Intelligence Oversight and Effectiveness in New Democracies: The Case of Brazil

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Abstract

Scholarship on the inherent tension between intelligence and democracy has paid limited attention to new democracies, especially those transitioning from military regimes. There, it is more challenging to bring intelligence services under democratic control without sacrificing their efficiency in exchange for oversight. This research note analyses these challenges in the Brazilian case, contributing to the scholarship on intelligence in Latin America. The case study demonstrates that the restructuring of intelligence in Brazil resulted in a spread-out intelligence system with many agencies, aimed at avoiding monopolisation and politicisation with formal oversight mechanisms put in place. Nonetheless, Brazilian society and politicians still do not trust intelligence, and lack a clear understanding of its functions for a democratic state. While intelligence reform in Brazil still has a long way to go regarding intelligence effectiveness and efficiency, it indicates how intelligence reform is a central part of a successful democratic transition.

Keywords

Brazil; Democratic Transition; Government; Intelligence Oversight; Intelligence Studies; Latin America

Introduction

The study and practice of intelligence are marked by tensions: between state security versus individual security, secrecy versus the right to information, and between democratic control, effectiveness, and efficiency. Effective intelligence means that its roles, missions and goals are implemented and achieved. Efficient intelligence, consequently, means that those missions are achieved at the least possible cost (Bruneau and Boraz 2007, 4-5). Democratic control, however, may hinder efficiency and effectiveness, as additional processes and protocols can cause delays and raise expenses, while also compromising the absolute secrecy under which intelligence professionals work best (practical examples of this phenomenon can be found in Jervis 2006, viii–xiii). Nonetheless, democratic control over the intelligence services is essential, as to guarantee that they are fulfilling their role of supporting the legitimate tasks of the government while circumscribed to the rule of law (Matei and Halladay 2019, 4).

The aforementioned contradiction has been extensively analysed in academic research. However, the literature often focuses only on well-established liberal democracies (Bruneau and Matei 2010, 3), especially those in the Anglo-American sphere (Andregg and Gill 2014, 488). These consolidated democracies have already put in place oversight mechanisms to balance the inherent tension between the secret nature of the intelligence services and the need for democratic control. Oversight, in this case, does not mean the managerial control of the day-to-day operations of the intelligence agencies, but the insurance that their overall operations are consistent with their legal mandate and with the proper conduct, effectiveness, and efficiency expected by the state (Gill and Phythian 2006, 151).

The basis of the balance between democracy and intelligence is that, even though intelligence in itself is not democratic, its exercise is justified by its goal of defending democracy (Pili 2019, 2). This goal and the tools for accomplishing it are then monitored by the controlling institutions, which make sure that intelligence is working within legality and serving national interests. The quest for transparency inherent in a democracy is thus satisfied not by the transparency of the content of intelligence in itself, but by the transparency of the oversight process (Pili 2019, 9). Thus, a transparent oversight process that respects the secrecy of the intelligence services, but is also accountable to the civil society will greatly reduce the tension between state and individual security, as well as between secrecy and the right to information in democracies.

Accordingly, in authoritarian and totalitarian governments, the solution to the aforementioned tension is also clear. Individual security and right to information are

disregarded, as the goal of intelligence is to ensure the continuity of the regime and the suppression of opposition (Andregg and Gill 2014, 489). As there is no democratic control in authoritarian forms of government, the secret services are accountable only to a few political elites (Bruneau and Matei 2010, 4), with no focus on civil accountability, much less transparency. Effective intelligence that serves the interests of the regime is the goal, and for that reason, there are no legal constraints.

However, countries that are transitioning from authoritarianism to democracy face the hard challenge of consolidating a new political regime, dismantling an abusive intelligence structure, and establishing a new one under democratic control. Hard is also the challenge of making intelligence services effective while under oversight. Issues such as authoritarian legacy in the secret services, mistrust, lack of understanding, lack of prioritisation in relation to other state security structures, and the lack of resources are all factors that challenge the integration of intelligence and democracy.

