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THE INFLUENCE OF CIVIL SOCIETY IN THE DEMOCRATIZATION OF INTELLIGENCE, A SLOW PACE PROCESS IN MEXICO'S DEMOCRACY.

Abstract:

The conceptualization and the practise of national security in the Mexico's political dynamic during most of the twentieth century symbolized the security of the regime. Civil society as such was poorly developed. The intelligence services operated with a high level of discretion due to the absence of a legal framework preventing them being subject to any oversight.

In this context, the right for access to information introduced by the first democratic transition government was a turning point. Isolated civil society efforts done before 2000 were empowered and their pressure for openness of the intelligence sector finally became feasible for the very first time in Mexico's modern history.

To date, the Centre for Investigation and National Security (the main national intelligence agency) seems to have taken off its image of political police and made considerable efforts to prevent human rights abuses. There are still massive opportunity areas. Mexico's democratic transition aftermath could be the right time for civil society to continue pressuring and thus continuing helping in building the state institutions Mexico, as a global actor, needs.

Keywords:

democratization of intelligence services, openness, transparency, civil society, democratic consolidation in Mexico, the right of access to information.

JEL Classification: L40, H73, R59

From mid 1970's and what Samuel Huntington (1993) called the "third democratization wave", several countries in Europe, Asia and Latin America undertook transitions from non-democratic regimes to democratic ones. This democratization brought a massive change in the way governments and citizens interacted. Experts underline that, as a result of this democratic wave, along the last 25 years individual and political freedoms have allowed civil society to shape national and international public agendas. At the national stage, civil society has successfully achieved an each time higher influence on policies surrounding domestic issues by demanding accountability particularly throughout promoting transparency and access to information (FOCAL, 2006).

Nevertheless, this influence has turned out to be very challenging when it comes to the performance of the intelligence services in democratic states. The essential need intelligence agencies have to operate with a high level of secrecy enhances the potential for abusing their powers and capabilities undermining democratic governance. For instance, they might infringe human rights, interfere in domestic politics inducing specific outcomes, intimidate members of the opposition, or use intelligence for purposes other than national security (Nathan, 2012).

In Latin America the notion of intelligence tend to have a negative meaning due to its linkage with illegal espionage and "dirty wars" (Rodríguez, 2003). In the case of Mexico it was not until 2005 that its legal framework comprised a reference to national security. This anomaly made the notion of national security and its decision-making processes emerged as a political tool the successive administrations -alongside 71 years- of the Revolutionary Institutional Party used for their own interests and benefits. In 2000, the aftermath of Mexico's first freely contested elections set out the political conditions for the civil society to push the new elected authorities undertaking the so looked-for reform of the intelligences services (Leroy, 2004).

Despite transparency is by far superior than it was 20 years ago, and thus there is much more information available regarding the precedents and the current situation of the Mexican civil intelligence agency, a great deal of opacity persists.

This essay will focus on the extent to which the democratic transition in Mexico, started almost 20 years now, has democratized its main civil intelligence agency: the Centre for Investigation and National Security (CISEN). To this purpose, it will outline the foremost characteristics of the context in which the country's intelligences services operated, as well as the role played by civil society in their democratization soon before and after the first democratic transition government took office in 2000. To illustrate the empowerment of civil society and its growing influence on the intelligence agenda, the essay will briefly discuss the importance of the right for access to information and its impact on CISEN accountability.

Liberal democratic theory considers that the state must deliver a government emerged from free and fair elections and subjected to accountability, whilst civil society ought to be granted with civil and political rights and the freedom of association (Mercel, 2002). According to Brysk (2000) civil society might be define as a “public and political association outside the state. (…) Its political role is not just to aggregate, represent, and articulate interests, but also to create citizens, to shape consciousness, and to help define what is public and political”. In this democratic setting, the role played by civil society may differ, depending on the phases of the democratization process. Political analysts believe a democratization process comprises two different phases: democratic transition and democratic consolidation (Mercel).

Subsequently, civil society is alleged to perform a central function in democratic transitions due to its large capacity of getting political change throughout nongovernmental social mobilization. Accordingly, student and religious groups, farmers and entrepreneurial associations, human rights organizations, the media, unions and academia have significant influence in prompting democratic reforms (Ibid).

