

# Developments of the democratization of intelligence in Argentina: Trends in secrecy policy. Implications for comparing transitional settings.

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## Introduction: secrecy, intelligence and openness

Secrecy policies and practices are one of the core elements to be considered when studying the evolution of intelligence sector in a given society. Indeed secrecy is deemed as intrinsic to intelligence activity. While acknowledging that secrecy raises issues of legality, morality and accountability, Gill & Phythian (2006, p. 7) consider it as one of the essential factors in the concept

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of intelligence. But secrecy is also present in other dimensions of government business – e.g. defense, technology, trade, etc. –

A bath of transparency, accountability and openness spilling over the intelligence sector of old and new democracies is a recent phenomenon overcoming the tradition of close secrecy and deniability that was a characteristic of intelligence services during the Cold War and before it. It has been acknowledged that during several decades of the 20th century the model of intelligence endorsed by authoritarian or totalitarian was the “national security state” or “counterintelligence state”, characterized by a “surveillance state” or a “secret political police” (Bruneau & Dombroski, 2006; Gill & Phythian, 2006, p. 173; Berman & Waller, 2006, introduction; Whitaker, 1999, p. 19-23)

At the same time, freedom of information conceptualization and initiatives arose as most relevant topics to bear in mind when assessing the status of open government and democracy. Thus, access to information and government secrecy are now significant aspects of discussions about intelligence and democracy, democratization of intelligence services, intelligence reform. Access claims and disclosure initiatives are, particularly in the context of democratic transition, two parts of the same coin. The tension and delicate balance between both two is critical in those societies engaged in the review of past abuses occurred under totalitarian or authoritarian rule. In this perspective, it can be assumed, as the evidence show, that secrecy policies are overall shaped not only by democratic intelligence policies, by scandals involving espionage or intelligence failures, but mainly by human rights – review of the past – policies, and also, as coined by Stan (2006, p. 47), by the “forgive and forget” policy.

But secrecy policies may be considered as well in the wider spectrum known as security sector reform. In this sense, as Agüero (2005, p. 2) argues while calling for an integrated approach to avoid the dangers to democratic governance posed by military, police, and intelligence agencies, “...new democracies are often poorly prepared to face up to a double challenge: developing firm institutions for the democratic control of those services, and turning them into effective tools for the protection and security of their citizens”. As source of this problem, this author points not only to those agencies “...but also, and often primarily, in the inaction, complicit stance or active encouragement of non-democratic behavior by civilian actors in government or political society”.

When openness is achieved – e.g. access to intelligence files, judicial review of past abuses, sound legislation, control and oversight, etc. – and is translated

into a precise policy, it tends to promote confidence, credibility and acceptability of intelligence agencies and its role within a democratic setting. In other words, and expressed as a contemporary challenge (DCAF, p. 6), "... In general, intelligence services — except where their sensitive functions make this impossible or unwise — need to become more like other governmental services in their attitude toward transparency and accountability, and in their engagement with the public."

As a conceptual framework in terms of democratic transition, it is proposed here to analyze intelligence sector developments, and secrecy policy in particular, in the context of transitional justice settings. These developments related to secrecy policy, will be examined for the case of Argentina, which since the recovery of democracy in 1983, has been engaged in the reorganization and democratization of its armed forces, internal security apparatus and intelligence agencies. At the same time, here it will be discussed some elements that may be comparatively relevant as indicators of improvements in secrecy policy within the context of ongoing intelligence reform process and transition to democracy, focusing on Latin America and on former Warsaw Pact countries of Central and Eastern Europe experiences.

## **Driving forces managing changes in secrecy policies**

In order to advance in the understanding of the driving forces that nowadays may influence secrecy policies, first it seems pertinent to point out some thoughts on the following subjects: secrecy, rule-of-law, human rights and transitional justice, and regimes and transitions.

### ***About secrecy***

While examining government secrecy in the United States, the Commission on Protecting and Reducing Government Secrecy (Report, 1997, chapter 1) asserted "... however, one of the fundamental problems over the past few decades has been the absence of any clear relationship between the rules for keeping secrets through classification and those for imposing effective discipline when the established safeguards are breached.". This sentence is an indication of the scope of the debate within a consolidated democracy.

A different state of affairs is applicable to countries undergoing democratic transition processes. In the words of Fontana & Battaglini (2001, p. 125) "... While advanced democracies confront the problem of what sort of information should be declassified, new democracies face the more basic challenge of asserting civil supremacy over the intelligence agencies. Civil

liberties were severely restricted on national security grounds during the last wave of authoritarianism in Latin America. A broad, non-democratic concept of national security was utilised in order to prevent citizens from enjoying freedom of expression and other basic rights, and, in most cases, to justify human-rights violations by state bodies.”

In an early study, this author (Pesce & Estévez, 1996) described three spheres in which secrecy was present in Argentina: (i) legislation and regulation – secret laws and presidential decrees –, (ii) secret expenditures – intelligence budget and secret budget assigned to other government agencies –, and (iii) State activities and structures that remain in the dark – such as those linked to intelligence, defense and security, and to other technical matters –. Afterwood (2000) distinguishes three different categories of information classified as secret on National security grounds, genuine national security secrecy, political secrecy, and bureaucratic secrecy. To close this short account on the scope that secrecy may acquire in a political system, it is worth to remember a Herman’s phrase (1996, p. 131): “...handling national security matters and their elements of secrecy has framed intelligence’s place in the decision process”.

Despite of the differences between secrecy issues in a consolidated or transitional democracy, a common feature: the surveillance dimension, the impact of its practices and technologies over society, in a world in which, as described by Whitaker (1999, p. 182), surveillance has become multidirectional. Surveillance, a concept significant to governance, as discussed by Gill & Phythian (2006, p.29-34) is relevant to intelligence in terms of knowledge production, exercise of power, and in particular related to the variables of secrecy and resistance. Secrecy may be assessed considering the expansion or restriction of surveillance (Marx 2004, p. 95-96), or the mandate and authorization to engage in surveillance activities (Cameron, 2005, p.37-42)

Finally, secrecy – its significance to the intelligence sector performance and culture – is at stake when confronted with new realities such as the call for democratic accountability (Gill, 2004, p. 302-303; also Caparini, 2007), the information revolution (Berkowitz & Goodman, 2000, p. 151-152), or the consequences of the terrorist attacks of September 11, 2001.