Between 1930 and 1990, almost the entire Latin America was under authoritarian regimes governed by the armed forces (Shiraz 2014, 8). During this time, the intelligence agencies were extremely powerful, influential, and well-funded (Bruneau 2015, 503). From surveillance to kidnapping and torture, the secret services worked tirelessly to defeat the all-encompassing enemy of the time, communism, and to guarantee regime survival (Gonçalves 2014, 584). With the democratic transition of the post-Cold War, however, suddenly the previously persecuted internal enemies became a legitimate part of democracy (Gonçalves 2014, 586). This made the relationship between the government, society and the intelligence agencies increasingly fraught.

The goal of this research note is, first and foremost, to help fill the gap in the scholarship on intelligence in Latin America, which along with Africa makes for what Zaquia Shiraz defines as the "missing dimension of intelligence studies" (Shiraz 2014, 4-6). Using Brazil as a case study, this research note investigates how intelligence reform is a central part of a successful democratic transition, highlighting the relation between democratic oversight, authoritarian legacy, and intelligence effectiveness. For that, this work studies the Brazilian intelligence structure, analysing and characterizing the evolution of different intelligence agencies in the country from the democratic transition period until the present.

In order to accomplish this goal, this research note will be split into three main sections. First, it will explore how intelligence in the Global South is idiosyncratic when compared to Western-liberal intelligence, highlighting a few points that help explaining the nature of the secret services in Latin America. Secondly, it will analyse the challenges and

opportunities of reforming intelligence during a period of political transition, and how this reform is essential for democratic consolidation. Finally, the research note will explore the Brazilian case. As a consolidating democracy that is still traumatised by the abuses committed by the secret services during its military regime, Brazil's relationship with intelligence makes for a worthwhile case of study. Results show that even though Brazil has had considerable progress in establishing the structure for democratic control over intelligence, the lack of effectiveness of the oversight, and also of the intelligence apparatus, means a serious breach of the state's duty to provide its citizens with safety and security.

The different manifestations of intelligence

In authoritarian regimes, the intelligence apparatus is a key tool for the continuation of power, with intelligence often subject to the military and overlapping with the police in the goal of identifying domestic opponents, neutralising opposition, and seeking domestic apathy. Their focus is inclined to be exclusively domestic. On the contrary, consolidated democracies tend to use intelligence as a tool to inform and support elected leaders, with their apparatus often divided into domestic and foreign intelligence (Bruneau and Dombroski 2006, 2). However, it is not only the political system that influences the structure and the shape of intelligence in a country. Other aspects, such as historical experience, economic resources, threat perception, and culture are also influential. It is due to its idiosyncratic experiences that Shiraz (Shiraz 2014, 7) defines the Global South as having a concept of secret services that is intrinsically different from that of the West.[1]

In the Global South, the internal security agencies are often strong, while the external ones are weak. As domestic intelligence is often cheap, whereas foreign intelligence is expensive, many countries cannot afford to do the latter professionally or at a large scale (Bruneau and Dombroski 2006, 15). Thus, it is common for countries in the South to have their intelligence priorities also shaped by financial constraints. Another difference from their Western counterparts is that the intelligence agencies in the South often possess limited technical ability, due to the different priorities in the allocation of resources. Furthermore, alliances between the intelligence agencies are habitually personalist in nature, reflecting presidential linkages. These ties are often in free form, based only on verbal agreements between particular individuals, and are often broken off due to personal differences (Shiraz 2014, 7).

[1] Even though the definition of the West is contested, the term is here understood in simplistic terms to designate the United States, Canada, Europe, Australia and New Zealand.