Over the last 40 years, constant successions of democratic elections and key institutional reforms have taken place. Civil society’s influence in initiating or supporting them has been decisive. Several cases illustrate this. In Portugal in 1974 when the 24 April military coup, known as the Carnation Revolution, ended up the longest dictatorship in Europe installed five decades before; in Greece, three months later, when the military junta ruling Greece since 1967 collapsed giving in to democracy. The following year -November, 1975- when the death of dictator General Franco, who ruled Spain since 1939, opened up the doors to democracy (BBC, 2014). During the late 1970’s when political openness took place in Bolivia, Brazil, Ecuador and Peru or in the 1980’s when strongest authoritarian regimes like those ruling Mexico and Chile started to show shifts towards liberalization, as well as the military dictatorship governing Argentina (Remmer, 1985). Moreover, the designation of the Pope John Paul II in 1979 enhanced the falling of the communist regimes in Eastern Europe, and in 1985 the reformist Michail Gorvachov gave great internal support to the liberalization process in the URSS, which gave the rest of the soviet republics the historic opportunity for building authentic and competitive democracies (Curzio, 2011).

The Geneva Centre for the Democratic Control of Armed Forces claims that the intelligence sector is the very last layer in a democratization process (Hans and Mesevage, 2012). This might have to do with the large limitations civil society faces when demanding the democratization of intelligence services, for instance, their increasing

threats, resources and secrecy.[1]

In totalitarian and authoritarian regimes intelligence services have normally been used to silence internal critics and opposition movements, for instance KGB in the former Soviet Union, the Stasi in former German Democratic Republic, and the Securitate in Romania (Caparini, 2007). The use of intelligence services to keep society under control has been a regular practice in Latin America as well, and Mexico has not been the exception.

Since 1929, Mexico's political system was virtually dominated by one single party[2] -the Partido Revolucionario Institucional (PRI)- rigorously controlling all branches of government and society. The government civilian intelligence services, created by presidential decree, were certainly free of any external oversight or control granting them secrecy and impunity for committing all sorts of unlawful doings (Rodríguez, op cit). This tendency increased from the 1960's to the 1980's when anything that could be considered as political and social dissidence was repressed, from left-wing and student movements, to labour unions, rural and urban guerrillas (Leroy, op cit). All these groups were identified, analysed, and afterwards disabled or neutralized by recurrently excessive coercive measures, being this the solely relationship the intelligence agencies had with civil society (Rodríguez, op cit). In this context for instance, the student movement emerged in Mexico in 1968 was the only one in the word ending up in a massacre performed by the Army and the security and intelligence services on October the 2nd (Poniatowska, 2008). The rally took place in the Tres Culturas Square, where a military brigade apparently responding to a previous aggression killed numerous students.

In a moment when civil society seemed to be incapable of fighting against authoritarianism, the combination of two external events forced an initial change of the intelligence sector (Rodríguez, op cit). First, the assassinations of Carlos Buendía, a well-know journalist, by intelligence agents in 1984 and Enrique Camarena, a Drug Enforcement Administration agent, by drug-traffickers in 1985 with the protection of security agents, revealed longstanding connections between agencies and drug cartels (Leroy, op cit). A shocked public opinion and a bilateral conflict with the U.S. obliged the government to dismantle both agencies (Rodríguez, op cit). Then, the liberalization of the Mexican economy in early 1990's made domestic and foreign economic actors get relevant influence on the public agenda, situation that boosted civil society faculty for making its demands heard for more democratic institutions and respect of human rights

[1] For the purposes of this essay the terms intelligence service/agency/sector/apparatus are indistinctly used to refer to "a state organization that collects, analyses and disseminates information related to threats to national security" (Born and Mesevage, 2012).

[2] The PRI as such was founded in 1946 but represents the very same political elite of its predecessors: the Partido Nacional Revolucionario (PNR) that ruled from 1929 to 1938 and the Partido Revolucionario Mexicano (PRM) that ruled from 1938 to 1946 (Padilla and Walker, 2013).

without having to pass by political parties (Villa-Aguilera, 1996).

Despite the foundation in 1989 of a new chief civil intelligence agency: the Centre for Investigation and National Security (CISEN) and the implementation of some changes aimed at increasing its professionalization[3], little public debate took place. Moreover, as the government remained the unique responsible for intelligence activities and national security policymaking, the CISEN as well as other intelligence sub-divisions created during the 1990's kept operating largely unaccountable to Congress or society (Leroy, op cit).

