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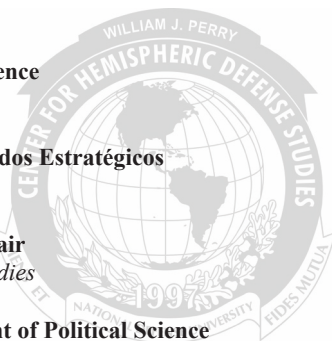
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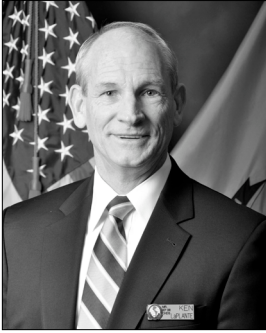
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Message from the Acting Director



Welcome to Volume 16 of the *Security and Defense Studies Review (SDSR)*! As this edition goes to press and distribution, security and defense officials in the Americas are preparing their principals for numerous regional and sub-regional executive events including the upcoming 11th Conference of the Defense Ministers of the Americas (CDMA) to be held in Arequipa, Peru. Accordingly, Volume 16 of the *SDSR* focuses on thematic issues that will likely be raised at these events, including the Conference: cooperative security efforts

in the Americas, cyber security, the use of the military to combat transnational organized crime, and external actors in the Americas, among others.

We begin this *SDSR* edition with an article from a group of authors in Argentina on cooperative security efforts in Latin America. The authors examine the numerous theoretical dimensions of the topic and the history of cooperative security in the region. They propose a bold reform to the system, one that emphasizes regional initiatives yet also extends responsibility for specific threats to experts. I trust our readers will find their recommendations on inter-American security cooperation illuminating.

Lucas Fonseca and Tiago Delgado of Brazil scrutinize the cyber security challenges faced by many Latin American nations. The authors examine the OAS Strategy on Cyber Security and, in particular, the development of Computer Security Incident Response Teams (CSIRTs) in many nations. The authors contend that the capacity of government experts to keep up with the rapid evolution of information technology, inadequate or antiquated legislation on cyber security that is rapidly overcome by developments in the computer industry, and sufficient education of prosecutors and judges are challenges faced by most countries in the Americas.

Next, Peterson Silva, a recent alumnus of the Perry Center, examines the 2008 Brazilian National Security Strategy. Silva provides a detailed analysis of the development of the national strategy and an assessment of its functions after five years. Our readers, especially those involved in developing modern defense strategies in a rapidly changing, multi-faceted security environment, might draw important lessons from Brazil's experience.

Perry Center Editor-in-Chief Pat Paterson and former Perry Center research assistant Cristy Blain of Colombia examine the risks of using the military in operations against transnational organized crime. Paterson teaches the human rights and rule of law course at the Perry Center and Blain has extensive experience on human rights issues from her studies in France, the United States, and Colombia. After a detailed theoretical discussion of the issues, they use the U.S. experience in Iraq from 2003 to 2008 to demonstrate the clear dangers of deploying the armed forces in support to civilian authorities without adequate education and the proper strategy.

The Perry Center's Dr. Evan Ellis contributes the next article on China's growing role in the Americas. Dr. Ellis, one of the United States' leading authorities on China in Latin America, has published three books and scores of articles on the topic. His most recent analysis takes the readers deep into Chinese foreign relations in Latin America and provides an extraordinary level of detail. I am confident you will find his article stimulating and informative.

The next chapter of the journal is a summary of Congressional testimony provided by General John Kelly of the U.S. Southern Command and General Chuck Jacoby of the U.S. Northern Command. Between the two of them, they have responsibility for, foremost, protecting the U.S. homeland and, secondly, coordinating security efforts on behalf of the U.S. with its partners in the Western Hemisphere. Their reports to Congress, blunt and candid, are excellent synopses of the multi-faceted forms of crime and threat that the U.S. and its partners face.

The next item in *SDSR* 16 is drawn from the March 2014 Hemispheric Forum conducted at the Perry Center on the topic of women in peace and security. Perry Center Professor Celina Realuyo hosted a panel of distinguished academic, diplomatic, and defense officials who spoke on the role of women in peace and security. The prestigious panel included representatives of the diplomacy, defense, and development pillars of U.S. national security strategy.

We conclude Security and Defense Studies Review 16 with two book reviews. Perry Center Assistant Editor Patricia Kehoe provides an in-depth book review on *Narcoland*, a recent publication by Mexican author Anabel Hernández, who reports from the frontlines of the war against organized crime in Mexico. Hernández's story is a gripping account of the last few years of the drug war in her country, the risks she took to research the book, and the collusion of government officials with traffickers. An eye-opening read.

Perry Center Professor Kevin Newmeyer provides the second book review on the ethics of U.S. foreign intelligence collection. The book, *Balancing Liberty and Security: An Ethical Study of U.S. Foreign Intelligence Surveillance 2001–2009* by Dr. Michelle Louise Atkin, examines the competing theories of utilitarianism and contractarianism to describe how U.S. officials shaped elements of the national security strategy following the 9/11 attacks. It is a profound example of the dilemma Latin American nations also face as they combat elusive threats while at the same time try to respect civil liberties of their constituents.

Our next edition, *SDSR* 17, will cover thematic issues of global importance from a unique Hemispheric perspective and, as always, relative to regional and international security and defense fora. We invite all our readers to submit their own research for publication in one of the Center's nearly half dozen journals and periodicals. On our website, <http://chds.dodlive.mil>, you will find a Publications Handbook and a Writing Guide for authors interested in publishing their works. Submit your research and articles for publication to our editorial team by sending them to chdsejournal@ndu.edu.

With best regards,
Kenneth LaPlante
Acting Director, Perry Center

El Sistema Interamericano de Defensa: Hacia un Esquema Más Armónico de Gobernanza Multinivel

Ricardo L. Alessandrini, Silvana L. Elizondo,
Virginia Iribarne, y Silvana Pascucci¹

Resumen

El Sistema Interamericano de Defensa puede ser analizado como una gobernanza regional de seguridad, en la que coexisten mecanismos y prácticas de diferentes niveles y alcances que se solapan en tiempo, espacio y funciones. El objetivo del presente artículo es estudiar cómo ese solapamiento ha afectado la provisión de seguridad en los sucesivos contextos históricos y cuál es la situación actual, en base a un enfoque funcional. Se examinará para ello el desempeño de los mecanismos relacionados con la seguridad colectiva (56 conflictos) y la seguridad cooperativa (5 temas), identificando las dinámicas entre los distintos niveles.

Dicho análisis permitirá concluir que, a partir de la creación de UNASUR, el solapamiento de mecanismos transitó de una interacción cooperativa a una compleja, en la que se refuerzan las tendencias competitivas. En base a ello, se propone el diseño de una gobernanza mejor articulada que refleja el papel protagónico de las regiones como proveedoras de seguridad dentro del sistema hemisférico.

Introducción

Retomando el ya tradicional ejercicio de debatir los alcances de la seguridad y la defensa en el hemisferio, se ha abierto a partir de 2010 una nueva etapa de discusión, en esta oportunidad centrada en la vigencia de los instrumentos y componentes del Sistema Interamericano de Defensa (SID). La percepción crítica sobre algunas instituciones propias de contextos estratégicos superados y el fortalecimiento de los organismos regionales, en particular la Unión de Naciones Suramericanas (UNASUR), enmarcan esta nueva fase de reflexión.

En este artículo hemos buscado ir más allá del análisis de estos factores de coyuntura y estudiar el rol del SID en la provisión de seguridad en las diferentes etapas de su trayectoria, profundizando la caracterización del desempeño actual desde una perspectiva funcional. El planteo está estructurado sobre cuatro interrogantes centrales: qué es el SID; cómo funciona; cuáles son los principales prob-

lemas que enfrenta; y, finalmente, sobre qué fundamentos podrían estructurarse alternativas para mejorar su diseño.

Como recorte inicial se ha definido al SID como el conjunto de instrumentos y componentes destinados a garantizar la paz y seguridad en el hemisferio, proveyendo y coordinando respuestas a las amenazas y agresiones a los estados, sean éstas extra-continenciales o regionales. Sus pilares fundacionales son la Junta Interamericana de Defensa (JID), el Tratado Interamericano de Asistencia Recíproca (TIAR) y la Organización de Estados Americanos (OEA), a los que se han sumado a lo largo de más de 70 años una multiplicidad de mecanismos de diferentes niveles, alcances y especificidades temáticas que hoy conforman una arquitectura flexible de seguridad.

El concepto de arquitectura flexible permite poner en perspectiva algunas particularidades de su funcionamiento. Más allá de los convencionalismos de su denominación, el SID no parece funcionar como un sistema sino como una gobernanza de seguridad. Según D. Flandes y M. Radseck, la gobernanza incluye todas las “estructuras de autoridad formales e informales, que coordinan, manejan y regulan respuestas colectivas a las amenazas a la seguridad de los estados en una determinada región”.² Para los autores, estas estructuras “pueden ser codificadas en formas institucionales formales y vinculantes, pero también pueden ser identificadas normas de comportamiento y acción aceptadas informalmente por los estados de la región”.³ El concepto describe adecuadamente las dinámicas del SID, caracterizado por una multiplicidad de estructuras, niveles y mecanismos, formales e informales, viejos y nuevos, que coexisten sin jerarquías y se fundamentan sobre distintos conceptos de seguridad.