### ***About the rule-of-law***

For the purpose of this paper, it can be assumed that, in terms of democratic theory, intelligence sector and secrecy policies are linked to the rule-of-law and statecraft dimensions. Although this assertion may be particularly

significant for countries experiencing democratic transitions, several cautions are deemed necessary to point out.

As discussed by Carothers (2006, p.12) "...The experience to date with rule-of-law aid suggests that it is best to proceed with caution. The widespread embrace of the rule-of-law imperative is heartening, but it represents only the first step for most transitional countries on what will be a long and rocky road." In addition, this author also recognizes that diverse aspects of democratization can be problematic for rule-of-law development, while other aspects can act as facilitators. As an example of the latter, he offers the following: "...Despite frequent failings in criminal-law enforcement, even very weak democratizing governments usually greatly reduce gross abuses of human rights compared to their authoritarian predecessors." (Carothers 2007, p.18)

Relating to national security apparatus, Lustgarten (2003, p. 323 a 328) goes further in the reluctance to only rely on the rule-of-law as an indicator of the developments in this field, because as he states, the establishment of standards by law is an important, but not the only element of democratic praxis; an effective system of public oversight, and a "... rigorous use of an objectively justifiable test of what constitutes legitimate grounds for withholding information from parliament and the public ...", are among other vital elements.

Moreover, in an interesting paper which examines truth revelation processes in post-communist Europe – including the opening of secret files –, Kaminski & Nalepa (2004, p. 1) "... Argue that the traditional understanding of rule of law is ill-suited for evaluating lustration laws and truth commissions".

As Fontana & Battaglini emphasize when commenting on secrecy and civil liberties in Latin America (2001, p. 128) "... In a region with weak and limited civilian control, which is showing some signs of re-emerging authoritarianism, these new security threats and challenges may result in a return to a social-control framework for intelligence-agency operations. Consequently, the existence of rules that establish mechanisms for obtaining information cannot be assumed to work, even if they have constitutional status. In Latin America, the problem is not what the law says, but the extent to which it is being implemented."

In this context, the struggle between access to information and government secrecy has to be considered as part of the improvement of democratic environments and rule-of-law development not only formally prescribed, but

also in practice. Different countries find their own recipe with disparate outcomes.

To address the challenge between values of openness, injury prevention, and efficacy, several instruments have been considered, such as access law, constitutional law and judicial review. According to Samaha (2005, p. 14-15), who reviews the explanations for integrating access norms into law, including constitutional law under the umbrella of democratic governance, and who endorses that access law is desirable, when these instruments are implemented may well go beyond access claims and give support to executive secrecy, as comparative analyses shows.

### ***Files, human rights and transitional justice***

It has been elsewhere recognized that secrecy, intelligence, and security services were instrumental for the exercise of power by the “*police states*” of Eastern Europe and the “*repressive regimes*” of Latin America during the 20th century. Several approaches were used to deal with past intelligence abuses, personnel and archives, during transition from authoritarian or totalitarian regimes to democratic ones. More specifically this has to be analyzed in the specific framework of demilitarization and decommunization policies, respectively, as well as in a more general framework, which is human rights policies and related judicial proceedings. Before going further, it is then helpful to briefly discuss the meaning and context of transitional justice settings.

First, and as a general proposition, it should be affirmed that transitional justice procedures are not intended to be a permanent piece of the newly established democratic system; they are conceived as instruments to be applied in a transition period when claims for human rights violation perpetrated by the former regime still persist. (Kaminski & Nalepa, 2004, p. 17)

Second, and as a general proposition as well, in transitional environments there is a close association between the opening of secret files of the past regime, and the perception of political will to bring human rights violators into justice. As stated by Ketelaar (2002, p. 231) when exploring the connection between archives and human rights, “...The archives have a two-fold power: being evidence of oppression and containing evidence required to gain freedom, evidence of wrong-doing and evidence for undoing the wrong.” Archives have been recognized as “... an important means for enabling new social relationships to be established”, and “... essential means of enforcing collective and individual rights” (González Quintana, 1997, p. 5 & 9)

As discussed by Backer (2004, p. 3) when referring to different points of departure and forms of transitional processes in a context of past violence, repression and violations of human rights, there is a variety of types of former regimes, including: totalitarian states; personalistic dictatorships; military juntas; bureaucratic-authoritarian rule; racial oligarchies; colonial occupations; fundamentalist theocracies; and anarchy conditions. But those countries dealing with transition to democracy, with their unique past, "...share a fundamental and distinguishing feature: the experience of initiating a political transition where a natural desire is to break away from a pattern of widespread injustices, [facing] the common dilemma of deciding upon appropriate measures of transitional justice"

To deal with the past, the above mentioned author summon up a menu of choices available to be adopted by the new democratic regimes, such as " ... (1) prosecution, including trials and tribunals; (2) other sanctions such as lustration, bannings and purges; (3) reparation programs and policies (both material and symbolic); (4) investigations, including truth commissions and independent undertakings; (5) institutional reform, including the establishment of new human rights oversight and the introduction, amendment or restoration of a constitution; and (6) forms of immunity from punishment like amnesties, pardons and limits on prosecutions. " (Backer 2004, p. 4)

Moreover, as González Quintana (1997, p. 9) points out, the fate of archives of repressive regimes is dependent on the type of past regime and transition process. To be clear about the variety of archives that ought to be managed in a political transition, a categorization of repressive institutions was established, including: intelligence services, paramilitary bodies, special tribunals, concentration camps, special prisons, psychiatric centers for 're-education'. (González Quintana, 1997, p. 14-15)

Thus, access to archives and opening of secret files of a past regime, is not a given task during transition. It has to do with choices the new democratic government make and the problem society confront when dealing with controlling, dismantling, transforming – former intelligence structures, personnel, culture and practices (Joffe, 1999, p. 325-327). In this context, it can be distinguished between access to intelligence files by courts and truth commissions and declassifying secret files for public inspection and consultation. Intelligence reform as a process must then be considered. And, following Boraz and Bruneau (2006, p. 32-33) it has to be acknowledged that, for several reasons, politicians of new democracies are reluctant to exert control over intelligence agencies.

Lustration, truth commissions, and laws regulating the opening of secret files jointly form what Kaminski & Nalepa (2004, p. 4) call *truth revelation procedures*, a part of institutions of *transitional justice*. The following section will briefly focus on Latin American countries and former Warsaw Pact countries of Central and Eastern Europe regimes and transition experiences.

