
Social conflicts in Peru and military-police cooperation

José Franco Lazarte

Translated by CIVIME and Claudia Iwasaki

Summary

The States have legislative capacities to control the relations between individuals and institutions, as an objective manifestation of the exercise of their political power to regulate society, the interests of social actors and the crises that affect the security of the country. In this sense, this article highlights the importance of military-police cooperation as a mechanism to overcome constitutional restrictions on the intervention of the Armed Forces in environments of social conflict in support of the National Police of Peru. Likewise, it is highlighted that, in the context of international security, the new approaches to security in the hemisphere and the accelerated changes in the national reality require the design of security models that integrate mechanisms of intervention of the Armed Forces in conflictive processes that configure sources of serious threats to security and that affect national development.

Keywords: Interagency cooperation, health crisis, social conflict, decision-making.

Introduction

Human nature, the contradictory positions between the action of the State and the population, as well as the diverse collective interests of social and political actors create situations of conflict, although their intensity adopts different levels or phases within the conflict cycle. Despite the health emergency, social conflict did not cease to be a matter of concern for the Peruvian State. The provisions of social isolation in the framework of the emergency and the prohibition of meetings, both in closed environments and in public spaces, allowed to exercise control of citizen mobilizations and protests in the context of the pandemic.

On the one hand, in order to manage the health crisis and within the framework of an exception regime, the Peruvian State adopted the first measures aimed at preventing the spread of the Coronavirus contagion and controlling public order,

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by issuing two decrees supreme. In the first place, on March 11, 2020 the Health Emergency was declared at the national level,¹ while, secondly, on March 15, 2020 the State of National Emergency was declared, establishing the start of the quarantine, the temporary closure of borders, as well as other restrictive measures of the exercise of rights (transit, assembly, etc.) and of commercial, cultural and recreational activities.²

On the other hand, in Latin America it has been observed that, in the face of permanent conflicts between politicians and society, the military are called upon to play a much more active role in solving these conflicts, as was the case in Guatemala between the eighties and nineties and in Chile during the transition.³ In Bolivia, some governments have used the Armed Forces to preserve public order. In this context, various countries have faced non-military problems (such as drug trafficking, social conflicts and citizen security) with military mechanisms.⁴

The understanding of conflict in general terms refers fundamentally to the exchange of hostilities between actors who do not agree on a particular point.⁵ Faced with this, the States use their legislative and normative capacities to regulate and control the relationships between individuals, groups, institutions, as an objective manifestation of the exercise of their political power to regulate life in society, the interests of social actors and the power relations that arise in social interaction and social conflicts.

This article highlights the importance of military-police cooperation as a mechanism to overcome the restrictions of the intervention of the Armed Forces. In support of the National Police of Peru (PNP) during large-scale social conflicts and that put National Security at risk. For this, the situation of conflict during the pandemic is described; the constitutional and regulatory framework that allows the participation of the armed forces is reviewed during the state of emergency, as well as the cases of Argentina, Bolivia and Colombia regarding the roles of their Armed Forces.

Situation of social conflicts during the pandemic

Before the state of emergency, the Ombudsman's Office registered the existence of 188 social conflicts in Peru (especially socio-environmental), observing collective protest actions, as well as various ongoing dialogue processes.⁶ In this regard, social protest is the way in which society expresses its claims, through peaceful marches or violent confrontations with the PNP, sometimes with regrettable occurrences. For example, in Peru, between January and February 2020 there were 299 protests. Likewise, as of February 2020, socio-environmental conflicts represented 68.1% of the total registered cases,⁷ while the 82 conflicts related to mining activity represented

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44% of all social conflicts in Peru. Another important fact is that, in 2019, of the 48 mining projects in the portfolio published by the Ministry of Energy and Mines, six (representing 13%) were in conflict (Integración Corocchohuayco, Los Chancas, Quellaveco, Conga, Tía María and Río Blanco).⁸