The set of factors listed above paint a general overview of the main differences between the conduct of intelligence in the Global South, of which Latin America is part of, and that of the West, which Latin America sees as its role model. This interrelationship is especially relevant in the context of democratic transition and consolidation. Democratic transition starts when democratising actors break the authoritarian continuity of a government (Schedler 2001, 2), which also entails disassembling the police state. The consolidation of democracy concludes when the democratic actors establish reasonable certainty about the continuity of the democratic regime, abating fears of authoritarian regression (Schedler 2001, 2). A consolidated democracy is successful in establishing free civil society, autonomous political culture, rule of law, functioning state bureaucracy that protects citizens' rights, and an institutionalised economic society (Linz and Stepan 1996, 7). It is also during the consolidation stage that the new democracies will rebuild their intelligence apparatus, often looking to the West for examples on how to conciliate the secret services with democratic oversight. As a consolidating democracy, Brazil aimed to rebuild its intelligence apparatus based on the Canadian model. However, the country still lacks the establishment of the fixed mandates, the well-delimitated scope, and the strict oversight of its North American neighbour (Carpentieri 2016, 153).

Thus, analysing intelligence structures in a context of democratic transition means also analysing its transformation, or at least desired transformation, from an authoritarian structure to a liberal democratic one, which focuses on civilian accountability, democratic control, and the rule of law (Wills 2007, 10). In the next section, I will go into more details about this period of democratic transition and its implications in terms of intelligence structure and oversight.

Intelligence in a context of political transition

Latin America was under authoritarian regimes for most of the 20th century, and during this period the intelligence agencies increased in size and influence, sometimes even becoming independent security states.[2] Back then, the perception of internal threat was high, with an internal focus of the secret services through the surveillance of society and repression of dissent (Andregg and Gill 2014, 491). With the weakening and eventual end of the Cold War, there was a wave of democratisation in Latin America, with countries aspiring to become consolidated democracies (Bruneau and Matei 2010, 4). However, the institutional

[2] Peter Gill defined Independent Security State as a security intelligence service that lacks external control and oversight even from the regime it is supposedly protecting (Gill 1994 cited in Bruneau and Dombroski 2006, 3–4).

and behavioural inheritance from the military dictatorship, its close ties to the intelligence services, and the frailty of the new democratic state (Cepik 2007, 150) meant that democracy could only be consolidated after the overhauling of the previous intelligence apparatus (Bruneau and Matei 2010, 4; Bruneau and Dombroski 2006, 8; Andregg and Gill 2014, 488).

This overhauling, however, is a complex process composed of three main decisions (Bruneau and Dombroski 2006, 14-15). The first concerns which of the four functions of intelligence – collection, analysis, counterintelligence, and covert action – will be implemented, and what resources will be allocated to them. The second regards the balance between civilian and military involvement in intelligence, both in terms of production and consumption. As the military had a monopoly of the intelligence activity during the dictatorships, the new democracies tended to opt for civilian prominence. The third choice relates to the coordination of intelligence and policy, ultimately regarding the challenge of structuring the services in a way that is relevant to policy, but not politicised.

These choices are tough even for well-established democracies, as the United States proved in the aftermath of the Iraq war crisis. However, they are even harder for new democracies for a myriad of reasons. First, the democratic apparatus is new and is not used to dealing with the tension between secrecy and transparency that is inherent to the relationship between intelligence and democracy. In addition, there is also a stigma tied to the secret services, which makes the members of the new government reluctant to be associated with them. Furthermore, secrecy offers little political capital, and even in established democracies, politicians prefer plausible deniability to direct involvement with intelligence (Bruneau and Dombroski 2006, 18). In new democracies, there is also the issue of the fear of intelligence agencies, due to the uncertainty about the effective weeding out of past abusive practices (Bruneau and Dombroski 2006, 18). Moreover, there is a lack of expertise on how to undertake intelligence reform in democratic settings and, finally, the danger of purging the previous personnel from the intelligence structure (Bruneau and Matei 2010, 5-6), as they are holders of confidential information that can be used against the state.