### ***Regimes and transitions***

Lustration and decommunization have different meanings (Williams, Szczerbiak & Fowler, 2003, p. 4; Kaminski & Nalepa, 2004, p. 1). While the first term is related to the examination of regime's secret files to verify whether an occupant of or candidate for a post within the new democratic government worked for or collaborated with the Communist security services, the second one refers to the purging of former Communist-party members from state's administration and bureaucracy. While making an early account of lustration laws, Ellis (1996, p. 196) stated the following: "...Surely the implementation of lustration legislation is politically motivated. But there are other motives at work as well: a desire for accountability, restitution, rehabilitation, and even revenge. The interplay of the political ebb and flow and these motives drive legislation that looks, as is apparent from this overview, quite unique to each of the former communist states. While the need to come to terms with the past is surely great, only time will tell whether the process of lustration, which has been criticized as more political than judicial, will enhance or diminish the growth of democratic institutions of these transitional states." More recently, Williams, Szczerbiak & Fowler (2003, p. 16) summarized the lustration law experience by country as follows: "In Czechoslovakia, the combination in 1990 of revelations and speculations about the Communist-era security services, with sharply politicized collaborationist accusations, prompted the demand for a lustration law by early 1991. In Hungary, security and transparency concerns among some liberals, and the pursuit of an anti-Communist agenda by malcontents on the radical right, generated pressures for a lustration law from 1990. In Poland, the Oleksy affair at the end of 1995 decisively revived the demand for a lustration law on security and transparency grounds, in a receptive political environment marked by the politicization of attitudes to communism, the perception of former Communist dominance and exhaustion from repeated 'wild lustration'."

During part of the 20th century, more accurately, from the mid-1960's to the late 1980's, Latin America authoritarian regimes ruled by the military engaged in state terror actions. Related to this experience, Farer (2000) presented an interesting account of the early stages of two countries in particular, with



different points of departure to develop their review of the past – Argentina, the outcome of Malvinas war, its truth commission, trials and human rights policies; Guatemala, international assistance, peace accords, truth commission –.

Based on Backer cross-national comparative analysis (p. 5-7) these transitional justice actions were implemented between 1974 and 2003 in the following eight countries, among others:

- Czechoslovakia - prosecution, lustration, banning, financial and property reparation, constitutional reform in Czech Republic and Slovakia.
- Hungary - lustration, financial and property reparation, institutional reform (human rights and constitution).
- Poland – prosecution, lustration, property reparation, institutional reform in human rights and constitution.
- Romania – prosecution, institutional reform in human rights and constitution.
- Argentina – prosecution, financial reparation, truth commission, institutional reform (human rights and constitution), amnesty.
- Brazil – financial reparation, independent investigation, constitutional reform, amnesty.
- Guatemala – truth commission, institutional reform (human rights and constitution), amnesty.
- Peru – truth commission, institutional reform in human rights and amnesty.

### ***Elements***

At this stage, a number of elements potentially non-exhaustive, may be considered in order to trace improvements in secrecy policy of those countries subject to democratic transition, such as laws and decrees related both to secrecy and/or intelligence, court cases, public statements by government officials, freedom of information legislation, as well as reports issued by external organizations (NGO`s; Human Rights advocacy groups), governmental commissions, as well as intelligence policy, privacy policy and human rights policy. Of course, it is important to add to this list the distinctive settings of truth revelation procedures adopted.

## Secrecy policy and intelligence: developments in Argentina

### *Argentina's recent history*

Throughout the 20th century, as in most Latin American countries, Argentina suffered periods of political instability and military rule, with gross human rights violations. More recently, the country suffered two serious terrorist bombings. To summarize these and other aspects of Argentina's contemporary history that are relevant to the purposes of this paper, it is worth to mention the following.

- On March 1976, a military Junta assumed power, beginning an authoritarian regime so called "Proceso de Reorganización Nacional", which governed until the end of 1983.
- The so-called "dirty war" was a state terror initiative, carefully planned and systematically implemented in a cover fashion by the commanders of the armed forces during those years.
- The final stage of the "Proceso" caught up the military in a crisis as result of the defeat in the Malvinas-Falkland War with Great Britain. By late 1983, a free electoral process was the first step to full recovery of democracy.
- Findings related to the methodology of repression, testimonies of victims and account of missing persons - 9,000 disappearances verified - were issued in the widely distributed report prepared by the national commission on the disappearances – Comisión Nacional sobre la Desaparición de Personas, CONADEP –, created by then-President Raúl Alfonsín in 1984; they were of such clarity that it left no doubt about the
- The scope of the repression carried out by the "Proceso" was unveiled also during the trials against the military juntas, conducted in a domestic civilian court.
- The controversial Full-Stop and Due Obedience laws were passed in 1995 and 1997, respectively, limiting indictments of the military accused of human rights violations.
- Several military uprising (1987 Holy Week, January and November 1988) commanded by the "carapintadas", a group of rebel military officers confronted with commanders posted by the democratic government, demanding a broad amnesty, added a generalized the sentiment of the necessity to defend democracy, as well as frustration.
- National Defense Law no. 23554, intended to establish civilian control over the military, and to exclude them from performing domestic security

tasks, was passed by Congress in 1988. A clear distinction between national defense and internal security was established, limiting the concept of national defense solely to the employment of the armed forces, in a deterrent or an effective way, to confront external aggression.

- Internal Security Law no. 24059, passed by Congress in 1992, established civil management functions and bodies to control police and security forces, and created the National Congress Joint Committee for the oversight of internal security and intelligence activities and agencies.
- In October 1989 and December 1990, presidential pardons were granted by then-President Carlos Menem to all those military officers convicted or under trial.
- Offenses related to missing children during the “dirty war” (kidnappings) remained under judicial investigation.
- In the 1990’s Argentina was target of two serious terrorist acts: the bombing of the Embassy of Israel (March 17, 1992), and the bombing of the Asociación Mutual Israelita Argentina (AMIA), a Jewish community center building (July 18, 1994).
- The case of the Embassy of Israel bombing (case S.143 XXIV) is under jurisdiction of the Supreme Court of Justice. The Court has issued a number of national and international arrest warrants for those members of Islamic Jihad of whom there is sufficient evidence for them to be charged and prosecuted.
- The case of the AMIA bombing (case 1156, labeled “633 Pasteur Street. Offence: murder, injuries, damage”; 85 persons killed and 151 wounded) was handled by the National Court for Federal Criminal and Correctional Cases No. 9. In February 2000, part of the case – related to accessories after the fact or accomplices of murder, injury or aggravated damage under Law no. 23,592 concerning the suppression of discriminatory acts or omissions – was moved for trial before Federal Oral Tribunal No. 3, starting in September 2001. The oral proceedings observed that the prosecution was wrongly conducted. At present time, a new special prosecutor is refurbishing the investigation; very recently, six international arrest warrants were issued for five former Iranian government officials and a member of Hizbollah.
- In June 2000 the Investigative Commission on Forged Police Procedures (Comisión Investigadora de Procedimientos Policiales Fraguados de la Procuración General de la Nación) was created under the General Attorney's Office, with the mission to report on already identified forged cases, to deepen ongoing investigations, and to detect new cases contributing to human rights flagrant violations.