Whilst managing political and financial resources towards democratic reform, standing democratic transitions have had to deal at some point in time with the civil society groups' demand of disclosing intelligences services' records and activities elaborated and performed whilst ensuring the permanence of authoritarian regimes (Roberts, 2007). Thus, many transition governments have adopted laws allowing access to former intelligence services files. East Germany, for instance, permitted broad public access to government records previous the German reunification and the Czech Republic made the required legal modifications letting public general review the material related to its communist past (Banisar, 2002). In some cases, getting access to this information was a necessary precondition for launching national reconciliation processes, in other cases getting the historical evidence seemed to be less urgent. Either way, such a demand shows that beyond the opportunity of celebrating free elections, real democratic processes lay on the task of developing, guaranteeing and institutionalizing a culture of accountability within societies and bureaucratic structures (Curzio, op cit).

Furthermore, in order to minimize future potential risks coming from intelligence agencies misconduct, democratic transition governments have had to foster two main aspects: 1) to see transparency as a fundamental component of accountability; and 2) the establishment of review, controls and oversight mechanisms (Ibid); so the intelligence apparatus could be seen as an pre-eminent state institution, performing within the rule of law, and always held accountable to elected authorities through effective oversight mechanisms (Caparini, op cit)

Mexico's democratic transition paved its way with the opposition victory in the presidential election of July 2000, ending 71-year rule of a single party. The election outcome portrayed a historic opportunity for a wide-ranging democratic transition. There was a general expectation that ancient political and institutional practises would be reformed. The intelligence sector was, certainly, one of them (Rodríguez, op cit).

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[3] Efforts to openness, the creation of a civil service, broader use of technology, the designation of intelligence professionals in high-rank posts, amongst others.

Given the centralized structure of governments, intelligence agencies remained very close institutions in Mexico; it was practically unthinkable for outsiders to have access to intelligence evidence; therefore, very little contact was developed between the intelligence services and civil society, academia and the media. The official information feeding the public debate was normally contradictory, limited or false (Benitez, 2012). Little time passed after President Vicente from the Partido Acción Nacional (PAN) took office when a couple of breakthroughs marked the starting point of the democratization of the intelligence service. CISEN granted Sergio Aguayo, a Mexican scholar, controlled access to intelligence files. Product of this unparalleled situation in the country's modern history was his book "La Charola: una historia de los servicios de inteligencia en México" (2001). The book focused on revealing fragments of the secret, organizational and operational history of the civil intelligence services (Rodríguez, op cit). Aguayo's effort to document part of the history of intelligence agencies in Mexico was indeed of the greatest importance. It brought to light a series of abuses and wrongdoings committed by such agencies regarding some of the most sensitive political cases, supported with declarations of current and former intelligence officers; something unconceivable just 5 years before. Additionally to Aguayo, CISEN also granted José Luis Soberanes, President of the National Commission on Human Rights, to visit its headquarters and review some of the reserved records keeping there (Ibid).

In 2000, months before President Vicente Fox took office, CISEN started to build links with scholars, academic institutions, public general and the media. The intelligence agency sought to promote intelligence studies in universities, high-ranked officials started to overtly explain the agency's mission and goals in conferences and interviews, an official website was launched and even internships were offered to students (Ibid). Despite these efforts, very little success was achieved in changing public general perception on the nature and role of intelligence and the government body in charged of it. For instance, of 17 articles published between September 2000 and January 2001 in national newspapers, 12 mentioned in their headings the phrase "political espionage" or the word "secrecy" (Aguayo, 2001). This scenario, however, showed a nascent independent press but more specifically the interest of the media in actively participating in the oversight of intelligence related issues.

As part of the democratic transition agenda, President Fox ordered an extensive and independent evaluation of the main intelligence agency functioning. On July 2001, the Director General of CISEN presented in a press conference the conclusions of the high-level panel. The head of the agency officially recognized intelligence fiascos, the involvement of the services in political espionage and information leakage, and the causes of the institution's weakness (Artz, 2011). One of the most sounded conclusions stated that the intelligence body was essential for the correct performance of the democratic government, but it was needed a legal framework to regulate its functions and