Besides the reconstruction of the intelligence structure, the new governments also had to build from scratch a structure of democratic oversight of intelligence. This control was to be divided between the Executive, the Legislative and the Judiciary, and must regulate intelligence in regard to effectiveness, legality, propriety, and the respect for rights (Andregg and Gill 2014, 489). A common way found by the emergent states in Latin America to facilitate this mission was to split the intelligence structure into different agencies, to avoid monopoly, and increase the chances of democratic control (Bruneau and Dombroski 2006,

16). However, this also meant that the new structures allowed for more competition and less integration, which had a lasting negative impact on effectiveness and efficiency (Bruneau and Dombroski 2006, 16).

Albeit with difficulties, most of the new Latin American democracies have established, at least on paper, formal tools for controlling the activity of intelligence agencies (Bruneau and Matei 2010, 4). However, those oversight mechanisms had always faced challenges that hinder their success. First, intelligence agencies, in general resist oversight as they have the ability to subvert formal control due to the secrecy of their craft and the lack of expertise among the political overseers (Andregg and Gill 2014, 489). This resistance might be motivated by the desire to continue previous abusive practices in the name of effectiveness, or even by the pursuit of their own objectives separate from those of the state (Matei and Halladay 2019, 3). In new democracies, there is also the added challenge of the immaturity of the state institutions, which take time to become legitimate. Finally, like the challenges faced in the foundation of the new intelligence structure, the establishment of democratic oversight also suffers from the lingering stigma of the secret services, the lack of public knowledge, the lack of political incentives, and fear.

Even though democracy has swept through Latin America in the past few decades, there is little evidence of successful democratisation of intelligence in terms of both oversight and effectiveness (Shiraz 2014, 10). Keeping in mind that those new democracies have many other priorities besides intelligence, and that this specific issue is still filled with stigma and fear, it is understandable why such daunting reforms lack in one aspect or the other. In the next section, I will analyse the specific case of Brazil. As one of the most consolidated democracies in the region (Freedom House 2018), Brazil has undergone a lot of institutional effort to reshape its intelligence structure in the aftermath of a military dictatorship. However, intelligence in Brazil is still widely stigmatised by politicians and society, also being perceived as unnecessary and ineffective. The reasons and consequences of that will be analysed in further detail as follows.

The case of intelligence oversight and effectiveness in Brazil

During the military regime, in a context of the Cold War when the United States as a regional hegemon prioritised having anti-USSR governments on its backyard (Andregg and Gill 2014, 493), the sole enemy of the Brazilian state was clear: communism. The intelligence structure, with the National Information System (*Sistema Nacional de Informação* – SNI) as its central agency, was duly focused on regime protection by means of widespread surveillance,

repression, kidnapping, and torture (Gonçalves 2014, 584). These actions left a trauma in the Brazilian society that persists to this day.

In 1985, the democratic transition was put in motion by the military regime, but the SNI remained a heavily influential institution until 1990 (Gonçalves 2014, 585), when it was finally dissolved by the first elected president. However, the restoration of democracy in itself is not enough to trigger intelligence reform, especially while the public fear and suspicion towards the issue persist (Andregg and Gill 2014, 494). Hence, from 1990 to 1999, Brazil did not have much of a formal intelligence structure; intelligence departments were maintained within the military branches but not in a coordinated way (Gonçalves 2014, 585).

Finally, in 1999 the Brazilian Intelligence Agency (*Agência Brasileira de Inteligência* – ABIN) was formally created, symbolising the desire to overhaul the intelligence structure in the country to fit with the democratic institutions. This restructuring encompassed the three main decisions regarding intelligence structure that were mentioned in the previous section. Brazil chose to prioritise intelligence analysis and counterintelligence (focused on a domestic scope), privileging civil institutions (at least in theory), and with a spread-out structure composed of many agencies to be centrally coordinated by ABIN. However, due to the challenge of purging intelligence personnel, several SNI agents remained in the system, which tainted its reputation (Bruneau and Matei 2010, 8). ABIN also has shown signs of continuing with the previous logic of political police (Carpentieri 2016, 153-60) even though covert action is not formally encompassed in the attributions of the new structure (Cepik 2018a, 5).

