

ETHICS AND MANAGEMENT IN NATIONAL SECURITY

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Abstract: *Intelligence activities are a necessary and valuable tool for all nations, and it is important to succeed in achieving a comprehensive and coherent understanding of ethics role in the state interest and how leadership supports this role. The core of the debate on the ethics of the intelligence activity is in maintaining the balance between the good of the citizens - guaranteed through national security – and the protection of individual free will - ensuring individual safety and human rights. That is because, in times of national crisis, citizens are required to give up some of their rights and freedoms in exchange of personal safety or of the community they are part of. That is why the connection between ethics and intelligence is important, especially in the national security system. The devotion of intelligence officers to the country and their leaders have an undeniable role in preserving security of a nation. The intelligence community plays an important role in establishing the values that will govern the way the organization will be perceived, guaranteeing legitimacy in front of citizens. Therefore, the aim of the study is to address the importance of placing ethics in intelligence activities where the role of leadership in national security sector is a determinant of organizational ethics. From the decision-making level, the focus is on respecting the principles of the rule of law while prioritizing the implementation of sustainable action plans in fulfilling the mission of national security but respecting the universal values of human rights.*

Keywords: *security; intelligence; ethics; management; rule of law; human rights community*

1. INTRODUCTION

Nowadays, ethics is fundamental, especially given the uncertainty that nations are going through. Now that the whole world is one click away, news flows are running continuously and bilateral agreements among states have become the rule and not the exception. In this context, ethics means respecting what humanity believes, ethics must involve moral goals and means, especially in the case of strategic leaders who are guided by an ethos that defines and governs the military profession by constitutional principles and values. Goals may justify some means, but this is not always the case. In every organization, regardless of size, leaders are the example, including in ethics. In the military organizations, the climate in which the mandate is carried out starts from the top and influences the way instructions are followed. (Myers, Pierce, 2009:14).

2. THE ROLE OF ETHICS IN INTELLIGENCE ACTIVITIES

The main objective of the ethics study in the field of national security are the relations in the organization and how the personnel behaves in the

different roles it take on, including, first of all, the decision-making factor, the role of a leader (Ciulla, Price, 2005:1), an intelligence officer and to the legal advisor who comes to support the decision. Ethics in the intelligence activity has gained greater importance following the 9/11 terrorist attacks.

However, there are issues related to the means employed to address this type of threats to national security, where a comprehensive understanding of the concept of ethics is needed. One of the basic reasons is the lack of consensus of the experts in defining the intelligence activity that leads to the conclusion that, in the broadest sense, it is both a process and a product, which can be defined both by the means and by results. (Bimfort, 1995:1)

The core of the debate on the ethics of the intelligence activity is the balance between serving the citizen and preserving national security because in times of national crisis, citizens are required to give up some rights and freedoms for preserving national security.

Private life is an individual attribute, guaranteed by human rights. When an intelligence about a person becomes an element in the intelligence activity, that person's private life

becomes a public good being inherently integrated into national security of the state.

For instance, the problem of the morality of mass surveillance¹ or the use of methods² of interrogation³ is justified by the necessity of protecting national security that is in fact the necessity to protect the community in detriment of individual security?

To prevent the abuse of the exceptional prerogatives granted by the community to the state intelligence activities, the focus is on maintaining the rule of law, an independent justice and decisional transparency in governance.

3. ETHICS AND MANAGEMENT

Law and morality references of our societies, therefore, historically, social obligations have been incorporated into the constitutional Law to which we must adapt our behaviour otherwise it will not come into effect and would be denounced by society, thus the state would lose legitimacy⁴.

The managerial needs are the incentives that led to the creation of tailored norms specific to the organization, different as for the degree of specificity in comparison to the law meant for the whole society, a normative designed to make the