- Establishment of Memorial archives: *Archivo Nacional de la Memoria* in 2003; *Comisión Provincial por la Memoria* of the province of Buenos Aires, 2000; the *Instituto Espacio por la Memoria* of the City of Buenos Aires, 2002. (Nazar, 2006)
- In December 2002 in the wake of the social and economic crises, the People's Defender issued a report on public security, stating that police brutality and violence have increased.
- New challenges emerged: the personal security of witnesses in human rights trials – as consequence of the Julio López episode in September 2006 where mysteriously disappeared one of the victims of torture who had testified in the Etchecolatz case.
- In July 2007, the Supreme Court decided on the nullity of the presidential pardons granted in the late 1980's to military officers convicted or under trial because of human rights abuses during the "Proceso".

### ***Current legal framework***

National Intelligence Law no. 23,554 of 2001, a result of a long process towards a legal and democratic framework for the intelligence sector, established the juridical and functional basis of the National Intelligence System, comprised by three agencies: the Secretariat of Intelligence, the National Directorate for Criminal Intelligence, and the National Directorate for Strategic Military Intelligence. The law includes fifty three articles arranged in ten titles – general principles, protection of rights and guarantees of the inhabitants of the nation, intelligence agencies, national intelligence policy, classification of information, interception and seizing of communications, personnel and education, parliamentary control, criminal provisions, and transitional and complimentary provisions. (Estévez, 2005)

This law established current legal framework that governs security classification. Its article 16 indicate that intelligence activities and agencies, its documentation and databases shall be assigned a classified security grading in accordance with the interest of internal security, national defense and foreign relations, and that access to such information shall be authorized in a case-by-case basis by the President. Through article 11 of the Decree No. 950 of 2002, providing regulations for the provisions of the National Intelligence Law, the President delegated this authority to the Secretary of Intelligence.

In addition, article 4.4 of the National Intelligence Law, stipulates that intelligence agencies are not allowed to reveal or divulge any kind of

information acquired while performing their functions and related to any individual or company, whether public or private, unless so required by justice, while article 17 specified the persons obliged to maintain secrecy and confidentiality, and the penalties for those who infringe the obligation.

Decree No. 950 of 2002 creates five categories of classified information to be used by the agencies belonging to the National Intelligence System: strictly secret and confidential; secret; confidential; reserved; public.

It is also important to that Title II of the law provides for the protection of rights and guarantees of the inhabitants of the nation: intelligence agencies are forbidden to: perform repressive activities, have compulsive powers, fulfill police functions or conduct criminal investigations unless so required by justice or when so authorized by law; to obtain information, collect intelligence or keep data on individuals because of their race, religion, private actions, and political ideology, or due to their membership in partisan, social, union, community, co-operative, assistance, cultural or labor organizations, or because of legal activities performed within any field; to exert influence over the institutional, political, military, police, social, and economic situation of the country, its foreign policies, and the existence of legally formed political parties, or influence public opinion, individuals, media press, or any kind of associations whatsoever.

Another law worth to mention is the Personal Data Protection Law no. 25,326 of 2000. The purpose of this law is the comprehensive protection of personal data included in files, records, databases or other data processing technical means -whether public or private- used for reporting purposes, in order to guarantee the right of individuals to their honor and privacy, as well as access to information recorded thereupon, in accordance with the third paragraph of Article 43 of the National Constitution. The National Directorate for Personal Data Protection is the enforcing agency. The law was adopted after the Supreme Court in the case "Ganora" held that the intelligence agencies couldn't deny access without a reasonable explanation. (Banisar, 2006, p. 11)

As stated in Article 23 of the Personal Data Protection Law, "...Processing of personal data for the purposes of national defence or public security by the armed forces, security forces, police departments or intelligence agencies, without the consent of the parties involved, shall be limited to those events and data categories necessary for strict compliance with the missions legally assigned to them for national defence or public security purposes, or to fight against crime. In such cases, files shall be specified and identified to such effect, and they shall be classified in categories, according to their degree of

reliability.” Article 2 of the Decree no. 950, established that the intelligence agencies shall frame the activities mentioned in article 4.2 of the National Intelligence Law inexcusably under the general provisions of the Law on Personal Data Protection No. 25326 and specifically in those of article 23 of such Law; the fulfillment of this provisions shall be matter of directives and controls by the head of each agency comprising the National Intelligence System.

More recently, after debates concerning the paradox of maintaining secret laws in a democratic regime, in August 2006, Congress enacted Law 23.164, directing the publication of every secret law, prohibiting future approval of secret bills, repealing the previous rules for secret expenditures, and authorizing the Joint Congressional Committee for the Oversight of Intelligence Activities and Agencies to exercise full review of the intelligence budget.

### ***Recent Executive measures related to secrecy***

The tools selected by the Executive are the relief of legal obligation to preserve secrecy and the disclosure of information contained in intelligence files in a case-by-case basis upon a formal request to access to certain information related to intelligence activities performed under judicial control, to cases involving human rights violations during former military regime, and cases of corruption. For this purpose, between 2002 and 2007 at least eighteen presidential decrees were issued, some of them with reference to no less than five different cases filed in criminal courts. This is a new and non-conventional approach, which shapes a distinct secrecy policy in Argentina. To be truthful, President Nestor Kirchner`s administration has taken a decided path in this sensitive question.

The following is an account of the main subjects covered by this set of decrees, including the corresponding citations.

- (i) *Relief of legal obligation to preserve secrecy by former heads of the Intelligence Secretariat, regarding terrorist bombing investigations and corruption cases.*

Decree no. 490 of 2002, released the former intelligence chief Hugo Anzorreguy, of the obligation to keep secret respect to the activities developed by the former Secretariat of State Intelligence, in the judicial investigation of the attack against the AMIA building. The decree also authorized the present head of the Secretariat of Intelligence to release of the same obligation to officials and former officials of the area, with

the object to appear as witnesses in the case no. 487/2000, before the Federal Criminal Oral Court no. 3 (AMIA case)

Decree no. 41 of 2003 authorized the present head of the Secretariat of Intelligence to release directors and operational chiefs of the agency who acted under judicial orders in the AMIA case, of the obligation to keep secret respect to the activities developed.