Since 1999, structural reform has been the main feature of Brazilian intelligence (Cepik 2007, 149) with the Brazilian Intelligence System (*Sistema Brasileiro de Inteligência* - SISBIN) having expanded considerably since then. The current structure is divided into two main subsystems, the Public Security Intelligence Subsystem (*Subsistema de Inteligência de Segurança Púbica* – SISP) which comprises mainly civilian intelligence agencies; and the Defence Intelligence System (*Sistema de Inteligência de Defesa* – SINDE), which consists of the intelligence agencies of the Armed Forces. Both of those subsystems should be headed by ABIN, the civilian agency that is supposed to be at the core of the SISBIN. Nevertheless, the role of Head of the system was transferred to the Cabinet of Institutional Security (*Gabinete de Segurança Institucional* - GSI)[3] by the president in 2002, and this structure remains to this day.

[3] Figure 1 in Appendix consists of a chart of the current SISBIN structure.

The GSI, however, is a military cabinet within the Presidency, making the GSI minister, a general, the actual Head of the Brazilian intelligence services (Gonçalves 2014, 588). It means that, even though the president is the ultimate client of intelligence, all the content goes through the GSI minister first, who acts as a filter of knowledge (Gonçalves 2014, 590). The official reasons for this change were the high managerial demands of the intelligence community, and the need to protect the president from potential crisis and scandals (Cepik 2007, 156). This transfer of roles also provides evidence of the maintenance of the military power not only in intelligence but in the democratic regime as a whole (Cepik and Ambros 2014, 534). Even though the SNI was dissolved and ABIN was created with the intent of being a civilian agency, the GSI as its head symbolises how traditions from the authoritarian past remain and the military continues to be the one responsible for overseeing intelligence in Brazil (Carpentieri 2016, 151-154). In addition, the military cabinet reflects the search for plausible deniability from elected leaders, who prefer not to be involved with the secret services.

Moreover, mistrust between elected leaders and the secret services is especially high in Brazil, as some prominent members of the democratic political sphere were victims of the SNI during the military regime. The case of the former president Dilma Rousseff is especially significant, as she was severely persecuted and tortured during the dictatorship period, and is to this day quite outspoken about her mistrust of the intelligence structure (Mazui 2019). Also, President Jair Bolsonaro has signalled mistrust toward ABIN, showing reticence to use their encrypted cell phone (Rinaldi 2019) and appointing his security officer as the Head of the agency due to alleged fears of sabotage (Figueiredo 2019). These examples of mistrust from decision makers demonstrate deficiencies in the intelligence cycle, which encompasses the process of planning and direction of the intelligence activities guided by the needs of elected leaders, then the collection, processing and analysis of intelligence by the agencies and, finally, the dissemination of the intelligence report to the relevant decision makers who use this content to guide their actions (Phythian 2013, chapter 1).

Furthermore, Brazilian politicians tend to have an inaccurate perception of the role of intelligence, seeing it either as a political tool or as a threat to democracy, rather than a sector whose goal is to advise decision-makers and protect the state and society (Gonçalves 2014, 582). Scandals such as when ABIN was caught conducting unauthorised wiretappings and political espionage (Carpentieri 2016, 154) added to the lack of trust from the political class. This does not only hinder the essential relationship between intelligence and decision-makers but also impact resource distribution. In 2014, the budget allocated to ABIN, for

example, was comparable to the one allocated to a single federal school (Bruneau 2015, 512). With a reduced budget and little institutional support, ABIN operates with great difficulty and the result is ineffectiveness and a bad reputation (Gonçalves 2014, 598).

Another relevant issue is the popular perception, shared by decision-makers, that Brazil has no enemies (Bruneau 2015, 503). During the military regime, the perceived enemy – communism – was clear and the SNI received abundant resources in order to curb its spread. Its attention was, thus, on the enemy within – student unions, leftist organisations, labour unions, etc. This domestic focus is a tradition perpetuated by ABIN (Carpentieri 2016, 160). Additionally, after democratisation, Brazil advocated for a benign worldview focused on diplomacy and trade, which minimised national defence and traditional security issues (Bruneau and Dombroski 2006, 507-8). Thus, as Brazil does not recognise any country as an enemy (Ministry of Defence 2012, 59), this understanding helps explaining the lack of priority and resources directed towards intelligence, especially towards foreign intelligence services. However, scandals such as the NSA spying on the Brazilian president highlighted the country's vulnerability to foreign espionage and pointed to the necessity for Brazil to invest in intelligence and counterintelligence (During 2017, 25).