La multiplicidad propia de la gobernanza regional deviene, casi naturalmente, en un permanente solapamiento de mecanismos y prácticas de seguridad, fenómeno que ha sido abordado desde la teoría por E. Adler y P. Greve.⁴ Los autores señalan que existe solapamiento u *overlap* en la medida en que la provisión de seguridad es transformada por la presencia de diferentes estructuras, y que el solapamiento puede presentarse en cuatro dimensiones: ‘temporal’; ‘espacial’; ‘relacional’ y ‘funcional’.⁵

La dimensión temporal se refiere a la superposición de mecanismos y prácticas de seguridad que se presenta en los tiempos de transición entre un orden internacional y otro, con la coexistencia de viejas y nuevas instituciones. Dicho solapamiento permite identificar cuáles de ellas son preferidas por los estados para dar respuesta a las amenazas y cómo se reacomodan los viejos organismos al nuevo contexto.

La dimensión espacial, por su parte, se refiere a los factores geográficos e identitarios que definen a las distintas regiones. Como geografía, se asiste en el hemisferio a una multiplicidad de espacios superpuestos que proporcionan a los estados una pertenencia múltiple, con un esquema disperso. En tanto identidad, se encuentran también una variedad de relatos superpuestos articulados sobre las identidades Panamericana y Latinoamericana, a las que se suma la naciente identidad Suramericana.

El estudio de la dimensión relacional sintetiza los impactos que las relacio-

nes especiales de seguridad imprimen sobre la dinámica regional, destacándose tres tipos de relacionamientos: la hegemonía, que superpone a las relaciones regionales una dinámica radial; las nuevas asimetrías, generadas por el ascenso de potencias emergentes; y las viejas diádas basadas en conflictos territoriales históricos que implican desafíos para la seguridad regional. Puesto simplemente, el rol de Estados Unidos, el ascenso de Brasil y las relaciones de competencia por disputas territoriales constituyen factores imprescindibles a la hora de repensar la institucionalidad hemisférica y regional.

Finalmente, dentro de la dimensión funcional se aborda la superposición de esfuerzos que los diferentes niveles de gobernanza llevan adelante alrededor de un mismo tema. Sintéticamente, se diferencian entre las funciones relacionadas con el manejo de crisis y conflictos, vinculadas a la seguridad colectiva y aquellas propias de la seguridad cooperativa, destinadas a prevenir el conflicto y afianzar la zona de paz. Dentro del primer grupo, se analiza la defensa común frente a agresiones externas, el manejo y resolución de los conflictos armados hacia adentro del grupo y la gestión de crisis institucionales que puedan devenir en hechos violentos. Dentro del segundo, se consideran las medidas de fomento de la confianza y la seguridad, la cooperación ante desastres naturales y catástrofes de envergadura, los intercambios en materia de formación en defensa, el desarrollo de un pensamiento estratégico común y la proyección de seguridad a través de operaciones de paz de las Naciones Unidas.⁶

Las dimensiones espacial y relacional son las que proveen los elementos contextuales fundamentales para el análisis, siendo la hegemonía de Estados Unidos un dato estructural de inculcable relevancia para comprender la evolución del SID. En el entendimiento de que las características de estas dos dimensiones han sido extensamente trabajadas en el ámbito académico,⁷ el desarrollo de este artículo se centrará en las otras dos dimensiones: la temporal, que da cuenta del extenso proceso de creación institucional que ha devenido en la actual gobernanza, y la funcional, que permitirá poner de relieve cuáles son los organismos que abordan los desafíos a la seguridad y la defensa en los diferentes niveles, cómo puede ser calificado el desempeño de éstos y de qué manera se presenta su coexistencia en términos de cooperación y competencia.

El solapamiento en la dimensión temporal

El SID reúne las respuestas institucionales generadas por tres entornos de seguridad específicos, cada uno de los cuales fue correspondido con un desarrollo conceptual sobre el alcance de la seguridad. El primero de ellos tuvo lugar en la década del '40, cuando se creó la JID (1942), el TIAR (1947) y la OEA (1948), dentro del modelo de seguridad colectiva. El segundo momento correspondió a los años '90, cuando se institucionalizaron diversas herramientas de seguridad cooperativa articuladas en torno a la Comisión de Seguridad Hemisférica (CSH, 1995) y el proceso de Conferencias de Ministros de Defensa de las Américas (CMDA, 1994). Se crearon además en esta etapa numerosos organismos destinados a la lucha contra las amenazas transnacionales y mecanismos subregionales de seguridad cooperativa, que agregaron la lógica regional a una definición de

Tabla N°1 - Aspectos considerados en las dimensiones del solapamiento

DIMENSIÓN	ASPECTOS CONSIDERADOS
TEMPORAL	Cambios en los entornos de seguridad Concepto de seguridad Desarrollo de instituciones
ESPACIAL	Consideraciones geográficas Consideraciones identitarias
RELACIONAL	Hegemonía Nuevas asimetrías Díadas por conflictos territoriales
FUNCIONAL	Manejo de crisis y conflictos: -defensa común frente a agresiones externas, -manejo y resolución de conflictos armados, -gestión de crisis institucionales. Prevención de conflictos y zona de paz: -medidas de fomento de la confianza y la seguridad, -cooperación ante desastres naturales y catástrofes, -formación en defensa, -pensamiento estratégico común, -proyección de seguridad a través de operaciones de paz.

Fuente: Elaboración propia.

la seguridad que hasta entonces era casi exclusivamente hemisférica. El tercer momento de creación institucional tuvo lugar a comienzos de 2000, cuando a partir del concepto de seguridad democrática y multidimensional se firmó la Carta Democrática Interamericana (CDI, 2001), se instaló la Secretaría de Seguridad Multidimensional (SSM, 2005) y se reformó la JID (2006), transformando un organismo de seguridad colectiva en un mecanismo de seguridad cooperativa.

Exceptuando este último caso, de éxito aún incierto, las instituciones creadas en cada etapa se sumaron de manera desarticulada a las anteriores, sin reemplazarlas o transformarlas, derivando en la compleja arquitectura actual. La complejidad se ha presentado en dos sentidos: horizontalmente, por la agregación de mecanismos nuevos en un mismo nivel; y verticalmente, por la incorporación de todas las iniciativas subregionales y regionales que fueran contribuyentes al mantenimiento de la paz en el continente.⁸ Dicha complejización institucional se presenta tanto en materia de resolución y manejo de conflictos como en el plano preventivo de la seguridad cooperativa, propio de las últimas décadas.

Si se analizan los cincuenta y seis conflictos y crisis identificados en sus 70 años de historia (véase Tabla N°2), se desprende que entre 1948 y 1982 los instrumentos utilizados por el SID han sido exclusivamente el TIAR y la Carta de la OEA, presentándose un solapamiento de mecanismos del mismo nivel, el hemisférico, y basados en el mismo concepto de seguridad, la colectiva.⁹ Recién a partir de 1983 se evoluciona hacia un planteo menos centrado, con el surgimiento de espacios regionales de seguridad, dándose los primeros pasos hacia un esquema multinivel. Exceptuando los mecanismos intervinientes en la crisis centroamericana en los '80, que buscaron diferenciarse de los hemisféricos, una

vez iniciada la década del '90 los organismos regionales que participaron en la provisión de seguridad junto con los interamericanos lo hicieron a partir de un solapamiento cooperativo, es decir, con un alineamiento de perspectivas entre los diferentes niveles. Durante el nuevo milenio, este alineamiento se complejizó crecientemente, deviniendo hacia 2008, año de la creación de UNASUR, en un nuevo tipo de interacción multinivel que podríamos denominar solapamiento complejo. En esta etapa comienza a hacerse evidente un debilitamiento del rol del hemisferio y un fortalecimiento del papel de las regiones en el manejo de crisis, un área en la que la coexistencia presenta tanto modalidades complementarias como competitivas.

El manejo de conflictos durante la guerra fría: solapamiento en clave hemisférica

En los veintiséis conflictos ocurridos en el hemisferio entre 1948 y 1982, el SID respondió con exclusividad a través de sus instrumentos hemisféricos de seguridad colectiva: el TIAR (13 oportunidades) y la Carta de la OEA (13 aplicaciones).¹⁰ Ambos instrumentos sirvieron a la lógica de la lucha contra el comunismo que caracterizó a la guerra fría, aunque también fueron invocados para conflictos de tipo territorial (7 sobre 13 casos totales de esta etapa en el caso del TIAR y 4 sobre 13 casos totales en el caso de la Carta de la OEA), ocurridos en su mayoría en Centroamérica y el Caribe.