By contrast, Decree no. 116 of 2003, ratified the "Strictly Secret and Confidential" classification assigned by the Secretary of Intelligence, to the duties fulfilled under the summary instructed by Resolution N° 540/00 of the former Secretariat of State Intelligence. This decree was afterwards declared unconstitutional by Federal Criminal Oral Court no. 3 through Resolution N° 883/03 of 10 of June of 2003.

Decree no. 291 of 2003, excluded certain information from being released by those to whom the relief of secrecy was granted, such as, a) the methodology of the operative work carried out while conducting activities of intelligence by the Secretariat of Intelligence; b) the identity of the personnel of the agency; c) the documentation that is not that related to the facts which they are authorized to depose; and, d) any other circumstance related to the questions indicated in the preceding paragraphs, or that could harm the provisions of article 16 and concordant of the Law 25,520 and its regulation.

This clause was abolished by decree no. 785 of 2003. In order to established complementary measures with the purpose of correcting and complementing some aspects the normative frame in force and with the objective to go deeper in this investigation of the AMIA bombing, decree no. 785 of 2003 made clear that the authorization granted to declare in case was with respect to all investigations, diligences or requirements of information in which the officials had participated or taken knowledge from previous, during or subsequently to the attack. The only exception was related to the identity of foreign intelligence agents, which collaborated in the judicial investigation, or any information that in opinion of the court imply the revealing of secrets that can jeopardize the security of the State.

Decree no. 570 of 2005 specifically released the former intelligence chief Hugo Anzorreguy, of the obligation to keep secret respect to the activities developed by the former Secretariat of State Intelligence, in order to testify at

Jury of Judgment of Magistrates of the Nation in the case of Juan José Galeano – former federal judge in charge of the AMIA case –.

Relating to corruption cases, decree no. 1330 of 2003, decree no. 1905 of 2004 and decree no.467 of 2005, a released all intelligence heads, of the obligation to keep secret respect to the activities developed by the former Secretariat of State Intelligence, in order to testify at case 9900/00 "Ortega, Ramon Bautista and others /bribery", before the Criminal and Correctional Federal Court no. 3, and at case 8208/04 before the Criminal and Correctional Federal Court no. 9

- (ii) *Refrain from destroying any document related to the terrorist bombings of 1992, on the Embassy of Israel, and 1994, at a Jewish community center building (AMIA). Granting access to the parties.*

Through decree no. 146 of 2003, the tribunal of competent jurisdiction dealing with the AMIA bombing investigation was authorized to allow the case parties to gain access to the documented tasks carried out by the former Secretariat of State Intelligence.

Decree no 786 of 2003 authorized access to any information possessed by the Federal Police, the National Gendarmery and the Argentine Coast Guard, that could be of interest of the ongoing investigations of the AMIA and Embassy of Israel bombings. The decree established that the Special Investigation Unit of Ministry of Justice and Human Rights should create “units for revelation of information” with full access to the mentioned information.

While decree 384 of 2005 ordered to those officials in charge of every agency within the of the national public administration, to abstain of destroying any class of documentation they possess in relation to the attacks against the AMIA building and Embassy of Israel

- (iii) *Relief of legal obligation to preserve secrecy by any member of intelligence, police and military sector, when summoned regarding criminal proceedings on human rights violations during 1976-1983 military regime.*

The most relevant piece is the recently signed decree no. 44 of 2007, through which those who are members or have members of intelligence agencies, the armed forces, the security and the police, or are or have been civil employees reached by the obligation to maintain



secrecy, released of the obligation to keep secret as established by the National Intelligence Law, when they are called to testify with respect to the facts or information to which they have had access in while exercising their duties and that could be of interest for the judicial cases devoted to the investigation the serious massive violations to the human rights committed during the last military dictatorship (1976 – 1983) and that may relate as well to terrorism of State.

Decree no. 715 of 2004 established a special unit of Investigation of the disappearance of children in the context and as result of terrorism of State actions. The decree granted access to all archives of the Executive branch, including those of the Presidency.

- (iv) *Access to secret expenditures and financial records of a specific period and intelligence component, upon judicial request.*

Decree 249 of 2003 and decree 292 of 2003. The first one released former intelligence chief Hugo Anzorreguy, of the obligation to keep secret so that he can testify about the use of intelligence funds by one of its components – known as Sala Patria or Contrainteligencia -sector 85-", during 1996 and 1997, at the case 9789/00 before the Criminal and Correctional Federal Court no. 11. The second decree mentioned above, order the head of the Secretariat of Intelligence to give access to that tribunal to all documentation related to the use of funds by that component during the period requested.

- (v) Access to files as consequence of criminal investigations related to crimes committed by police officers.

Through decree no. 538 of 2005 and decree no. 818 of 2005, the president opened intelligence archives to the judicial investigation on the facts in which the citizens Maximiliano Kosteki and Dario Santillan were killed by police officers, in July 22, 2002, and released the then head of intelligence of the obligation to keep secret respect to such episode. (Case 1423/7 "Fanchiotti, Alfredo and others / reiterated homicide, aggravated concealment, etc.", before the Criminal Oral Tribunal no. 7, of the Judicial Department of Lomas de Zamora, province of Buenos Aires)

These developments – in the wake of recent history and very recent decisions – show that when political will stresses human rights policy, it appears almost

inevitable that there will be an impact on the intelligence sector, on the secrecy dimension. Also, that secrecy policies and arrangements can be adjusted to specific needs of judicial investigations, such as terrorist bombing investigations, as well as to transparency, particularly related to corruption cases and police abuses detected in a democratic environment.