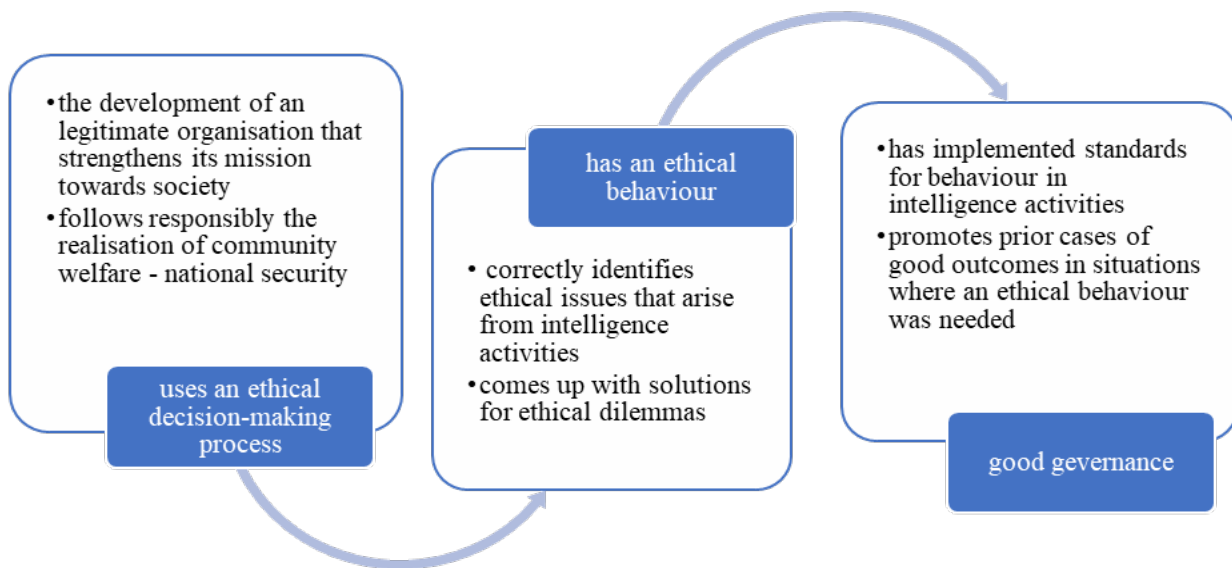


Fig.1 Management process of situations where ethics play a key role

¹ The case of China, which carries out extensive measures of digital surveillance of its own citizens regardless from the environment from which digital data is captured; or the 2018 case of the United Kingdom that lost in front of the European Court of Human Rights due to the intelligence leaked by the former NSA subcontractor Edward Snowden on GCHQ methods of mass surveillance of telecommunications (note 1).

² The European Convention for the Prevention of Torture and Inhuman and Degrading Treatments or Punishments of 1987 defines torture as 'any act by which a person intentionally causes severe pain or suffering, of a physical or mental nature, in particular with the purpose of obtaining intelligence from this person or from a third party, intelligence or confessions, to punish the person for an act that the person or a third party committed or is suspected of having committed, to intimidate or pressure a third party, or for any other reason based on a form of discrimination, whatever it may be, when such pain or suffering is provoked by an official of the public authority or any other person acting officially, or by instigating or with the express or tacit consent of such people'.

³ Interrogation is a form of intelligence collection carried out by specialized personnel, only under special conditions, according to legal procedures, for example: such techniques can be performed on the battlefield when captured combatants of the opposing side are interrogated in order to obtain intelligence of immediate tactical value.

managerial objectives more efficient in the organization.

In the modern era, where threats have a strong transnational character, manager of national security organizations must be familiar with the processes and arguments that can most often determine the success or failure of public policy initiatives. These responsibilities have profound implications in determining the national security strategy from the perspective of the global economy, collective defence commitments and consideration for the public and private sector perspective. Therefore, at strategic level, the attention comes down to the guarantees of the unwavering exercise of the universal values of human rights, and in particular, in fulfilling the mission of national security while respecting the principles of the rule of law.

⁴ The Romanian Constitution (1991, modified in 2003, articles 54-57) provides that the fundamental duties are: loyalty to the country, defence of the country, financial contributions and the exercise of rights and freedoms in good faith;

Democratic societies have emphasized the need for control over the armed forces, being consecrated from the fundamental constitutional law by guaranteeing the instruments for democratic control over the activities of the armed forces.

Similarly, this principle of control exercised by civilians applies to intelligence services. Both the military forces and the intelligence services must carry out the activity under the rule of law and constitutional provisions (Moore *et al.*, 1990:139-141). Workers in the intelligence services carry out their activity under the pressure of great responsibility and often they face risks for their personal integrity in collecting intelligence of national interest. (Coyné *et al.*, 2013:27-37).

intelligence as a baseline, are both comprised by the democratic principle of rule of law that governs the legitimacy of intelligence services (Scheinin, 2010:1-33).

