeed, being intelligence a central role of the state, it must be studied especially in a democracy where transparency, access to information, individual rights to privacy and accountability in general are its pillars. In this sense, there seems to be a shared opinion by certain authors that studies of this nature should be of qualitative type since it cannot be analyzed from a quantitative approach because neither large databases are not accessible nor they exist (Gill, 2016). Davies and Gustafson (2013) go beyond pointing out that the quantitative is impractical, especially when there is no agreement in the measurement of certain concepts. In addition, Gill (2016) indicates that since political culture is central to understanding an intelligence system, what is required is a qualitative approach that takes into account the views of experts from different countries to allow comparative analyzes.

In this regard, Davies and Gustafson (2013:7) emphasize that intelligence is a particularly suitable topic for comparative analysis because the intelligence services should resolve similar problems: to obtain information, to understand meanings, and to ensure it reaches the people and places that need it as part of the so-called "intelligence cycle". However, these functions are performed differently, in part because of the "culture of intelligence". In other words, given the need to perform similar functions and knowledge requirements, intelligence services work differently depending on the context, history and legacies (structural conditions), but also on human agency, that is, the ability to act creatively in these structures, even by modifying them.

At this point, this paper seeks to contribute by introducing a matrix of dimensions to consider in a qualitative comparative study of the democratization process of intelligence, particularly in the Latin American context. As Andregg and Gill point out, "democracy requires that security and intelligence activities are subject to control and oversight in the interests of effectiveness, efficiency, legality, propriety and respect for rights" (Andregg & Gill, 2014: 489). Thus, in a broad sense, democratic control and accountability of an intelligence service include the assessment of the legality, ethics, proportionality and propriety for its activities and objectives (Caparini, 2007:9; Schreier, 2007:38).

According to Barreiro and Rivera (2011), accountability should be done through horizontal controls (internal management), vertical controls (public sphere), and crossed controls mixing both previous types. Regarding horizontal accountability, it includes restraints of state institutions

by other equal state institutions such as “public agencies and the three branches of government (executive, legislative and judiciary)”. Then vertical accountability refers to “relations among those unequal in power, such as “the hierarchical relationship between senior officials (principals) and their subordinates (agents) within a state institution” as well as the “efforts of citizens, the media and civil society organizations to keep public officials acting in accordance with good standards”. A third type of accountability refers to “the role of international actors, such as foreign governments, intergovernmental organizations and international non-governmental organizations in holding a state institutional actor to account” (Caparini, 2007:9). Taking into account all the actors involved, some authors highlight that democratic control of intelligence services should be perceived as an “oversight community” (Gill 2007:213) or “multi-level system of governance”, that include “mechanisms at the level of the intelligence agencies themselves, the executive, parliament, courts and the general public and even international organizations who set standards for intelligence oversight.”

In order to clarify the different roles of each actor, many authors distinguish between control and oversight functions: “control” over agencies is exercised by the elected civilian officials from the executive branch. Thus, to conduct some activities such as interception of calls, an authorization by elected officials is required (Gill, 2016). This refers to what is known in Latin America as “political governance” by elected authorities. Since it “includes the power to manage and direct an intelligence service” (Eskel et al, 2015:7), two types can be identified. First, political control or executive control that refers “to the direction provided by a Minister through the issuance of guidelines and through monitoring the activities of an agency”, and second “administrative control” that refers to the “internal supervision and management of the intelligence agency as a bureaucratic institution (...) its internal rules and regulations” (Caparini, 2007:8). In this regard, “the entity exercising control could also exercise internal oversight”, what “cannot be considered to be substitutes for external and independent oversight” (Eskens et al, 2015:7).

Indeed, ‘oversight’ is in general external, but it could also be internal since it refers to the ways an intelligence service is accountable before the public and the government. In fact, ‘oversight’ means supervision and watchful care, and in general, it implies the review of legality and of effectiveness of intelligence. In this sense, it is not the request for prior authorization, but oversees what has already been done (Gill, 2016). As noted before, oversight could be internal, performed by the responsible minister, or external, which can include parliamentary oversight, judicial oversight, and economic and financial oversight (Eskens et al, 2015:8; Gomez de la Torre Rotta and Medrano Carmona, 2015). It can also refer to oversight performed by civil society, companies and the media.