### **Discussion: towards a comparative analysis**

Intelligence studies are considered a relatively new field. While the debate about the future of intelligence in an established democracy such as the United States can focus on how to redefine objectives and adapt to a changing world, through an organization able to be dispersed instead of concentrated, to be open to multiple sources and not limited to secrets, and to share information with no-traditional actors including those outside the government (Treverton 2001, p. 20), a different one may apply to those countries undergoing the experience of democratic transition. The debate here is more likely to concentrate on how to diminish intelligence autonomy, how to gain civilian control and oversight, how to set up intelligence missions, rules and culture adapted to the new democratic environment. And as stated before, secrecy issues cannot be ignored because of the linkage to transparency and accountability. Broadly, new democracies in Central and Eastern Europe and in Central and South America have in common the last mentioned features. Between 1974 and 2003, nine countries of the former and sixteen of the latter engaged in political transitions to develop democratic institutions (Backer, 2004, p. 2-3) As pointed out by Kieran Williams (2001, p. 3 and p. 19), "... In Eastern Europe, the re-engineering of [security Intelligence] service identity should be regarded as an integral part of the transition to democracy" because as opposed to conditions seen in consolidated democracies, "... security intelligence is orphaned by the failure of the communist state, and has to start anew by emphasising the defence of democracy and the nation." For sure, this is not an easy task, because as pointed by Watts (2004, p. 5), "... Bulgaria, Czechoslovakia, Hungary, and Poland all initially chose to maintain their intelligence services in basically the same structure and with the same personnel as under communist rule. Romania opted to dissolve its Securitate in the midst of the December 1989 revolution, creating its principal replacement service only three months later." Regarding Latin America, although when compared with the other regions, it has lower levels of interstate conflict, the economic and governance crises affecting the region in a distinct manner, sets an scenario were security sector reform, and particularly enhancing professionalism of the armed forces and police, is seen as an ongoing process where one of the key challenges is to avoid further militarization of domestic security. (Rojas Aravena, 2005, p. 117)

Since the end of the cold war, in several countries intelligence reform processes have been announced or initiated, with diverse outcomes. Legislation, as mentioned earlier, is an important piece in these efforts. For example, Hannah, O'Brien & Rathmell, (2005, p. 35-39) suggest several elements that must be addressed to make intelligence and security legislation for security sector reform meaningful: clear mandates, central co-ordination, oversight and accountability, independent judicial oversight, independent parliamentary oversight and accountability, centralized analysis and assessments for all-source products, an appreciation of the different governance structures that intelligence is designed to support. These authors also stress that the differences between developed and developing countries has to be considered.

Several countries of Latin America have new intelligence legislation – Brazil, 1999; Argentina, 2001; Peru, 2001; Chile, 2004; Guatemala, 2005; also in Venezuela a law was passed in 2000 but not into force –. Also, this trend spread among transitional democracies of Europe, for example, Czech Republic, 1994; Hungary, 1995; Poland, 1990 and 2002; Romania, 1991 and 1992. Scarce literature can be found comparing those processes. An interesting thesis that compares intelligence systems of Argentina, Romania, and El Salvador under both authoritarian and democratic regimes and also the strategies used by Argentina and Romania for democratizing their intelligence systems (Chavez Escobar, 2001).

Besides, several countries adopted legislation on freedom of information, for example: Bosnia and Herzegovina, 2001; Czech Republic, 2000; Hungary, 1992. And a number of laws on protection of classified information were passed in Bulgaria, 2002; Czech Republic, 1998; Hungary, 1995, 1999; Romania, 2002, among other countries (for a complete account, see Banisar, 2006). Based on decree 2134 of January 1997, Brazil set up a policy on classification and access to secrets (Antunes, 2002, p. 182-185)

To understand how all this is related, a very short account of Romania experience is noteworthy. The scope of secret police action during communist rule in Romania, characterized by coercion, terror and dissent monitoring, has been described in detail by Deletant (1995, chapters 1 and 2). More recently, Matei (2007, p.3) asserts that "...Democratizing the intelligence community in post-communist Romania has been a complex, challenging, and protracted journey to alienate a haunting past of secrecy and moral torture." A case related to citizens' access to the personal files held on them by an intelligence agency, involving the former Securitate and the new Romanian Intelligence Service, was referred to the European Court of Human Rights by the

European Commission of Human Rights and by a Romanian national, Mr. Aurel Rotaru, Case of Rotaru v. Romania. Although section 1 of Law no. 187 of 20 October 1992 established that all Romanian citizens is entitled to inspect the files kept on them by the Securitate, the Romanian Intelligence Service withhold information contained in files, that turned to be false and consequently seriously injured the dignity and honor of the defendant was the key issue. The court held that there has been a violation of articles 8 (right to respect for private and family life), 13 (right to an effective remedy), and 6.1 (right to a fair trial) of the Convention for the Protection of Human Rights and Fundamental Freedoms.

As Gill & Phythian (2006, p. 35) note, the unearthing of intelligence secrets contributed to the democratization of intelligence agencies both in former authoritarian regimes and in liberal democracies. Concurrently, as Born & Leigh (2005, p. 44) propose as a best practice, "...security and intelligence agencies should not be exempted from domestic freedom of information and access to files legislation. Instead they should be permitted, where relevant, to take advantage of specific exceptions to disclosure principles referring to a limited concept of national security and related to the agency's mandate;"

It is clear that the formulation of secrecy policy is not an easy task when considering it in the context of transitional processes. One common feature observed while reviewing these issues in Central and Eastern Europe and Latin America is that in a transitional setting, secrecy may be under stake, not only due to the effects of intelligence agencies transformation, or even dismantling, processes launched in order to comply with essential democratic standards, but as consequence of transitional justice policies chosen by democratic leadership to address human rights abuses perpetrated under the prior regime. This distinct feature has to be addressed when approaching to the study of secrecy policies.

Along this paper it was mentioned the convenience to assess intelligence sector and secrecy policy developments, from a perspective of transitional justice background. Backer (2004, p. 29-31) argues in favor of a cross-national comparative analysis as a methodology for empirical research on transitional justice processes. In a similar way, here it is suggested that a comparative framework may be helpful to understand secrecy policy developments and outcomes as result of transition from authoritarian rule, such as Latin American military regimes, and from totalitarian rule, such as Central and Eastern European Communist regimes. At minimum, this framework include:

- Type of transition to democracy.
- Country features.

- Scope and approaches to review the past (truth revelation procedures adopted).
- Fate of the archives of the past repressive regime.
- Level of intelligence reform initiatives.
- Access to government secrets.
- Declassification mechanisms and authority.
- Role of the main institutional actors –executive, legislative and judicial -
- Role of human rights advocacy.
- Specific legislation pertaining official secrets, freedom of information and habeas data.