The exceptional measures decreed by the Peruvian Government had an effect on the public expression of the social demands with which conflicts are usually activated.⁹ Similarly, the area of competence of the police authority was expanded (detention, prohibition of meetings, entry to homes and impediment of free movement),¹⁰ receiving the support of the Armed Forces to act according to law. Despite the state of emergency, protests increased, but they adopted peaceful forms and for short periods of time, demonstrating that when society perceives that certain circumstances threaten or harm its interests and rights, it will seek a way to express itself.¹¹ Only between March and May 2020, 54 observed conflicts were reported, most of them related to problems that arose from the pandemic.¹²

During the health crisis, the Ombudsman's Office analyzed four conflictive scenarios: (1) Referring to 110 complaints from health personnel nationwide, (2) Regarding 61 complaints about mining activity, (3) Referring to 26 complaints from inmates and prison workers, and (4) Related to humanitarian transfers and displacement of people who, due to a situation of vulnerability, caused migration and return to their home towns in search of refuge and resources to survive.¹³ In this context, joint participation and cooperation between the PNP and the armed forces was observed to control order, guarantee security and prevent any event of alteration of public safety.

Functions of the PNP and the Armed Forces in the development of social conflicts

Articles 165 ° and 166 ° of the Political Constitution of Peru establish, respectively, the raison of the Armed Forces and the PNP. Likewise, the specific functions of the Armed Institutions are indicated in their own legislation, such as Legislative Decree n.º 1137 (which assigns the functions to the Peruvian Army), Legislative Decree n.º 1138 (which establishes the functions of the Navy Peru), and Legislative Decree n.º 1139 (which assigns the functions to the Peruvian Air Force). On the other hand, Legislative Decree n.º 1267, PNP Law, establishes that its function is to guarantee, maintain and restore internal order, public order and citizen security. However, in exceptional situations, the Armed Forces they can also participate in the control of internal order, during exceptional regimes; that is, they assume control of internal order in accordance with Article 137 of the Constitution.

Given the seriousness of the effects of the pandemic, the Peruvian government ordered a state of emergency at the national level. This exceptional regime is

available in the event of disturbance of the peace or internal order, of catastrophe or of serious circumstances that affect the life of the Nation. In this eventuality, the exercise of constitutional rights relating to personal liberty and security, the inviolability of the home, as well as the freedom of assembly and of transit in the territory may be restricted or suspended.¹⁴ It should be noted that, due to the declaration of the state of emergency, both the Armed Forces as the PNP are deployed in the national territory according to their plans of operations, complying with the provisions for the attention of the health crisis.

Military-police cooperation in the face of social conflicts

This exceptional situation, motivated by a health crisis that affects the security of the State, allows the armed forces to cooperate with the PNP to face situations that endanger internal order and public tranquility. However, this intervention may adopt other levels, such as the use of force, to contain the action of organized groups that could affect the legal-political stability of the country, territorial integrity, as well as national security and defense. So what would this process of military-police cooperation look like?

In this regard, Molano and Franco, in their publication entitled "Inter-agency coordination: the secret weapon of democratic security," argue that inter-institutional or inter-agency coordination is understood as a process through which the means and efforts of two or more institutions are synchronized or agencies that seek to generate value in public management to achieve defined objectives with limited resources.¹⁵ It is necessary to highlight that the main resources that are negotiated in the interagency coordination process are the control over the problem, the autonomy to make decisions and act, the budget and financing, the human capital, the political position that is commonly defined by the community policy and its leaders, as well as information for government decision-making and political action.¹⁶

In this sense, interagency cooperation structures face the challenge of moving forward simultaneously, since coordinating this is not only a technical process, but also a political process with two levels: the definition of guidelines that guide interagency action and that of the implementation of policies.¹⁷ Therefore, the generation of value in inter-agency cooperation will also lead to the integration of agency resources to strengthen decision-making at the political-strategic level and define actions at the operational and tactical level. In the case of Peru, the instruments of national power meet the conditions to configure this model.