Regarding legislative oversight, it tends to examine both efficacy and propriety of intelligence activities, for example, by supervising the accomplishment of the intelligence objectives, but also “whether intelligence activities are being conducted in accordance with the law” (Caparini, 2007:9). For doing so, a standard for oversight national intelligence services is that these



parliamentarian commissions have enough resources in terms of equipment and staff, and more important in terms of access to information and technical expertise (Eskens et al, 2015).

In the case of judicial oversight, the focus is on the propriety of intelligence activities in general, and the respect of rights and civil liberties of citizens in particular (Caparini, 2007; Gómez de la Torre, 2013: 26). Some authors also refer to economic and financial oversight, what includes norms, procedures and organs of the intelligence services that can make accountable the use of their budget and expenditures (Gomez de la Torre Rotta and Medrano Carmona, 2015). Finally, public oversight, due to its limited access to information, tends to focus on propriety issues rather than efficacy issues. Indeed, the media and the public cannot examine whether the intelligence service has achieved its goals if there is no available information about them (Caparini, 2007).

In order to test whether these mechanisms of control and oversight are in place in Latin American countries, following Gill's own scheme (2016), a matrix with eight dimensions were included (Caparini, 2007; Schreier, 2007). The first dimension considers legislation. As mentioned in the second section of this paper, the UN Human Rights Council (A/HRC/14/46, 2010) identifies as a good practice that the mandates, threats and interests of national security are narrowly and precisely defined in a publicly available law. Born and Jensen (2007:264) also suggest that a comprehensive legal framework should include the protection of human rights, particularly regarding "special powers of intelligence services to interfere with private communication and property"; "the proportionality and authorization by law; (...) the relations between the services (...) as well as the status of intelligence employees and the use of public funds", among other issues. Meanwhile, Gómez de la Torre (2013) in his comparative research study of the intelligence legal framework of Peru, Ecuador, Chile, Argentina, Brazil, Colombia, Mexico and Spain, pointed out five dimensions of democratic control to be analyzed: internal and external control and oversight mechanisms; staff professionalization mechanisms; organic dependence of intelligence bodies; and access to information mechanisms. Thus, a comprehensive and up-to-date intelligence legal framework is important, not only because of its legal impact, but also because it means "the embodiment of the democratic will of the people" represented by elected parliamentarians (Born and Jensen, 2007:264).

The second dimension refers to the use of financial resources and has a particular focus on secret budget. Indeed, the weak control over large amounts of secret budgets and their special powers to obtain information make intelligence services a powerful state actor in the shadow, even after a democratic reform. This dimension is related to financial and economic oversight already explained (Gómez de la Torre, 2013). The third dimension refers to political control, a key aspect of democratic governance of intelligence services. As it was detailed in the first section of this paper, since a new law is not enough safeguard against abuses, elected leaders play a key role to make real changes in intelligence practices and culture. Thus, their roles in political control and in internal oversight were included. However, there are many difficulties regarding the relationship between intelligence "consumers and producers", being politicization

one of the most important. In the matrix, the proportion of military heads and other indicators of militarization were also included. The reason for this is that although Latin American countries foster democratization reforms, there is a tendency to post a civilian official in charge of intelligence services, but only as a testimonial figure.

The following two dimensions, Recruitment and Training, have to do with problems identified previously such as politicization of intelligence bureaucracies, lack of independence, weak ethical commitment, corruption and limited analytical skills. Since the enactment of a new democratic law is not enough to change intelligence practices and culture, a new approach regarding intelligence professionals is required. One of the first measures taken in many democratization reforms is to remove agents not adapted to the new democratic regime, but also to openly recruit profiles from different sectors of society in order to reflect its diversity and train them according to the mandate, rules and principles included in the new democratic law. The purpose of such measures is to promote “self-accountability” through commitment to professional standards and ethics (Andregg, 2012; Gómez de la Torre, 2013). For the case of El Salvador, Morales (2016) identified several “strategic factors” to examine the degree of the intelligence service professionalization: modern legal framework; inter-agencies relationships; multilevel governance of intelligence units; applied research programs; specialized training; design of strategic profiles; strategic partnerships (with the private sector, universities, think tanks, etc.); specialized publications and journals; intelligence and security technology, and international relations and multinational cooperation.