The five organizing principles proposed by Leigh (2004, p. 88-99) to cope with the tension between national security and freedom – legality; transparency; accountability; proportionality; and equality – may also apply to secrecy policies. While sketching the practical implications of those principles in selected areas and in terms of a security sector legal regime, Leigh (2004, p. 100) outlined several ones concerning information. Here is the transcript of those more relevant: “... b) The law shall also provide for effective controls on how long information may be retained and shall ensure compliance with international data protection principles in the handling of disposal information. Audit processes should exist including external independent personnel to ensure that such guidelines are followed. d) The courts or whatever other independent mechanism is provided under the legislation should be free to determine, with appropriate access to sufficient data from the agency’s files, that such exceptions have been correctly applied in all cases brought by individual complainants.” Another valuable source are the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information.

Finally, the “research map” proposed by Gill & Phythian (2006, p. 35-38) for the study of intelligence may well apply to the study of secrecy policies, as it can be useful to “... compare agencies across different types of regimes and to chart shifts, whether progressive or regressive, over time” (Gill & Phythian, 2006, p. 173)

While acknowledging the pressing need to understand intelligence today, O’Connell (2004, p. 189) called for a more intense focus on the comparative study of intelligence. Several authors are worth to mention, such as Roy Godson, Alfred Prados, with Richard Best, Jeffrey Richelson, Adda Bozeman, Michael Herman, and more recently Jean-Paul Brodeur, with Peter Gill and Dennis Töllborg, Hans Born, with Loch Johnson and Ian Leigh, and Tom Bruneau, with Steven Boraz.

In this paper, it is stressed the importance to focus as well on secrecy policy and its relationship with intelligence–society countervail in comparative terms. Further discussion is needed to develop a comprehensive framework.

## References

Aftergood, S 2000, “Secrecy is back in fashion”, *The Bulletin of the Atomic Scientists*, vol. 56, no. 6, pp. 24-30.

Agüero, F 2005, “*The New ‘Double Challenge’: Simultaneously Crafting Democratic Control and Efficacy Concerning Military, Police and Intelligence*”, (paper prepared for the Third General Assembly of the Club of Madrid Working Group: Threat to Democracy from State Actors: The Armed Forces, the Intelligence Services and the Police, Madrid, November 12-13, 2004), Geneva Centre for the Democratic Control of Armed Forces (DCAF) Working Paper Series no. 161, Geneva.

Retrieved July 16, 2005, from

<http://www.dcaf.ch/publications/working2005/161.pdf>

Antunes, P 2002, *SNI & Abin: Uma leitura da atuação dos serviços secretos brasileiros ao longo do século XXA*, FGV Editora, Rio de Janeiro.

Backer, D 2004. “Cross-National Comparative Analysis.”, in A Chapman, H van der Merwe & V Baxter (eds.), *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, Washington, DC: USIP Press, forthcoming.

Retrieved March 25, 2007, from

<http://sitemaker.umich.edu/backer/files/usip.aaas.comparative.analysis.doc>

Berkowitz, B & Goodman, A 2000, *Best Truth. Intelligence in the Information Age*, Yale University Press, New Haven.

Berman, I & Waller, M 2006, “Introduction: The Centrality of the Secret Police”, in: I Berman & J M Waller (eds.), *Dismantling tyranny: transitioning beyond totalitarian regimes*, Rowman & Littlefield Publishers, Maryland.

Born, H & Leigh, I 2005, *Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies*, DCAF Geneva Centre for the Democratic Control of Armed Forces, Norwegian Parliamentary Intelligence Oversight Committee & Human Rights Centre of the University of Durham (UK), Oslo.

Retrieved March 15, 2005, from

[http://www.dcaf.ch/publications/making\\_intel.cfm](http://www.dcaf.ch/publications/making_intel.cfm)

Bruneau, T & Dombroski, K 2006, "Reforming Intelligence: The Challenge of Control in New Democracies", in: T Bruneau & S Tollefson (eds), *Who Guards the Guardians and How: Democratic Civil-Military Relations*, University of Texas Press, Austin.

Boraz, S & Bruneau, T 2006, "Reforming Intelligence, Democracy and Effectiveness", *Journal of Democracy*, vol. 17, no. 3, pp. 28-42.

Chavez Escobar, A 2001, "From Authoritarian to Democratic Regimes-New Role of Security Intelligence", Master's Thesis, Naval Postgraduate School, Monterey, California

Cameron, I 2005, "Beyond the Nation State: The Influence of the European Court of Human Rights on Intelligence Accountability", in: H Born, L. Johnson & I Leigh, *Who's Watching the Spies? Establishing Intelligence Service Accountability*, Potomac Books Inc., Washington D.C., 2005, pp. 34-53.

Caparini, M 2007, "Controlling and Overseeing Intelligence Services in Democratic States", in: H Born and M Caparini (eds), *Democratic Control of Intelligence Services: Containing Rogue Elephants*, Ashgate.

Carothers, T 2006, "The Rule-of-Law Revival", in T. Carothers (ed), *Promoting the Rule of Law Abroad: In Search of Knowledge*, Carnegie Endowment for International Peace, Washington, DC, pp. 3-13.

Carothers, T 2007, "How Democracies Emerge: The "Sequencing" Fallacy", *Journal of Democracy*, vol. 18, no. 1, pp. 12-27.

DCAF (Geneva Centre for the Democratic Control of Armed Forces), 2006, "*Contemporary Challenges for the Intelligence Community*", DCAF Backgrounder Series, Geneva.

Retrieved May 01, 2006, from  
<http://www.dcaf.ch/publications/backgrounders>

Deletant, D. 1995, *Ceausescu and the Securitate: Coercion and Dissent in Romania, 1965-1989*, M. E. Sharpe, Armonk.

Ellis, M 2006, "Purging the Past: The Current State of Lustration Laws in the Former Communist Bloc", *Law and Contemporary Problems*, vol. 59, no. 4, pp. 181-196.

Estévez, E 2005, "Executive and Legislative Oversight of Intelligence in Argentina", in: H Born, L. Johnson & I Leigh, *Who's Watching the Spies? Establishing Intelligence Service Accountability*, Potomac Books Inc., Washington D.C., 2005, p. 160–179.

Farer, T 2000, "*Swallowing Injustice to Build Community: Latin America After the Era of State Terror*", Human Rights Working Papers, University of Denver. Retrieved April 26, 2003, from <http://www.du.edu/humanrights/workingpapers/papers/09-farer-10-00.pdf>

Fontana, A & Battaglino, J. 2001, "Secrecy and civil liberties in Latin America", *Journal of Conflict, Security and Development*, vol. 1, no. 1, pp. 123-129

Gill, P 2004, "Democratic and Parliamentary Accountability of Intelligence Services after September 11th", in: P Fluri & M Hadžić (eds.), *Sourcebook on Security Sector Reform - Collection of Papers*, Geneva Centre for the Democratic Control of Armed Forces & Belgrade Centre for Civil-Military Relations, Geneva/Belgrade, pp. 297-316.