The intervention of the Armed Forces in the control of internal order and its link with National Security

Latin America shares a common platform on which conflicts are developed, which is characterized by structures that concentrate power, political polarization, economic dynamics, weak or not very legitimate state institutions, difficulties in controlling crime, persistent poverty and inequity, limited and irregular citizen participation, increase in inter-ethnic and intercultural tensions and incomplete mechanisms of institutional recognition of identities.¹⁸

In this regard, Carolina Sampó, Doctor in Social Sciences, analyzes the case of Argentina and points out that for 35 years this country was a paradigmatic case of the restrictive division between Security and Defense, in this traditional model, the Armed Forces. Their main mission was to defend sovereignty and territorial integrity against external aggressions of state origin. However, due to changes in the International System, the expansion of crime and the increase in violence, this separation of functions begins to overlap.¹⁹ Since 2018 and the approval of the National Defense Policy Directive, Argentina is facing a limited transition model, in terms of its armed forces fulfill both their main function (the safeguarding of sovereignty and independence, territorial integrity, the capacity for self-determination, the protection of life and the freedom of its inhabitants against external aggressions), as well as subsidiary functions (among others, the tasks related to the fight against organized crime, especially against drug trafficking).²⁰

For his part, Jerónimo Ríos, Doctor in Political Science, analyzes the evolution of the Colombian Military Forces and identifies two stages. The first, between 2007 and 2012, in which there is a growing strengthening of the armed dimension of the Colombian State and in which overcoming the conflict is understood in terms of weakening the guerrillas and reducing revenues from, among others, the illicit coca growing. The second stage, starting in 2012, in which there is a reduction in the intensity of the confrontation with the armed groups, largely due to the processes of negotiation and dialogue with the Revolutionary Armed Forces of Colombia-Popular Army (FARC-EP) and the National Liberation Army (ELN), and which also incorporates new guidelines in Colombian public policy in order to make the mitigation of the coca problem that occurs in the country more effective.²¹ Although, it may seem that national security is being passed to citizen security as such, the roles of the Military Forces are still being worked on, especially considering that after 50 years of conflict, Colombians have become accustomed to seeing them act in a combined manner to the Military Forces and the National Police.²²

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Regarding Bolivia, the Bolivian researcher Loreta Tellería maintains that in mid-2000 the new international scene on the subject of security configured the work agenda characterized by new concepts that delineate the adaptation of the armed forces to the new democratic context that the world and the region in particular are experiencing. In the integration of the Armed Forces. Democracy was characterized by a series of peculiarities, such as the systematic violation of human rights, the militarization of social conflict, external interference in internal affairs, and the legitimacy crisis that affected both the government and the military institution.²³

In Chile, in the context of various social outbreaks demanding greater equity, access to health and education, and decent pensions, the Chilean analyst Gustavo Aimone points out the need to guide the actions of the Armed Forces in citizen support tasks from a multidimensional security approach. This new scheme justifies the participation of the armed forces in operations other than war and in contribution to the development and social peace of the country.²⁴

Regarding the Peruvian case, José Saldaña and Jorge Portocarrero, in their publication entitled "The violence of the laws: the use of force and the criminalization of socio-environmental protests in Peru", analyzed the regulatory framework in relation to the use of state force in socio-environmental conflicts. His working hypothesis is that the legal system, rather than a guarantor, is a producer of human rights violations due to the violent nature of the law as a theoretical approach.²⁵ The authors conclude that, in recent years, different norms on the use of force have been approved partially following international standards; however, there are also notable contradictions. Likewise, Saldaña and Portocarrero point out that the possibility that the Armed Forces act without mediating states of emergency in support of the PNP is unconstitutional, denatures its primary role and allows the militarization of areas where social conflicts occur. The same could be said of the anti-subversive police units, which would not be in a position to deal with and deal with social protests due to their lack of training in these types of operations. The authors add that none of this is consistent with the principles of necessity and proportionality in the use of state force.²⁶