Hence, in the aftermath of the military regime, Brazil's main goal was not to make intelligence effective in the new political context, but to put it under democratic control, which is a common objective for new democracies overcoming military regimes (Bruneau 2015, 503). Therefore, the intelligence system was divided into many bodies with loose coordination. The country also developed legal frameworks for the democratic control of intelligence, with the main structure functioning as follows. At the internal level, there are the directors of each agency and the director and the adjunct-director of ABIN. The latter are appointed by the president, but must be approved by the Senate (Cepik 2018b, 3). Still within the internal level, there is also the direct oversight from the Executive, done by the GSI, ministers, and special boards (Gonçalves 2014, 591). The external level apparatus, however, is considered by experts[4] as the main achievement of the Brazilian system. At this level, there is oversight from the Public Prosecutor, the Judiciary and the Congress. The Public Prosecutor is widely trusted in Brazil and is taken as one of the most important institutions for control of the public administration (Datafolha 2019). Within Congress, there is also the Joint Committee for the Control of Intelligence Activities (*Comissão Mista de*

[4] Gonçalves, who makes this claim, is the only Technical Advisor in the CCAI and a former Intelligence Officer at ABIN.

Controle das Atividades de Inteligência – CCAI), which was built to function like the Standing Committees of Intelligence in the US (Gonçalves 2014, 591-94).

CCAI's existence is in itself a great advancement, as it represents a dedicated accountability institution in an area that had never been controlled before. It has not only *post hoc* review powers but also intrusive controls, having maximum clearance to documents and operations in progress. However, even though its powers are many, CCAI does not operate adequately, with a lack of technical resources, personnel, and engagement of its members (Gonçalves 2014, 594). Even though it is a standing committee, its meetings are sporadic because of its low prestige (Cepik 2007, 158; Gonçalves 2014, 594). When the CCAI does meet, the members are ill-informed (as evidenced in TV Senado 2017) and the focus tends to be on reacting to scandals and accusations in the press, instead of the priorities of intelligence (Cepik 2007, 158). Besides CCAI, there are also four other but not as well-structured commissions established in the Congress to support intelligence oversight (Cepik 2007, 158).

Considering that the entire intelligence organisation in Brazil has been reformed in the last 20 years, the fact that it is well defined, professionalised and integrated into democratic institutions is a substantial accomplishment. However, the country still deals with the scars of its past of intelligence abuses. As a legacy from the dictatorial regime, intelligence activity in Brazil is still tied to the military – most noticeably through the GSI, focused on domestic surveillance and, due to the failure of the oversight mechanisms, virtually unaccountable to civilian oversight (Carpentieri 2016, 159).

An effective democratic oversight encompasses the Executive, Legislative, and Judiciary, and ensures that the balance between security and legality – including the right to privacy – is respected (Brand 2016). Even though Brazil was successful in establishing the oversight structure, its execution, as shown by the overseers' lack of expertise and ABIN's public mishaps, is still deeply flawed. This combination is detrimental to the democratic intelligence community, with negative impacts on its effectiveness, resource allocation, and prioritisation. However, in the last few years, Brazil has seen advancements in the intelligence legislation, having published the National Policy on Intelligence (*Política Nacional de Inteligência* – PNI) in 2016 and the National Strategy on Intelligence (*Estratégia Nacional de Inteligência* – ENI) in 2017. Those documents help legitimise the intelligence activity in Brazil, which is yet not covered by the constitution, and signal an effort to internationalise the intelligence activity (Cepik 2018a, 7–8).