The sixth dimension to analyze includes all the procedures regarding collection of information. As noted previously, since in many cases intelligence practices imply secrecy and intrusive measures, it has to be clear for intelligence professionals when and how to perform them in order to respect human rights. For example, in some cases they may require previous authorization to conduct some operations. As mentioned before, in general terms, from an ethical and democratic perspective, there is a debate on the scope of secrecy since it “can be abused and may lead to inefficiency, unauthorized actions, or the misuse or politicization of intelligence agencies” (Born & Jensen, 2007: 257). Thus, some items of this dimension deals with secrecy and control of sensitive information.

The next dimension (external oversight) has already been developed in detail. Apart from financial and economic oversight (second dimension), and public oversight (eight dimension), the matrix includes in this dimension legislative oversight regarding its resources and access to information, but also its composition and special powers; and judicial oversight, that focus on propriety of intelligence activities (Caparini, 2007; Gómez de la Torre, 2013: 26). The last dimension deals with public oversight including both the civil society and the media’s role in overseeing intelligence activities. Although many activities are secret, intelligence services must facilitate access to non-classified information in order to be accountable. This is particularly the case for the information produced in previous authoritarian regimes, since it can contribute to commissions of truth and criminal investigations on human rights abuses.

**TABLE 1**

Matrix of Intelligence Accountability

1. LEGISLATION	1.1. Is there a public law of Intelligence service?
	1.2. When and how many times was it reformed?
	1.3. Does the law define a precise mandate?
	1.4. Does the law define threats and interests of national security?
	1.5. Does the law define limits to secret intelligence special powers?
	1.6. Does the law or regulations define rules for the acquisition, processing, protection and use of personal data? Is authorization required for special procedures?
	1.7. Does the law define control and oversight mechanisms? Which ones?
	1.8. Does the law prioritize and guarantee respect for human rights and civil liberties?
	1.9. Does the law make any reference to intelligence employees status and professionalization?
	1.10. Does the law state the procedures to use public funds?
2. ECONOMIC-FINANCIAL OVERSIGHT	2.1. Is the intelligence budget reported in the general budget?
	2.2. Is the agency required by norms and procedures to account for its regular and secret expenditures?
	2.3. What is the proportion between secret and public expenditures?
	2.4. Is there any reported abuse of secret expenditures?
3. POLITICAL CONTROL	3.1. Does it have civilian leadership democratically elected or appointed by democratically elected authority?
	3.2. Do the political authorities establish national security policies?
	3.3. Do the political authorities appoint agency heads?
	3.4. Do the political authorities determine the budget of the agencies with legislative agreement?
	3.5. Does the agency have civil officers, besides agency heads?
	3.6. What is the proportion of military and civilian professionals?
4. RECRUITMENT	4.1. Are recruitment and training rules and requirements included in the new legal framework of intelligence service?
	4.2. Is the recruitment of intelligence officials meritocratic, public and open?
	4.3. Is the recruitment of intelligence officials not discriminatory?
	4.4. Is the recruitment of professionals based on profiles designed for the current intelligence requirements?
5. TRAINING	5.1. Is the training program authorized and supervised by civilian political authorities?
	5.2. Does the training emphasize updated technical skills?
	5.3. Does the training emphasize compliance with the guarantees of respect for freedoms of expression, association, movement?
	5.4. Does the training emphasize respect for diversity of all kinds (sexual, ideological, political, religious, ethnic, etc.)?
	5.5. Does the training focus on the threats and national interests identified in the new democratic law?
	5.6. What issues, by whom, how long and where the agents are trained?
	5.7. Does the training include specialized and updated courses for intelligence authorities, even including master degrees?
	5.8. Does the training institution have strategic partners such as private companies, universities, think tanks, and others?
	5.9. Does the training institution have fluid relationships of cooperation with prestige institutions of the field at national, regional and international levels?
	5.10. Does the training institution count with updated intelligence technology, bibliography and applied research programs?