La preferencia por uno u otro instrumento se presentó en términos de su alcance diferenciado, siendo el TIAR el único instrumento que considera la defensa colectiva contra agresiones externas y el único que prevé la posibilidad de aplicación de sanciones, contemplando entre sus herramientas el despliegue y uso de la fuerza (a consideración de cada estado). Sin embargo, estos cursos de acción particulares han funcionado de manera excepcional. El TIAR operó en 11 oportunidades como un instrumento de seguridad colectiva intra-regional para el manejo de conflicto inter-estatales y en sólo 2 casos fue activado como instrumento de defensa común frente a agresiones externas: la crisis de los misiles (1962) y el conflicto en el Atlántico Sur (1982). Las sanciones se impusieron en 4 oportunidades: República Dominicana – Venezuela (1960), Cuba (1961-62/1962/1964), y el despliegue de fuerzas se ha dado en los casos de Panamá (1959) y Cuba (1962). En la mayoría de los casos el uso de la fuerza ha sido canalizado a través de la Organización de las Naciones Unidas (ONU) vía el Consejo de Seguridad (CS), reflejando la reticencia de los países americanos a aplicar la fuerza a través de mecanismos regionales.

En la misma línea, los países latinoamericanos han preferido en general recurrir a la Carta de la OEA para el manejo de conflictos regionales, afianzándose su papel desde mediados de la década del '60. A diferencia del TIAR, que cuenta actualmente con 18 miembros, la Carta de la OEA es un instrumento verdaderamente hemisférico, su enfoque es más amplio y está centrado en la prevención y resolución pacífica de conflictos. Sus aplicaciones han sido mayormente de carácter declarativo, reafirmando los principios de solidaridad continental, no intervención y defensa del sistema interamericano.

Tabla N°2: Manejo de crisis y conflictos en las Américas (1948-2012)

AÑO	UBICACIÓN / PAISES INVOLUCRADOS	CRISIS / CONFLICTO	Instrumento que se aplicó (según nivel)						
			TIAR	Carta OEA	Res. 1080	CDI	Regional Regiones y subregiones	Internac. CIJ/ONU	
1948	Costa Rica-Nicaragua	Invasión territorial a CR							
1949/50	Haití, Rep. Dom. y Cuba	Grupos y actv. subversivas							
1954	Guatemala	Intento p/derrocar a Árbenz							
1955	Costa Rica-Nicaragua	Invasión a CR							
1957	Nicaragua-Honduras	Territorial - Mov. de tropas							CIJ
1959	Nicaragua	Invasión armada a Nicaragua							
1959	Panamá	Intento de desestabilización							
1959	Rep. Dom., Cuba, Venezuela	Situación en el Caribe							
1960	Perú	Solidaridad Continental							
1960	Rep. Dominicana-Venezuela	Atentado Betancourt							
1961-62	Cuba	Ruptura de relaciones							
1962	Cuba	Crisis de los misiles							
1963	Rep. Dominicana - Haití	Situación en el Caribe							
1964	Cuba-Venezuela	Agresión / Intervención as. int							
1964	Panamá - Estados Unidos	Canal de Panamá							ONU
1965	Rep. Dominicana	Evitar influencia del Comun.Int.							
1967	Venezuela - Cuba	Apoyo a actv. guerrilleras							
1969	Honduras-El Salvador	Guerra del Fútbol							
1971	Estados Unidos - Ecuador	Pesca y juridéc. Marítima							
1972	Guatemala - Belice	Disputa territorial							
1974	Cuba	Rever las medidas contra Cuba							
1975	Cuba	Reestablecer relac. con Cuba							
1978	Nicaragua	Situación bajo Pres. Somoza							
1978	Costa Rica-Nicaragua	Agresión y amenazas a CR							
1981	Ecuador - Perú	Enfrentamiento Armado							
1982	Argentina- Reino Unido	Conflicto Atlántico Sur							ONU

Exclusividad Hemisférica

Solapamiento Cooperativo						
Año	País(es)	Conflicto civil en Centroamérica	Grupo Contadora	Grupo Contadora	Grupo Contadora	Grupo Contadora
1983	El Salvador, Nicaragua, Guatemala					
1983	Granada	Op. Furia Urgente				SSR/EE.UU.
1989/92	Panamá - Estados Unidos	Crisis (Norriega) Op. Causa Justa				
1990	Trinidad	Intento de Golpe de Estado				SSR
1991	Guatemala -Belize	Disputa territorial				CARICOM
1991	Haití	Destitución Aristide				
1992	Perú	Susp. Congreso y CSJ (Fujimori)				Grupo de Río
1992	Venezuela	Intento de Golpe de E (Pérez)				
1993	Guatemala	Susp. Congreso, CSJ, Part. Pol.				Grupo Contadora
1995	Ecuador - Perú	Disputa Fronteriza - Río Cénepa				MOMEPE
1996	Paraguay	Intento Golpe de E (Wasmosy)				
1997	Ecuador	Protestas c/medidas (Bucaram)				
1999	Barbados -Trin. y Tobago	Derechos de pesca				CARICOM
1999	Haití	Crisis Política				CARICOM
2000	Perú	Fujigolpe / cierre del Parlamento				
2001	EE.UU. - Terrorismo	Atentados terroristas 11-S				ONU
2002	Venezuela	Intento de Golpe de E (Chávez)				Grupo de Río
2003/05	Bolivia	Renuncia S. Lozada / Mesa				
2004	Perú	Crisis interna (heredada Fujimori)				ALADI
2004/05	Nicaragua	Amenaza destitución Bolaños				
2005	Ecuador	Remoción CSJ (Gutiérrez)				CSN/CAN
2005	Haití	Intervención armada (Aristide)				CARICOM
2008	Colombia-Ecuador	Conf. Diplomático (FARC)				Grupo de Río

Solapamiento Complejo						
2008	Bolivia	Reclamos de autonomía				G. Río /UNASUR
2009	Honduras	Golpe de Estado (Zelaya)				SICA/ALBA/ UNASUR
2009	Colombia - Venezuela	Bases militares Estados Unidos				ALBA/UNAS UR
2010	Colombia - Venezuela	Denuncia vinculados VZLA-FARC			Declaración OEA	UNASUR
2010	Costa Rica - Nicaragua	Controversia Río San Juan				CIJ
2010	Ecuador	Rebelión policial, intento de Golpe de E (Corea)			Declaración OEA	UNASUR
2012	Paraguay	Crisis que derivó en la destitución de Lugo			Declaración OEA	MERCOSUR/ UNASUR

Fuente: Elaboración propia en base a documentos originales de la OEA correspondientes a las Actas de las Reuniones de Consulta de Ministros de Relaciones Exteriores, Actas del Consejo Permanente de la OEA, notas y Declaraciones en relación a los conflictos en particular.

Referencias:

- ALADI: Asociación Latinoamericana de Integración
- ALBA: Alianza Bolivariana para los pueblos de Nuestra América
- CAN: Comunidad Andina de Naciones
- CARICOM: Comunidad del Caribe
- CDI: Carta Democrática Interamericana
- CIJ: Corte Internacional de Justicia
- CSN: Comunidad Sudamericana de Naciones
- MERCOSUR: Mercado Común del Sur
- MOMEP: Misión de Observadores Militares Ecuador - Perú
- ONU: Organización de las Naciones Unidas
- SICA: Sistema de Integración Centroamericano
- SSR: Sistema de Seguridad Regional (Caribe)
- TIAR: Tratado Interamericano de Asistencia Recíproca
- UNASUR: Unión de Naciones Suramericanas

Con sus particularidades, ambos instrumentos concentraron el manejo de los conflictos hasta mediados de los años '80, cuando la OEA empezó a ser vista como un organismo en declinación y el TIAR comenzó a recibir cuestionamientos. El fracaso de la solidaridad continental en el conflicto del Atlántico Sur en 1982 y la emergencia del Grupo Contadora en respuesta a la cuestión centroamericana marcaron puntos de inflexión y desde entonces han ganado protagonismo instrumentos e instancias de carácter regional, que fueron minando la exclusividad del espacio hemisférico.¹¹

Si bien en los '80 la creación de instancias regionales buscó explícitamente excluir a Estados Unidos, a partir de los '90 la coexistencia de espacios hemisféricos y regionales de seguridad presentó una complementariedad tácita, aunque con matices.

Del solapamiento cooperativo al complejo

Alineados por la idea de la seguridad cooperativa, los años '90 vieron florecer una multiplicidad de mecanismos complementarios, que buscaron desescalar los conflictos vecinales y afianzar el paradigma democrático. Los esfuerzos de confianza mutua lograron desarmar tensiones interestatales, por lo cual los instrumentos hemisféricos centraron su participación en la gestión de crisis de gobernabilidad democrática, a través de la aplicación de la Resolución 1080. Instrumentos como el TIAR y la Carta de la OEA prácticamente no fueron invocados en este período, con la excepción de la reacción ante los atentados terroristas del 11-S de 2001 en Estados Unidos, situación frente a la cual los países del hemisferio acordaron por unanimidad activar el TIAR como mecanismo de solidaridad continental. La fecha coincidió con la institucionalización del paradigma democrático a partir de la adopción de la CDI, tal vez el último consenso de envergadura alcanzado en el nivel interamericano.¹²

Desde entonces, las regiones fueron poco a poco fortaleciendo sus mecanismos para el manejo de los conflictos, de acuerdo a dinámicas y criterios propios, tendiendo en algunos casos a fragmentar el espacio hemisférico en lugar de alinearlos. En este sentido, la conformación de UNASUR en el año 2008 marcó una instancia clave, otorgando mayor complejidad al escenario de gobernanza hemisférica y abriendo un período de solapamiento menos armónico, cuyos contrastes han quedado expuestos en los últimos años.