Gill, P & Phythian, M 2006, *Intelligence in an Insecure World*, Polity Press, Cambridge.

Gonzalez Quintana, A 1997, "*Archives of security services of former repressive regimes*", Report Prepared for UNESCO on behalf of the International Council of Archives, Paris. Retrieved December 19, 2006, from <http://unesdoc.unesco.org/images/0014/001400/140074e.pdf>

Hannah, G, O'Brien K & Rathmell, A 2005, "*Intelligence and Security Legislation for Security Sector Reform*", Technical Report 288-SSDAT, RAND Europe, Cambridge. Retrieved October 29, 2005, from [http://www.rand.org/pubs/technical\\_reports/2005/RAND\\_TR288.pdf](http://www.rand.org/pubs/technical_reports/2005/RAND_TR288.pdf)

Herman, M 1996, *Intelligence Power in Peace and War*, Cambridge University Press, Cambridge, 1996.

Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information, 1996, U.N. Doc. E/CN.4/1996/39

Joffe, A 1999, "Dismantling intelligence agencies", *Crime, Law and Social Change*, vol. 32, pp. 325-346.



Kaminski, M & Nalepa, N 2004, “*Judging Transitional Justice: An Evaluation of Truth Revelation Procedures*”, Center for the Study of Democracy, Paper 04-15, University of California, Irvine.

Retrieved August 08, 2007, from eScholarship Repository, University of California.

<http://repositories.cdlib.org/csd/04-15>

Ketelaar, E 2002, “Archival Temples, Archival Prisons: Modes of Power and Protection”, *Archival Science*, vol. 2, pp. 221–238.

Leigh, I 2004, “National Legal Dimension of the Democratic Control of the Security Sector: Values and Standards in Developed Democracies”, in: P Fluri & M Hadžić (eds.), *Sourcebook on Security Sector Reform - Collection of Papers*, Geneva Centre for the Democratic Control of Armed Forces & Belgrade Centre for Civil-Military Relations, Geneva/Belgrade, pp. 87-103.

Lustgarten, L 2003, “National security and political policing: some thoughts on values, ends and law”, in: J Brodeur, P Gill & D Töllborg (eds.), *Democracy, Law and Security – Internal Security Services in Contemporary Europe*, Ashgate Publishing Limited, Aldershot, pp.319-334.

Marx, G 2004, “Some Concepts that may be useful in Understanding the Myriad Forms and Contexts of Surveillance”, in: Jackson, P & Scott, L V (eds.), *Understanding Intelligence in the Twenty-First Century - Journeys in Shadows*, Routledge, London.

Matei, F 2007 “Reconciling Intelligence Effectiveness and Transparency: The Case of Romania”, *Strategic Insights*, vol. VI, no. 3

Retrieved from <http://www.ccc.nps.navy.mil/si/2007/May/mateiMay07.asp>

Nazar, M 2006, “Dictadura, archivos y accesibilidad documental. A modo de agenda”, in: Informe Anual del Centro de Estudios Legales y Sociales (CELS) sobre la Situación de los Derechos Humanos en Argentina, Buenos Aires, pp. 413-424.

Retrieved May 22, 2007, from CELS website: <http://www.cels.org.ar>

O’Connell, K. 2004, “Thinking About Intelligence Comparatively,” *Brown Journal of World Affairs*, vol. 11, no. 1, pp.189-199.

Pesce, M & Estévez, E 1996, “*Los Gastos Reservados en el Gobierno Nacional*”, Serie Estudios N° 11, CECE -Centro de Estudios para el Cambio Estructural- Buenos Aires.

Retrieved August 08, 2003, from  
<http://www.fas.org/sgp/argen.html>

Report of Commission on Protecting and Reducing Government Secrecy, 1997, Senate Document 105-2, United States Government Printing Office, Washington DC.

Rojas Aravena, F 2005, "Security System Reform in Latin America and the Caribbean", in: OECD – Organisation for Economic Co-operation and Development –, *Security System Reform and Governance*, DAC Guidelines and Reference Series, Paris, pp.103-124.

Romero, L 2006, *A History of Argentina in the Twentieth Century*, Fondo de Cultura Económica, Buenos Aires.

Samaha, A 2005, "Executive Exposure: Government Secrets, Constitutional Law, and Platforms for Judicial Intervention", Chicago Public Law And Legal Theory Working Paper no. 101, University of Chicago.  
Retrieved April 11, 2007, from  
<http://www.law.uchicago.edu/academics/publiclaw/index.html>

Stan, L 2006. "The Politics of Memory in Poland: Lustration, File Access and Court Proceedings", *Studies in Post-Communism Occasional Paper*, 10, 2006

Treverton, G 2001, *Reshaping National Intelligence for an Age of Information*, Cambridge University Press, Cambridge.

Watts, L 2004, "Intelligence Reform in Europe's Emerging Democracies: Conflicting Paradigms, Dissimilar Contexts", *Studies in Intelligence*, vol. 48, no. 1, pp. 11-24.  
Retrieved June 13, 2005, from  
<https://www.cia.gov/csi/studies/vol48no1/article02.html>

Williams, K 2001, "Introduction", in: K Williams & D Deletant (eds.), *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia, and Romania*, Palgrave, London, pp. 1-23.

Williams, K, Szczerbiak, A & Fowler, B 2003, "*Explaining Lustration in Eastern Europe: 'A Post-communist politics approach'*", Sussex European Institute Working Paper No 62, University of Sussex, Brighton.  
Retrieved August 21, 2006, from  
<http://www.sussex.ac.uk/sei/documents/wp62.pdf>

Whitaker, R 1999, *The End of Privacy: How total surveillance is becoming a reality*, The New Press, New York, 1999.

### **Legal Authorities**

Case of Rotaru v. Romania, European Court of Human Rights, (Application no. 28341/95), Judgment, Strasbourg, 4 May 2000

Retrieved June 22, 2007, from

<http://hei.unige.ch/~clapham/hrdoc/docs/echrrotarucase.doc>

Ganora, Mario Fernando y otra s/ hábeas corpus, Corte Suprema de Justicia de la Nación (G. 529. XXXIII.), Fallo 322-2139, Buenos Aires, 16 de septiembre de 1999.

Retrieved August 04, 2007, from <http://www.csjn.gov.ar>