In post-communist Romania law no.51/1991 regarding national security sets the legal boundaries covered by what national security means as to what the Constitution sets as fundamental values to our society and outlines the competences of intelligence services by defining threats and procedural steps in the field of intelligence.

Although framework institutes conditions for carrying out the activities that are oriented towards respecting the citizen's rights. This could prove to be insufficient because the same law under

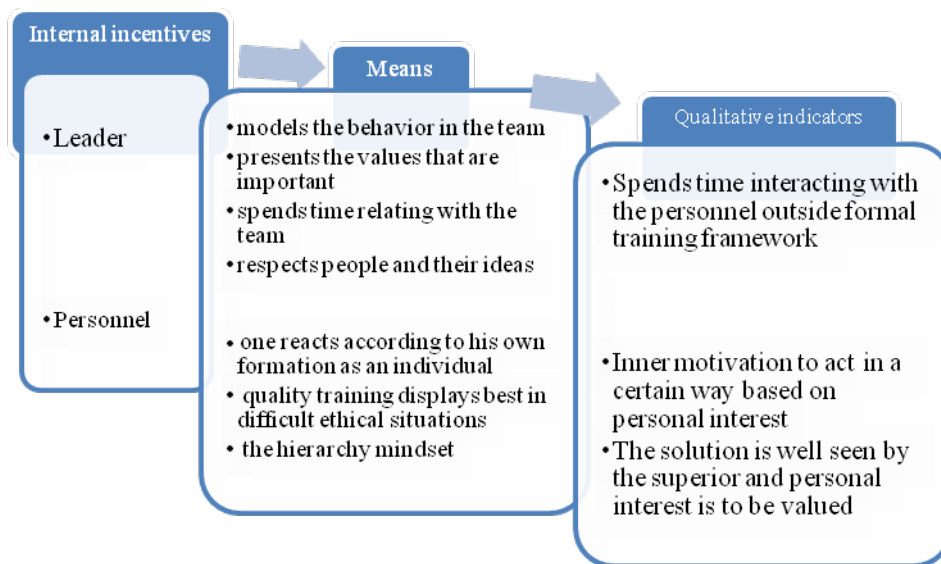


Fig. 1 Organizational ethics

That is why, the link between ethics and management is vital to any organization, especially in the national security system. The devotion of intelligence officers to the country and their leaders have an undeniable role in the security of a nation.

4. CHEQUES AND BALANCES IN INTELLIGENCE GATHERING. A ROMANIAN APPROACH

The legality and legitimacy of the intelligence gathering are important in democratic societies. Regulating the means of gathering intelligence while respecting the democratic principles can be achieved by assuming political responsibility in front of citizens (Otamendi, Estevez, 2016:4-6).

Intelligence activities and the accountability that derive from the state prerogative to gather intelligence, the need of an ethical approach in

conditions of secrecy could provide a legal cover for unethical practices. In order to ensure a balance of state power, directly related laws ensure that each intelligence service is bound to external review, both a form of supervision and control exercised by the elected representatives of the people, the Parliament.

The Romanian Intelligence Service published, in 2017, the Guide for Ethical Conduct which includes parts of conduct derived from the particularities and requirements of intelligence profession, conveying an unitary set of values, principles and rules able to contribute to the promotion and defence of national interests, providing appropriate practices and attitudes in a work environment that meets the special standards to ensure that relevant professional objectives aligned to the Romanian national security aspirations (SRI, 2017:1-14).

Although compromises can occur between exercising natural rights of a person and achieving public national interests, due to the emergency of the events and the efficient intervention of the secret services, these circumstances prove to be outstanding.

Even if the civil society could accept the exceptional means of achieving the national interests, they must be interdependent to the justification and necessity of the measures taken.

4. CONCLUSIONS

The increasing involvement of civil society in the way the activity of intelligence services is carried out demonstrate that several factors need to be taken into account when we are discussing how to maintain the balance between the primary interests of the citizen and the public interests of society as a whole (Martin, 2016:21).

The intricacy of the security ecosystem, the merger between national and international security and the technology revolution command for ethical and enhanced fact-based policymaking in intelligence gathering, while managing the risks that might appear. (Walsh, Miller 2016:345-368).

By all means, intelligence gathering is a necessary and valuable tool for all nations and it is important to succeed in achieving a comprehensive and coherent understanding of the role ethics plays in protecting state interests and how national security management supports this role.

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