En las siete crisis y conflictos que involucraron a países suramericanos, la organización regional intervino de manera paralela a la OEA, logrando afianzar un *modus operandi* propio. La informalidad de las instancias de diálogo y consulta establecidas entre los países de la UNASUR ha sido preferida en general por los países en conflicto, a excepción de Colombia, que siempre priorizó la vía hemisférica.

La flexibilidad institucional de la UNASUR y su diplomacia de presidentes han resultado importantes ventajas para el organismo regional, contrastando con el formalismo de la OEA. En consecuencia, la UNASUR se ha constituido como foro relevante para el manejo de conflictos en los casos de la crisis institucional de Bolivia en 2008 y en la desarticulación de la escalada entre Venezuela y Colombia en 2009 y 2010. Sus intervenciones coexistieron con los buenos oficios

de la OEA, organismo que en marzo de 2008 había interactuado también con el Grupo de Río, protagonista de la descompresión del conflicto entre Colombia y Ecuador. En el caso de las crisis democráticas (Honduras, Ecuador y Paraguay), la UNASUR también ha actuado en forma paralela a los mecanismos OEA desarrollando instrumentos propios como el Protocolo Adicional sobre compromiso con la democracia (2010). Aún sosteniendo puntos de vista diferentes (principalmente en la crisis de Paraguay del 2012 y en la actual coyuntura venezolana), ambos niveles han manejado las transiciones de manera simultánea, consiguiendo hasta el momento limitar la violencia. La UNASUR se ha mostrado como un organismo más proactivo que las instituciones hemisféricas en la provisión de estabilidad pero no deja de ser una iniciativa reciente cuya institucionalización está aún en proceso y debe consolidarse. Hasta el momento, la coexistencia de mecanismos con perfil diferenciado ofrece canales institucionales alternativos a las partes en conflicto y ha contribuido en varias ocasiones a la superación pacífica de las crisis. Pero las últimas participaciones tienden a reforzar una tendencia a la polarización, alejándose de la complementariedad inicial.

En materia de defensa común frente a agresiones externas, en cambio, no puede hablarse de un solapamiento, ya que los únicos mecanismos vigentes, aunque en franco desuso, son los hemisféricos.

El solapamiento en la agenda cooperativa

En materia de cooperación y prevención de conflictos, el solapamiento de mecanismos y prácticas también parece haber transitado de la complementariedad a la complejidad, situación en la que coexisten tensiones y convergencias. Si bien conceptualmente todos los esfuerzos en materia de cooperación suman, se vienen presentando en los últimos años iniciativas puntuales que han despertado recelos entre los niveles hemisférico y regional, fundamentalmente en el escenario suramericano. El organismo más activo del espacio interamericano en materia de seguridad cooperativa es la JID reformada, mientras que en la UNASUR la cooperación se profundiza alrededor del Consejo de Defensa Suramericano (CDS, 2008).

Comenzando por el nivel continental, es oportuno recordar que la JID es la institución de la defensa hemisférica más antigua (1942). Nació como un organismo autónomo de planificación para la defensa colectiva de las Américas y luego de más de 60 años viró hacia un esquema de seguridad cooperativa, cuando fue incorporada como una entidad de la OEA con funciones de asesoramiento técnico, consultivo y educativo en asuntos militares y de defensa.¹³

Aunque es prácticamente la única institución hemisférica que ha sido formalmente reformada, la percepción sobre su desempeño actual es dispar entre sus estados miembros. Si bien se reconoce que la JID realiza las actividades que le son asignadas, tanto por el Estatuto como por la Asamblea General de la OEA,¹⁴ estas funciones parecen no ser esenciales para la defensa interamericana o bien se superponen con funciones realizadas por otros organismos internacionales, interamericanos o regionales.¹⁵ Tal es el caso de las tareas de inventario de las medidas de fomento de la confianza (que también desarrolla la CSH), el desminado (conducido por el Programa de Acción Integral contra Minas Antipersonal, AICMA de

la OEA), la cooperación ante desastres (solapamiento con el nivel regional y otros organismos hemisféricos, como el Comité Interamericano para la Reducción de Desastres Naturales, CIRDN), las actividades de formación (superposición entre el Colegio Interamericano y la Escuela Suramericana de Defensa (ESUDE), además de otras iniciativas ya en curso), entre otras.

En vista de esta situación, en el seno de la OEA y de la JID surgió la necesidad de reflexionar sobre la alternativa de trabajar en su fortalecimiento o apuntar a una revisión integral del sistema, articulándose la discusión sobre una serie de ejes puntuales. En primer lugar, se ha planteado la necesidad de afianzar la conducción civil de la institución, reforzando el compromiso de las carteras de defensa para asegurar la dirección política y recortar posibles espacios de autonomía militar. La naturaleza técnico militar que presenta hoy la organización hace que el cumplimiento de algunas funciones relacionadas con las políticas de defensa no se ajuste a los parámetros de conducción política prevista por el Estatuto. En segundo orden, surgen como preocupación las nuevas funciones que la JID promueve para sí misma, buscando expandirse hacia nuevos temas y nuevos roles. Hacia nuevos temas, debido al interés de algunos países por incorporar cuestiones de seguridad multidimensional, en consonancia con el involucramiento de las Fuerzas Armadas en asuntos de seguridad pública que se está dando en varios estados. Y hacia nuevos roles, manifestado en el interés de la JID de ir más allá de las funciones de asesoramiento que le son propias, propiciando tareas de coordinación. Las mismas se vinculan con su designación como secretaria técnica permanente de la CMDA, que implicaría asumir responsabilidades en la implementación de las decisiones de dicho foro, así como en la agenda de asistencia ante desastres, en el cual la JID impulsa para sí un rol coordinador.

Frente a estos desafíos, han surgido importantes divergencias entre los países que procuran la consolidación de la JID y aquellos estados que cuestionan fuertemente su rol. Argentina, que ha planteado ante la CSH su visión crítica, sólo está dispuesta a aceptar una JID con una agenda acotada a la defensa y un alcance funcional de asesoramiento. De hecho, se encuentra entre los países que rechazan las tareas de coordinación, de naturaleza más operativa, como en el caso de asistencia ante desastres. Por otra parte, países como Nicaragua, Bolivia, Ecuador y Venezuela han optado directamente por retirar a sus delegados de la institución.¹⁶

Estas divisiones también han quedado expuestas al interior de las recientes CMDA, la principal instancia de encuentro del sector político de la defensa en América. Al analizar la evolución del proceso de CMDA, que ha llegado ya a diez reuniones, se evidencia que se trata de un espacio en el que las posiciones de los estados han dejado de alinearse. Se presentan, en este sentido, dos dinámicas más o menos claras: por un lado, se percibe que las temáticas netamente hemisféricas van dejando lugar a una lógica más concentrada en las regiones, que las declaraciones denominan “las tres Américas”; por otro lado, se aprecia una agenda cada vez más colmada de temas, que se corresponde con la amplitud de la seguridad multidimensional y que da como resultado declaraciones finales menos precisas y relevantes a la hora de valorar sus aportes al SID. Cuando en 2012 se buscó llevar el eje de discusión a iniciativas más concretas, los consensos generales se perd-

ieron y fue necesario recurrir a un sistema de votación, que marcó las fracturas entre los países del hemisferio.

Contrastando con esta tensión a nivel hemisférico, en el espacio regional las actividades del CDS de la UNASUR evolucionan con un importante nivel de consenso. Se trata de un foro de discusión específico de la defensa en la región y ha sido definido, dentro del paradigma de la seguridad cooperativa, como una “instancia de consulta, cooperación y coordinación”, que busca consolidar una zona de paz, construir una identidad suramericana en defensa y fortalecer la cooperación regional en la materia.¹⁷

Los niveles de cooperación en el espacio suramericano son más profundos e intensos que en el nivel hemisférico y esto se debe no sólo a la limitada cantidad de miembros (12 en contra de los 35 que componen el continente), sino también a la proximidad geográfica de los países, la afinidad cultural y la cercanía en términos identitarios que existe entre ellos. Aunque es necesario señalar que el CDS sólo avanza sobre los temas en los cuales existe acuerdo, presentándose divergencias significativas en aspectos que pueden vincularse a la inserción internacional.

Nos encontramos entonces con dos niveles claramente diferenciados que se solapan funcionalmente, presentando tendencias discordantes. En algunas funciones existe un mayor potencial de articulación entre niveles por tratarse de temáticas positivas; en otras, el potencial competitivo es manifiesto, ya que son visualizadas como ejes de la construcción de un espacio identitario regional desde el cual avanzar en oposición al interamericano. Es en este punto donde pensar en una gobernanza mejor articulada que refleje el papel protagónico de las regiones cobra sentido.