6. INFORMATION COLLECTION	6.1. Does the law establish procedures for authorization by people outside of agencies for use of covert information gathering and covert action?
	6.2. What are the criteria followed for classification of information?
	6.3. What is the time period for declassifying secret information?
	6.4. Is there any evidence of changes in culture and in information collection practices according to the new democratic law?
	6.5. Is there consistency between intelligence policies established by the new law and the specific activities carried out?
7. EXTERNAL OVERSIGHT	7.1. Is there any combination of legislative, judicial and/or expert bodies that monitor the effectiveness and propriety of agencies?
	7.2. Is there a Parliamentary Oversight Commission?
	7.3. Is this Commission plural-partisan? How is it composed?
	7.4. How many times does it meet per year?
	7.5. How many reports does it produce per year?
	7.6. Does it have access to secret information?
	7.7. Does it have access to information regarding secret expenses?
	7.8. Does it have the power to require hearings?
	7.9. Does it have the power to sanction or apply sanctions?
	7.10. According to experts, is the Parliamentary Commission effective in overseeing intelligence?
8. PUBLIC OVERSIGHT	8.1. Does an active civil society make use of the limited transparency to support public debate on intelligence issues?
	8.2. Do the media have access to information, albeit limited, to generate public debate on intelligence issues?
	8.3. Are the files of past military dictatorships or authoritarian governments available for the public and the media?

Source: mainly based on Gill (2016), but also on Andregg (2012); Born and Jensen (2007); Caparini (2007); Gómez de la Torre (2013), Morales (2016), Schreier (2007), among others.

## CONCLUSIONS

Scandals, lack of productivity, rivalry, old and new challenges lead to possible doctrinaire and organic reforms of intelligence both at international and regional levels. In Latin America, these problems are more pressing because the intelligence sector is in many cases an "authoritarian enclave" that resists democratization process. Indeed, in many cases they still operate with an opaque logic, conducting political intelligence for the ruling party or by selling their services to the highest bidder. In addition, its opacity, lack of real control, but high budgets and access to sensitive information, places them in a position of power in the shadows with ability to influence and blackmail political, judicial and economic actors, among others.

Given this scenario, it is reasonable to wonder about the need of intelligence in Latin America. Therefore, it was examined the difficulties still present in the intelligence sector in Latin America due to its lack of real democratization. In most countries, the laws were updated, but this has not always led to changes in intelligence culture and practices. To do this, it was pointed out the strategic role of political authorities to implement reforms, conduct professional intelligence bureaucracy, and manage secret expenditures and sensitive technology. Above all, they must

have an ethical and democratic commitment to avoid the politicization of intelligence for their own benefit and redirect to the general welfare of citizens through a public mandate by law.

In this regard, the need for academic studies of intelligence democratic governance is imperative, even in countries with established democracies. For doing so, a qualitative approach, and particularly a comparative method, should be used in order to study similar functions that are present in all agencies, but undertaken differently due to culture and human action. Thus, in order to facilitate comparative studies of Latin American intelligence sector, a matrix was developed with different dimensions of analysis that incorporates previous studies, especially the one of Peter Gill (2016). In sum, this paper intended to show the remaining challenges of democratization of intelligence in Latin America and in order to assess the degree of progress and setbacks of the democratic governance of intelligence in Latin American countries, a methodological tool was generated for comparative purposes.

## NOTAS

1. Una versión previa de este trabajo fue presentado como “Intelligence challenges in Latin America and prospects for reform: A comparative matrix on democratic governance” en ISA Annual Convention, 2016, Atlanta, Georgia, 16-19 de Marzo, 2016.

\* Investigadora Asistente, CONICET/IIGG-UBA. Doctora en Ciencias Sociales de la Universidad de Buenos Aires y de l'École des Hautes Études en Sciences Sociales (EHESS). otamendialejandra@gmail.com

\*\* Consultor; integra el Portal de Seguridad (www.portalseguridad.org) eduardo\_e\_estevez@yahoo.com.ar

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