Therefore, the intervention of the Armed Forces it is subject to declarations of exception regimes; that is, during states of emergency to assume control of internal order, setting up a situation of military-police cooperation. Under these conditions, the Armed Forces carry out actions in a context in which constitutional rights are suspended. In this sense, the President of the Republic, with the agreement of the Council of Ministers and reporting to Congress, may decree for a specified period, in all or part of the national territory, any of the states of exception contemplated in Article 137 of the Political Constitution of Peru, either the state of emergency or the

state of siege.²⁷ As it has been indicated, the constitutional framework itself specifies that it corresponds to decree the state of emergency in the event of disturbance of peace or internal order, of catastrophe or of serious circumstances that affect the life of the Nation.²⁸

Regarding the role of the Armed Forces. in a state of exception, the Peruvian constitutional lawyer Carlos Hakansson explains that it should be borne in mind that the actions of the armed forces is fundamentally oriented to protect the sovereignty, independence and territorial integrity of Peru. Any other secondary function will be developed only if it is strictly necessary or with the possibility that the Armed Forces assume control of internal order during the validity of a state of exception. Strictly speaking, the control of internal order corresponds to the PNP. Likewise, it should be noted that in Peru the constant practice has been to resort to the state of emergency to face situations that affect national security and human security. In Peru, and in Latin America in general, a state of exception has constituted -on many occasions- the perfect scenario or excuse to limit fundamental rights, even generating situations of impunity.

What in any case is still a matter of discussion is whether when the Armed Forces they assume control of internal order, they do so subordinate or supervised by the PNP, or if -on the contrary- it is the PNP that becomes subordinate to the guidelines of the Armed Forces or if it is under their supervision. Be that as it may, if the participation of the Armed Forces is going to be arranged. In this scenario, it should not be forgotten that this constitutes a very exceptional situation and of strict necessity, since the control of internal order is not the main function of Armed Forces, but of the PNP.²⁹

Conclusions

From an interagency cooperation perspective and from a modern approach to the multidimensional security structure, military-police cooperation is the necessary mechanism to ensure the participation and intervention of the armed forces in situations of social conflict, during the development of scenarios of health crises or pandemics that affect human life and, consequently, the security of the country. It should be taken into account that the participation of the Armed Forces in matters of police work, it can only be finalized after a declaration of emergency, since this situation also leads to the use of state force, as it occurs in scenarios of socio-environmental conflicts. It is perhaps in the most complex and violent scenarios that the intervention of the armed forces is justified under the constitutional mandate, using the military-police cooperation mechanism. Bearing in mind that current problems (such as drug trafficking and organized crime) increase the levels of

complexity and violence, it is very likely that the involvement of the armed forces to face these threats is constantly increasing.

The popular movements manifest their resistance to the political powers because they see their representations and their rights threatened and affected. It is perhaps, in these scenarios, where the Armed Forces do not find opportunities for intervention, but they do find cooperation with the PNP, either through training, technology and intelligence, bearing in mind that the fragmentation and heterogeneity of social movements and organizations in Peru and Latin America has deepened in the last decade. In this sense, it is necessary to have a design of security models that integrate mechanisms of intervention of the armed forces in processes that configure threats to security, as they have been developing in the context of international security, due to the new approaches to security in the hemisphere, as well as the accelerated changes in the national reality influenced by both globalization and the neoliberal model.

About the author:

José Franco Lazarte is a Colonel of the Peruvian Army, Bachelor's and Master's Degree in Military Sciences, Master's Degree in Teaching and Educational Management. He completed the Command and Staff Course at Escuela Conjunta de las Fuerzas Armadas. He worked as Chief of Staff of 1ra Brigada Multipropósito. He has completed a Master's Degree in Development and National Defense at Centro de Altos Estudios Nacionales – Escuela de Postgrado. His areas of interest are national security and defense.

Endnotes:

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