Una de las áreas fácilmente armonizables es el campo de las medidas de confianza mutua. El nivel hemisférico -mediante la JID, la CSH y la CMDA- juega un rol relevante como modelador y articulador, generando criterios para la estandarización, sistematizando información y difundiendo acuerdos alcanzados, mientras a nivel regional es posible avanzar en medidas más profundas en base a la vecindad y los desafíos compartidos. Así, en el espacio interamericano se alcanzan medidas de primera generación, no vinculantes, cuando en la UNASUR se ha avanzado en medidas de segunda o tercera generación, como la Declaración de Guayaquil (2010), el Registro Suramericano de Gastos, el mecanismo de transparencia del inventario militar y los ejercicios combinados a la carta para operaciones de mantenimiento de la paz.

En materia de proyección de estabilidad a través de operaciones de paz también es posible una articulación, ya que es un tema en el que UNASUR tiene experiencia acumulada y donde el nivel hemisférico tiene una participación muy limitada. UNASUR podría liderar su tratamiento en la agenda interamericana, en coordinación con otros países americanos con trayectoria en la materia.

Los otros tres temas analizados en este artículo: formación en defensa, pensamiento estratégico y cooperación ante desastres, aparecen en cambio con una agenda compleja. A pesar de no ser naturalmente excluyentes, se trata de áreas en las que se han planteado cuestiones identitarias y operativas que complejizan la armonización.

En el eje de formación en defensa, el Colegio Interamericano Defensa (CID), parte orgánica de la JID, presenta una clara dependencia de Estados Unidos en términos de su ubicación¹⁸ y de sus aspectos operativos y logísticos, aunque es en general valorado positivamente por sus egresados. Muchos países de la UNASUR entienden que los mecanismos desarrollados por el CDS, como el Programa de Formación de Civiles en Defensa, el Curso Avanzado de Defensa y la recientemente creada Escuela Suramericana de Defensa (2013) reemplazan a los espacios interamericanos, mientras otros países los consideran complementarios.

De manera similar, UNASUR ha desarrollado el Centro de Estudios Estratégicos para la Defensa (CEED)¹⁹ como un espacio estratégico regional que apunta a crear un pensamiento propio, diferente del construido desde ámbitos interamericanos como la JID.

Finalmente, un área en la que el solapamiento ha devenido en importantes tensiones es la de asistencia humanitaria en casos de desastres. En el nivel hemisférico la JID ha trabajado el tema como parte central de su agenda, resultando de gran interés para legitimar su labor en el sistema. Algunas de las actividades que propone avanzan incluso en cuestiones operativas, apuntándose a un rol coordinador que excedería el alcance de su Estatuto. Como se puso de manifiesto en la CMDA de Punta del Este (2012), no todos los países están de acuerdo con las iniciativas del nivel interamericano, que incluyen la creación de una plataforma de coordinación continental. Varios países suramericanos manifestaron sus preferencias por avanzar en UNASUR, donde se está trabajando en un Protocolo de Cooperación entre los Ministerios de Defensa que aborde de manera permanente e integral la asistencia ante desastres a nivel regional.

En síntesis, un campo como el cooperativo, en el cual el potencial de complementariedad es muy alto y las iniciativas tienden a sumar, ha sido escenario de las tendencias múltiples que se están esbozando en los distintos niveles. Esta agenda ha expuesto además una creciente dispersión de las preferencias dentro del espacio suramericano, reflejadas en un relacionamiento diferenciado de los estados con la UNASUR y con el hemisferio. En palabras de S. Borda, “esta es una de las mayores tensiones que se presentan entre los gobiernos del área: mientras algunos ven la UNASUR como uno de los múltiples tableros en donde jugar, otros simplemente la ven como el foro por excelencia donde se tramitarán las diferencias regionales y cuya consolidación, en parte, puede contribuir al deceso final de la OEA”.²⁰

Aportes para un posible rediseño del SID

La permanente agregación de instrumentos y componentes a lo largo de 70 años ha devenido en un SID poco armónico, redundante y atravesado por relaciones de cooperación y competencia entre niveles e instituciones. Estas relaciones evolucionan permanentemente y transforman la manera en la que se provee la seguridad en el hemisferio, reinstalando cíclicamente debates sobre su diseño. Resulta evidente que el solapamiento de los '90 no ha tenido el mismo efecto sobre la seguridad regional que el solapamiento más reciente, marcado por el protagonismo de UNASUR. La idea de arquitectura flexible que sirvió para caracterizar

Tabla N°3: Caracterización del solapamiento funcional

FUNCIONES DE LA SEGURIDAD REGIONAL	INSTRUMENTOS / COMPONENTES	CARACTERÍSTICAS DEL SOLAPAMIENTO
-defensa común frente a agresiones externas	TIAR	No se evidencia solapamiento
-manejo y resolución de conflictos armados	TIAR OEA CIJ UNASUR Grupo de Río	Complementario
-gestión de crisis institucionales	OEA/Res. 1080/CDI UNASUR/PA	Competitivo
-medidas de fomento de la confianza y la seguridad	OEA/JID/CMDA UNASUR/CDS	Complementario
-cooperación ante desastres naturales y catástrofes	CMDA/JID/OEA UNASUR/CDS	Mixto: Percepciones competitivas y complementarias
-formación en defensa	JID/CID UNASUR/CDS/ ESUDE	Mixto: Percepciones competitivas y complementarias
-pensamiento estratégico común	JID UNASUR/CDS/CEED	Mixto: Percepciones competitivas y complementarias
-proyección de seguridad a través de operaciones de paz	JID/CID UNASUR/CDS	Escaso solapamiento de actividades relacionadas

Fuente: Elaboración propia.

el relacionamiento desestructurado de entonces parece ser hoy en día un abordaje insuficiente.

Sin embargo, aún no se configura una alternativa clara. La UNASUR, que ha instalado la preferencia por la provisión de defensa y seguridad en el nivel regional, es una organización muy joven, está poco institucionalizada y presenta algunas tensiones intra-grupo. Los espacios hemisféricos, por su parte, muestran una declinación relativa y están limitados por la heterogeneidad y asimetría de sus miembros, aunque todavía pueden hacer valer su extensa trayectoria, su amplia representatividad y su compleja institucionalidad.

Frente a este contexto, ¿es posible pensar un diseño del SID que considere las necesidades de la defensa hemisférica y la lógica regional de manera más articulada?

Las alternativas que están hoy sobre la mesa se enuncian en base a dos preferencias opuestas. Por un lado, algunos países entienden que no es necesaria una reforma y que la mejor opción es dejar que ambos niveles coexistan sobre esta base *ad hoc*, ofreciendo un menú de opciones institucionales para escoger caso por caso. Otros, en cambio, entienden que la reforma no es posible por los condicionamientos estructurales del SID, en particular la hegemonía de Estados Unidos, y por lo tanto es necesario trabajar para que el espacio suramericano sustituya al hemisférico como proveedor de seguridad. Argumentamos que es posible avanzar sobre una tercera alternativa, basada en un diseño que permita la coexistencia ordenada de ambos niveles. En el nuevo esquema, las regiones jugarán un papel central, con responsabilidades funcionales primarias sobre los temas de seguridad y defensa, siendo el espacio interamericano el articulador de regiones, el potenciador y nivelador de capacidades, y el respondedor de último recurso frente a amenazas de gran envergadura.

El concepto rector de esta propuesta es la idea de subsidiariedad, que supone que los problemas de defensa y seguridad deben ser inicialmente abordados por la autoridad más próxima al asunto en cuestión, sin excluir a los niveles más amplios, como el hemisférico e incluso el internacional. La alternativa de reforma del SID a partir de la subsidiariedad se estructura sobre dos lineamientos centrales. Por un lado, el hemisferio es concebido como el espacio de reunión y coordinación de las al menos cuatro regiones que lo componen (Suramérica, Centroamérica, Caribe y Norteamérica), que tendrán una representación regional en el SID, además de las representaciones nacionales. Por otro lado, la región tendrá prioridad en el manejo de las cuestiones de seguridad y defensa, siendo el hemisferio un ámbito de participación posterior, tanto en el manejo de conflictos y crisis como en el abordaje de las funciones de seguridad cooperativa.

En el manejo de los conflictos interestatales y en las crisis de gobernabilidad democrática del propio espacio, el nivel regional tendrá la responsabilidad primaria, mientras el nivel hemisférico intervendría *a posteriori* si el intento regional no prosperara. Para el caso de las crisis institucionales, UNASUR ya ha diseñado un instrumento (el Protocolo Adicional) y se encuentra en elaboración un protocolo suramericano de paz y seguridad para disputas entre estados, aún no concretado. En relación a la defensa contra agresiones extra-continetales, las regiones conciben una disuasión de hecho basada en la cooperación pero no disponen de instrumentos específicos, por lo cual podría mantenerse la opción de no innovar.

La prioridad regional sería una norma consensuada a través de la práctica y que no demandaría reformas en los instrumentos hemisféricos, aunque sí la institucionalización de algunas funciones en el nivel regional que aún no están convalidadas.

En materia de seguridad cooperativa, la propuesta de subsidiariedad se articula a través de la representación regional en las instituciones hemisféricas (CMDA, JID, CID) y por la asignación de diferentes niveles de involucramiento en el manejo de los temas de agenda (medidas de fomento de la confianza y la seguridad, cooperación ante desastres naturales, formación, pensamiento estratégico y operaciones de paz).