Conclusion

The relationship between intelligence and democracy is marked by tensions between secrecy and transparency. Consolidated democracies have figured out a way of dealing with this tension through transparent oversight. At the same time, those democracies have a clearer understanding of the role of intelligence in defending democracy and aiding policymaking. This keeps intelligence relevant, well-funded and capable in its mission of increasing security for the citizens it serves.

However, new democracies, especially in Latin America, have a fraught relationship with the secret services due to their recent past of abusive military intelligence. The trauma of intelligence agencies that were not under any oversight and worked through violent means to ensure regime continuation still lives on. In the past few decades, those countries went through consolidation of their democratic transition, which necessarily entailed an overhauling of their intelligence structures. Understandably, their focus tended to be on making sure that the intelligence structure was put under democratic control. The matter of intelligence effectiveness was generally not prioritised.

In the specific case of Brazil, taken as one of the most consolidated democracies in Latin America, the restructuring of intelligence meant a spread-out intelligence system with many agencies, aimed at avoiding monopolisation and politicisation. Formal oversight mechanisms were also put in place in the three government branches. However, Brazilian society and politicians still do not trust intelligence, and do not have a clear understanding of its functions for a democratic state. Therefore, intelligence in Brazil is still highly stigmatised, under-funded, and irrelevant. The intelligence cycle is not in place, as the decision-makers have not learned to see value in it. By disregarding intelligence, the Brazilian government is giving up on an important tool for decision-making, allowing the country to be vulnerable, and violating its duty to do the most to protect its citizens. In the last five years, however, advancements were made in the institutionalisation of intelligence through the publication of the PNI and the ENI, which might signal an increased focus on intelligence effectiveness both at home and abroad.

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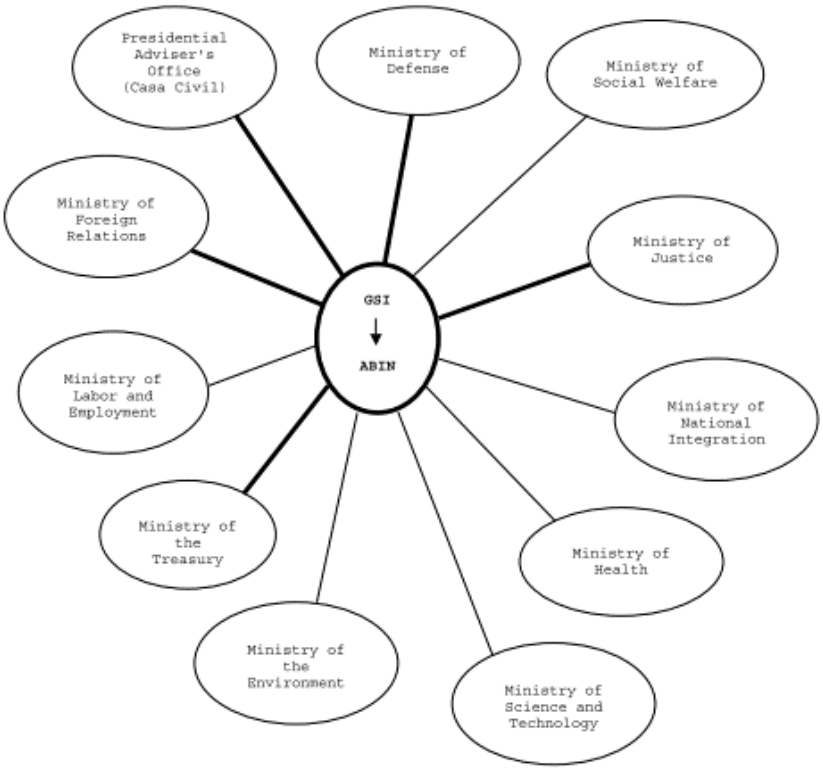
Appendix

Figure 1. Simplified representation of the Brazilian Intelligence System. The bold rules link the members of SISBIN Advisory Council.



Source: Cepik 2007.