Se incorporarían en los diferentes espacios de la defensa interamericana representantes regionales (UNASUR, SICA, CARICOM, ASPAN, por ejemplo), cuya tarea sería promover la agenda de la región respectiva en el marco hemisférico, facilitar los consensos y articular las actividades de los organismos regionales entre sí y con el interamericano. Cada región podría definir temas de interés especial y delimitar cuáles son, según su perspectiva, las tareas de seguridad multidimensional que, no estando asociadas a la defensa, por su excepcionalidad y escala requieren la aplicación del instrumento militar. Esta reforma demandaría la transformación de la JID en un organismo de naturaleza política, donde los delegados nacionales representen a los ministerios de defensa u organismos similares, y cuyo alcance comprenda a todos los países del hemisferio.

Si consideramos la subsidiariedad según el criterio de áreas temáticas, tomando a la región como primer respondedor y el hemisferio como articulador, vemos que el potencial de concretar la propuesta es alto, ya que se trata de iniciativas en las que la profundidad de los compromisos tiene relación directa con la interdependencia de enfoques de seguridad, amenazas compartidas y cantidad de jugadores. En el campo de las medidas de confianza, la subsidiariedad permitiría ordenar las tareas a desarrollar en los niveles regional y hemisférico. En la proyección de estabilidad a través de operaciones de paz, la experiencia acumulada por los países de la UNASUR podría sumarse a la más reciente participación de países centroamericanos y de Canadá para convertir al espacio hemisférico en un ámbito de intercambio de lecciones aprendidas.

En otros temas de seguridad cooperativa, en cambio, transformar el solapamiento en un complejo institucional subsidiario se presenta más dificultoso. Si bien se trata de áreas no excluyentes, las mismas han sido visualizadas como ámbitos de construcción de la identidad regional, dando lugar a agendas divergentes (formación, pensamiento estratégico, cooperación ante desastres).

Aunque avanzar en esta propuesta demandará repensar la defensa continental desde una nueva perspectiva, el tratamiento subsidiario de los temas y las representaciones regionales aportarían un mayor dinamismo al espacio hemisférico, que se haría eco de las diversas preocupaciones regionales, potenciando los organismos que están en mayor capacidad de atender los problemas y limitando las superposiciones y planteos competitivos.

Para ello es necesario trabajar en un fuerte consenso entre los países del continente y dentro de los organismos regionales. Su implementación no es compleja pero la obtención de apoyo puede dificultarse por la fragilidad de los compromisos en las diferentes regiones. En este caso hemos abordado la propuesta desde el caso testigo de la UNASUR, pero para implementar una reforma como la presentada es necesario que todos los mecanismos regionales se consoliden y puedan convertirse en respondedores primarios confiables, institucionalmente afianzados, capaces de actuar con una voz en el espacio hemisférico y de llevar adelante los requerimientos de defensa y seguridad que se presenten.

Conclusión

La idea central de este artículo ha sido identificar, a partir de un diagnóstico com-

prensivo del SID, los principales problemas que afectan a la provisión de seguridad en las Américas en base a un enfoque funcional. Éste nos ha permitido caracterizarlo como una gobernanza compleja y con múltiples solapamientos, que ha perdido los niveles mínimos de consenso que supo tener años atrás y se ha convertido en una oferta dispersa de soluciones institucionales que reaccionan frente a las crisis y compiten por dominar temas de agenda.

Hasta el momento, esta oferta institucional parece haber resultado suficiente cuando el objetivo ha sido mantener la estabilidad. Pero si la aspiración colectiva es avanzar hacia comunidades de seguridad regionales insertas en un espacio hemisférico de paz y cooperación, será necesario abordar una reforma audaz como la propuesta, que se centre en cómo impulsar los intereses compartidos de los diferentes estados del hemisferio y no en posiciones excluyentes.

La idea de subsidiariedad aparece como una alternativa válida para repensar el SID desde una perspectiva proactiva, ya que permitirá evitar el estancamiento que supone el *status quo*, así como la fractura que implica la salida de países americanos de las instituciones hemisféricas. La reforma se presenta de esta manera como un camino posible para construir la defensa como un bien público regional sin dañar la provisión de este bien a escala hemisférica.

Notas

1. El presente artículo se basa en los resultados de un proyecto de investigación más amplio, llevado a cabo por la Sede Naval del Centro de Estudios Estratégicos para la Defensa “Manuel Belgrano” del Ministerio de Defensa de Argentina, entre los años 2011 y 2013, dirigido por el Dr. Federico Merke. Los análisis y contenidos vertidos en este artículo no representan la opinión de ninguna institución oficial del estado argentino y son de exclusiva responsabilidad de sus autores.
2. Daniel Flandes y Michael Radseck, “Creating Multilevel Security Governance in South America”, *GIGA Working Papers*, N° 117 (diciembre 2009):7. http://www.giga-hamburg.de/en/system/files/publications/wp117_flandes_radseck.pdf
3. *Ibid*: 7.
4. Emanuel Adler y Patricia Greve, “When security community meets balance of power: overlapping regional mechanisms of security governance”, *Review of International Studies*, Vol. 35, Supplement S1 (febrero 2009): 59-84. <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=5078576>
5. *Ibid*: 59-84. Estas dimensiones han sido redefinidas y reordenadas según las características del escenario hemisférico.
6. La lucha contra las amenazas transnacionales no fue incluida en este análisis ya que, si bien se evidencia un creciente involucramiento del instrumento militar, se trataría de un espacio propio de la seguridad pública y no de la defensa nacional, concebida en términos interestatales.
7. Pía Ruggirozzi y Diana Tussie, *The Rise of Post-Hegemonic Regionalism in Latin America*, Dordrecht: Springer (2012); Andrés Malamud, “Overlapping Regionalism, No Integration: Conceptual Issues and the Latin American Experiences”, EUI Working Paper RSCAS 2013/20 (2013) http://cadmus.eui.eu/bitstream/handle/1814/26336/RSCAS_2013_20.pdf?sequence=1; Jorge Domínguez, “International Cooperation in Latin America: The Design of Regional Institutions by Slow Accretion”, en *Crafting Cooperation. Regional In-*

ternational Institutions in Comparative Perspective, eds. Amitav Acharya and Alastair Iain Johnston, 83-128 (Cambridge: Cambridge University Press, 2007); Javier Corrales y Richard E. Feinberg, "Regimes of Cooperation in the Western Hemisphere: Power, Interests, and Intellectual Traditions", *International Studies Quarterly*, N° 1, Vol. 43 (marzo 1999): 1-36 <http://maihold.org/mediapool/113/1132142/data/Corales-Feinberg.pdf>; Federico Merke, "Sudamérica y la Agenda de Seguridad Hemisférica: El Desafío de las Asimetrías", *Pensamiento Propio*, año 14, N°29 (enero 2009):245-258 http://www.cries.org/documentos_cries_old/29.pdf; Mónica Herz, "Does the Organization of American States Matter?" Institute of International Relations PUC-Rio Working Paper 34 (april 2008):1-35. http://mercury.ethz.ch/serviceengine/Files/ISN/57413/ipublicationdocument_singledocument/df9c52a2-2dc9-4ca6-9a4e-05fa2a399a31/en/WP34.2.pdf. José Antonio Sanahuja, "Regionalismo post-liberal y multilateralismo en Sudamérica: El caso de UNASUR", *Anuario de la Integración Regional de América Latina y el Gran Caribe* 2012: El regionalismo "post-liberal" en América Latina y el Caribe: Nuevos actores, nuevos temas, nuevos desafíos, N°9 (2012):19-71 <http://www.cries.org/wp-content/uploads/2013/03/anuario2012.pdf>.

8. Entre los principales instrumentos y componentes regionales del SID se destacan: en el Caribe, la Comunidad del Caribe (CARICOM) y el Sistema de Seguridad Regional (SSR); en Centroamérica, el Sistema de Integración Centroamericano (SICA), el Tratado Marco de Seguridad Democrática (TMSD) y la Conferencia de las Fuerzas Armadas Centroamericanas (CFAC); en América del Norte, el North American Aerospace Defense Command (NORAD) y la Alianza para la Prosperidad y la Seguridad de América del Norte (ASPAN); en Suramérica, el Consejo de Defensa Suramericano (CDS) y el Protocolo Adicional al Tratado Constitutivo sobre compromiso con la Democracia (PA), pertenecientes a la Unión de Naciones Suramericanas (UNASUR).

9. Actualmente 35 estados suscribieron la Carta fundacional de la OEA, mientras que sólo 18 son parte del TIAR (México, Nicaragua, Bolivia, Venezuela y Ecuador han denunciado el tratado).

10. Dada la dispersión e inexactitud existente en la bibliografía especializada y las fuentes de la misma OEA en cuanto a las oportunidades en las que se utilizó el TIAR y la Carta de la OEA, se ha recurrido a fuentes primarias y corroborado caso por caso a fin de obtener un análisis preciso de sus aplicaciones. Se han tomado como referencia los documentos originales de la OEA correspondientes a las Actas de las Reuniones de Consulta de Ministros de Relaciones Exteriores, Actas del Consejo Permanente de la OEA, Notas y Declaraciones en relación a los conflictos en particular.

11. Los principales conflictos regionales fueron abordados por otros foros e instrumentos, como el Grupo de Contadora y el Grupo de Apoyo a Contadora, la Comunidad del Caribe (CARICOM), el Sistema de Integración Centroamericano (SICA), la Asociación Latinoamericana de Integración (ALADI), la Comunidad Sudamericana de Naciones (CSN), entre otros. De estos mecanismos, emergería hacia 1990 el Grupo de Río, una instancia de consulta permanente y concertación política que coaligó a países de América del Sur, Caribe y Centroamérica.

12. La CDI ha actuado en 9 oportunidades consolidándose como un instrumento de gestión de crisis institucionales, evitando la escalada de violencia al interior de los estados. De éstos, en 7 oportunidades ha actuado de manera preventiva y en 2 reactiva, ante una ruptura del orden democrático, siendo Honduras la aplicación de la CDI más resonante y debatida.

13. El Estatuto de marzo 2006 formaliza la relación institucional entre la JID y la OEA, le otorga autonomía técnica para el cumplimiento de sus funciones, asegura la supervisión civil y la conformación democrática de sus autoridades (anteriormente la presidencia y la secretaría eran retenidas por Estados Unidos, como país sede), otorga la posibilidad de

que los delegados sean tanto civiles como militares y aclara que la JID no tendrá un papel operativo ni podrá realizar actividades de planeamiento.

14. El Estatuto le asigna doce funciones y la Asamblea General de la OEA establece mediante sus mandatos entre cuatro y seis funciones por año.

15. Para realizar el análisis este equipo de trabajo ha cotejado las funciones establecidas en el Estatuto de la JID y la Asamblea General de la OEA, con las Actas de Reunión del Consejo de Delegados, los Informes Anuales y otros documentos oficiales, en particular desde su reforma en 2006.

16. Actualmente, de los 27 estados miembros que hasta 2012 integraban el Consejo de Delegados de la JID, mantienen su membresía 23, y efectivamente envían delegados y participan de las reuniones 16 países.

17. Estatuto del Consejo de Defensa Suramericano de la UNASUR, 11 de diciembre de 2008, Santiago de Chile, Chile.

18. El CID se encuentra ubicado en instalaciones militares pertenecientes al gobierno estadounidense (Fort McNair).

19. Es válido destacar que el CEED es hasta hoy la única institución de la UNASUR con representantes permanentes. Tiene a cargo iniciativas como el Registro de Gastos, el Formulario Suramericano de Inventarios Militares, las políticas de inclusión de las mujeres a las fuerzas, entre otras.

20. Sandra Borda, “Desafíos y Oportunidades de UNASUR”, *Documentos CRIES 18*, (abril 2012): 1-33. <http://www.cries.org/wp-content/uploads/2013/07/DOC18-web.pdf>.

The Inter-American Strategy to Combat Threats to Cybersecurity: Consequences and Challenges

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Abstract

This article provides an overview of the Inter-American Strategy to Combat Threats to Cybersecurity, highlighting the roles and responsibilities of the various stakeholders, including governments, international organizations, the private sector, and civil society. The article emphasizes the recent success achieved by this international arrangement by observing the increase in the number of national Computer and Security Incident Response Teams (CSIRTs) in America, as well as the intent to create a regional cybersecurity culture in partnership with the private sector and civil society and the cooperation between law agencies throughout the continent.

The OAS and its specialized bodies play a vital role in this regional initiative. For this reason, in the Inter-American Cybersecurity Strategy, the adoption of a three-pillar organization reflects the duties of CICTE, CITEL, and REMJA. It also firmly expresses the need for the actions of these bodies to be strongly and constantly articulated in order to achieve a comprehensive approach to cyber stability.

Finally, this article points out the major challenges faced by the OAS and its member states regarding threats to cybersecurity in the 21st century. This includes possible legislative measures and the enhancement of international cooperation, both in a regional and a global scale.

Cybercrime in the Americas: A Brief Overview

The dissemination and use of information and communication technologies, as well as existing and potential threats in the information security realm, pose challenges to policy makers worldwide. There is increasing concern over how individuals and groups, including criminal organizations, may use cyberspace to take part in disruptive and illegal online activities.

As a result of the growth in the Information and Communications Technology (ICT) market, dependence on ICT infrastructure rose, and, consequently, “the

breadth of information that follows ICT development is a beacon for cybercriminals with malicious intent, ranging from crippling critical infrastructure to stealing sensitive data.”¹

Although considerable progress has been achieved in the field of cybersecurity, there is still much to be done; the development of norms, laws, and ways of cooperation have only recently begun. The inherently dual-use aspect of ICTs, the open use of the Internet, the competing interests among stakeholders, and national differences regarding threat perception are usually seen as obstacles when trying to address cybersecurity issues.² The Convention of Europe (2004), the only binding international instrument in this field, can be cited as an important step toward the regulation of cybercrime. Many countries object to the Eurocentric nature of the Convention’s drafting and content, however, and there is no similar mechanism in the Americas that could be adapted to regional necessities and particularities. Notwithstanding, such a regulation should be developed in order to help create a common understanding of cybercrime, strengthen regional and global cooperation, and guide the development of national legislations.

Due to global interconnectivity, which makes it impossible for a State to single-handedly improve cybersecurity, broad international cooperation between governments, the private sector, and civil society is key for an effective regulation of cyberspace and for preventing and fighting cybercrime. Sharing the best policies, exchanging information, and building capacity in developing countries are also essential. In the Americas, the OAS ought to be the primary regional intergovernmental organization responsible for this.

It is important to highlight, furthermore, that the OAS plays an active role in strengthening cyber security throughout the continent, being responsible, for example, for promoting cyber security policy initiatives, regional cooperation, harmonization of domestic legislations, and law enforcement against cybercrime in the Americas.³

Changing perspectives, the growth rate of Internet users in the Americas, especially in Latin America, is notably one of the highest in the world. This clearly highlights the necessity to foster the creation of a culture of cybersecurity and to discourage the misuse of Internet and information systems, as well as to develop information networks that are trusted and reliable.⁴ In addition to this, the creation of a culture of cybersecurity demands an active participation of the private sector, non-governmental organizations, and civil society, as they can strongly contribute to promoting awareness of this subject and strengthening security in cyberspace, especially in developing countries. According to *The Blue Book: Telecommunication Policies for the Americas*:

It must be borne in mind that each state’s responsibility for designing sector policies, following up their evolution, and playing a guiding part in promoting economic growth with equity unquestionably includes taking account of the role of the private sector, private and public investment in research and development, regulation, new technologies and network security, trade in telecommunications equipment and services, and strategies

at the regional and world level for the development and use of information and communication technologies.⁵

Unfortunately, one of the tendencies detected in the last few years is the increasing number of cyber incidents in the Americas and the fact that organized crime has frequently used the Internet to commit cybercrimes, including money laundering and breaching of financial systems. According to the OAS Trend Micro report “*Tendencias en la Seguridad cibernética en América Latina y el Caribe y respuestas de los gobiernos*,”⁶ the economic losses due to hacking cannot be precisely defined; however, they most likely surpass the losses caused by any other type of crime, including drug trafficking. Additionally, according to *Symantec Intelligence Report* (2013)⁷, 5 OAS countries feature in a top 10 list of sources of spam.⁸

The use of the cyberspace by criminal groups is a serious issue in the Americas, as “the regional narco-economy and associated gangs use online platforms to organize and advertise their activities, recruit members, intimidate authorities and citizens, extort money and hire contract killers,”⁹ as well as to launder money through the purchase of online services and cash transfers. Besides advanced credit card fraud and identity theft, “narco cartels and drug dealers, gang members, human traffickers and others harness the power of the web to organize operations, intimidate competitors and others, seek recruits, flaunt state controls, extort money and sell their wares.”¹⁰ It is, therefore, no surprise that the governments in the Americas are seriously concerned about cybercrime and how to address it.

The growth of cybercrime in the Americas, and also worldwide, can be explained not only as a consequence of the exponential growth in Internet users, but also because the origin of a disruption and the identity of the perpetrator can be difficult to ascertain and Information and Communication Technologies are ubiquitous and widely available, which enables almost any civilian to launch a malicious cyber operation. Considering that the cyberspace has no borders, users can access and disseminate information, as well as commit cybercrimes, from almost anywhere.

Therefore, cooperation among States is crucial, with the aim to address security risks, respond quickly to cyber incidents, and promote law enforcement. Governments, the private sector, and civil society must work together to coordinate national efforts, legal approaches, and international responses to future cyber threats. The development of an Inter-American Strategy to Combat Threats to Cybersecurity constitutes one of the most important measures adopted by the OAS members to fulfill these needs.

The Inter-American Strategy and the OAS’s role

Regional intergovernmental organizations are generally known to promote international cooperation in a way unlikely to be achieved in global scale. Usually this is because regional approaches involve fewer and like-minded states and that “agreement to and implementation of specific measures is easier at the regional level than at the global level, especially in regions with highly developed cooperation arrangements.”¹¹

Having said that, the OAS is “the primary regional intergovernmental organization responsible for promoting cyber security policy initiatives, regional cooperation, harmonization of domestic legislation, incident response, and law enforcement against cybercrime.”¹²

During the OAS cybersecurity conference in Buenos Aires in July 2003, the OAS General Assembly stressed the need to develop an Inter-American strategy to address cybersecurity issues in its resolution AG/RES.1939. The document asserted their decision to “begin work on the development of a draft integral OAS cybersecurity strategy that addresses multidimensional and multidisciplinary aspect of cybersecurity.”¹³

In the same year, the III Meeting of the Group of Governmental Experts on Cybercrime published document OEA/Ser.K/XXXIV, which contained a series of recommendations in relation to hemispheric efforts to combat cybercrime.

The Group of Governmental Experts first calls attention to the importance of having specific units, provided with all necessary human, financial, and technical resources, with the responsibility to investigate and prosecute different modalities of cybercrime. Relating to this, many countries in the last few years have set up Computer Security Incident Response Teams (CSIRTs).¹⁴ These teams of IT security experts have the responsibility of responding to computer incidents, as well as of resisting attacks on network systems and limiting damage. These units are also expected to provide timely information about the latest threats and assistance in response to incidents.¹⁵ The benefits of having a CSIRT, though, are not limited to this. They can offer centralized coordination of IT issues, specialized handling of and response to incidents, expert assistance and support for users to quickly recover from security incidents, and the ability to deal with legal issues and preserve evidence, besides keeping up-to-date information in the security field and contributing to raising awareness of this issue.¹⁶

The article then discusses issues related to the legal system, investigation and prosecution of cybercrimes, and legal frameworks. It reiterates that the States’ legal systems must be adequate to combat cybercrimes by criminalizing their different modalities and ensuring the collection and preservation of electronic evidence. To ensure prevention, investigation, and prosecution of cybercrimes, States may have to review or amend their penal codes by updating criminal laws, procedures, and policies.¹⁷

Eneken Tikk states that “every nation has the responsibility to include the most common cyber offences in its substantive criminal law.”¹⁸ This measure, due to the existing global interconnectivity and the fact that cybercriminals can bypass borders with ease, aims predominantly to avoid “cybercrime havens,” and to discourage the misuse of Information and Communication Technologies.

Also, the exponential development of tools in the digital world makes it difficult for national legislations to regulate all sorts of new devices specifically.¹⁹ So, an adequate level of flexibility is necessary to prevent legislation from being prematurely obsolete owing to technological development. This is possible by establishing general principles that can be adapted to new circumstances.²⁰

It should be highlighted that an effective anti-cybercrime effort will also re-

quire the training of prosecutors and judges. This process requires broad international cooperation and the sharing of the best techniques. The lack of adequate legislation and cybersecurity policies has brought difficulties to various countries trying to stop and prosecute cybercriminals.²¹

It is very difficult to investigate crimes in cyberspace not only because of the anonymity offered by the Internet and its open nature, but also because cybercriminals, aware that they can be backtracked, try to conceal information and evidence by using anti-forensics techniques. On the other hand, “anti-forensics is rare since most users have little need to hide anything besides passwords, so any evidence of it is a clue that a drive is worth inspecting further.”²²

The report, finally, calls for broader international cooperation, including between other international organizations, and demonstrates the need for periodic meetings of the Group of Governmental Experts, in order to come up with recommendations to identify and describe the various types of cybercrime and to suggest measures to prevent the creation of cybercrime havens.

In 2004, the OAS General Assembly approved resolution AG/RES.2004 - Adoption of a Comprehensive Inter-American Strategy to Combat Threats to Cybersecurity: A Multidimensional and Multidisciplinary Approach to Creating a Culture of Cybersecurity. The document urged member states to adopt the Inter-American Cybersecurity Strategy, described in its Annex A, to establish national CSIRTs, to coordinate efforts, and to implement the recommendations of the Group of Governmental Experts of REMJA, “as a means of creating a framework for enacting laws that protect information systems, prevent the use of computers to facilitate illegal activity, and punish cybercrime.”²³

This document, produced by the joint efforts of member states, their experts, and the technical expertise of CICTE, CITEL, and REMJA Group of Governmental experts, is guiding cybersecurity policy throughout the Americas.²⁴ The strategy aims to raise public awareness, create a culture of cybersecurity, identify or establish national CSIRTs, and enhance hemispheric cooperation to address cybersecurity issues. The resolution recognizes, furthermore, that the effectiveness of a framework for protecting the information systems that constitute the Internet depends on raising internet users and operators awareness of security and vulnerabilities, fostering public-private partnerships, and adopting cybercrime policies and legislation, as well as identifying, evaluating, and stimulating the adoption of technical standards and best practices.

To be effective, a strategy must identify and evaluate potential risks and threats, establish cybersecurity-related goals, and define the roles and responsibilities of all participants in networks and information systems, that is, not only the governments and international agencies, but also the private sector and civil society.

Before discussing these groups, it is important to reinforce that the international organizations have a large spectrum of work, which ranges from establishing or strengthening norms and principles to prevent misuse of new cyber technologies, to promoting national prevention of, preparation for, response to, and recovery from cyber incidents. It is important to mention that international

organizations have the power to bring together the most relevant actors in the cybersecurity domain—governments, the private sector, civil society, and individual citizens.²⁵

The Declaration on Security in the Americas was approved during a 2003 Organization of American States Special Conference on Security in Mexico City. It demonstrated the need for a new concept of hemispheric security, which should be multidimensional and capable of fighting both traditional and new threats. It recognized that these new threats require multifaceted responses by different parties, including the private sector and civil society. Finally, it stressed the OAS's commitment to develop a culture of cybersecurity in the Americas and to develop and implement an integral cybersecurity strategy.

Member States

First, it should be emphasized that governments take different approaches toward cybersecurity. Some consider cybersecurity a national defense and security topic. Others think it has a greater impact on economic development. A third group considers it a key factor for education, social interaction, and governance focused on citizens, although most try to take all of these considerations into account in their cybersecurity system.²⁶

Although countries are only beginning to develop norms and principles for cyberspace governance, the Inter-American Strategy seems to be a great initial step, which can guide further amendments and reforms on legal systems. Notwithstanding, working on a Convention similar to the European Convention on Cybercrime is an important measure to harmonize national legislations and adapt regulations to regional interests and necessities.

Governments also have the duty to establish national CSIRTs and specialized law enforcement agencies, develop a national cybersecurity policy, promote capacity-building, and take legal measures to address cybercrimes. According to the Blue Book, legal efforts should take under consideration, among other principles, the protection of users, the promotion of infrastructure, research, technological development, the access of all citizens to the information, and the use of telecommunications to facilitate the integration of countries and the growth of regional markets.²⁷

CICTE

The main purpose of the Inter-American Committee against Terrorism (CICTE) is to promote and develop cooperation among States, as well as prevent, combat, and eliminate terrorism.²⁸ Regarding cybersecurity, the CICTE supports member states in the creation of CSIRTs and promotes a secure hemispheric network of National CSIRTs for information sharing and coordination between countries. It also fosters a culture of cybersecurity to discourage the misuse of the Internet and information systems and promotes the development of information networks that are trusted and reliable.

In 2004, CICTE approved the Declaration of Montevideo. In this Declaration, it recognized the creation of a National Points of Contact Network to facilitate and

improve the exchange of information and the sharing of the best techniques on hemispheric counterterrorism cooperation. The Network also sought to address the need to intensify the exchange of information among competent authorities in order to facilitate the rapid and safe flow of information concerning prevention, punishment, and the elimination of terrorism. Finally, this international instrument recognized threats to cybersecurity as an emerging terrorist threat, expressing the commitment of member states to identify and fight them.

The main responsibility of the CICTE set by the Inter-American Strategy is the creation of an Inter-American Watch and Warning Network to promote the rapid flow of information on cybersecurity and to rapidly respond to crises, incidents, and threats to security in cyberspace. Therefore, the CICTE should formulate plans for a CSIRT Inter-American Network, which would work 24/7 to offer orientation and technical support in case of a cyber incident. The Watch and Warning Groups ought to be indigenous, operated by specialized personnel and established on minimum norms for inter-CSIRT cooperation and information exchange. They would be expected, furthermore, to create public awareness, so that civil society can know how to notify a cyber incident and to whom to report it.

In 2012, the CICTE approved the Declaration Strengthening Cybersecurity in the Americas. It reiterated previous achievements, such as the Declaration on Security in the Americas (Mexico, 2003) and the OAS General Assembly's resolutions AG/RES.1939 (XXXIII-O/03) and AG/RES.2004 (XXXIV-O/04), as well as the multidimensional and multidisciplinary approach on cybersecurity established by the OAS Comprehensive Inter-American Strategy to Combat Threats to Cybersecurity and the need to strengthen partnerships among all cyber-security stakeholders.

The document expressed the regional concern about enhancing international cooperation and the renewed commitment to implement the OAS Inter-American Strategy. The importance of the development of national cybersecurity strategies and the establishing and/or strengthening of national CSIRTs were also emphasized.

CITEL

The Inter-American Telecommunication Commission (CITEL) has the objective of facilitating and promoting the continuous development of telecommunications in the Hemisphere.²⁹ Consequently, its responsibility is to fight against the use of ICT for criminal purposes and to create a culture of cybersecurity.

The main role of CITEL regarding the Inter-American Strategy is to identify and adopt technical norms in order to obtain a secure Internet architecture in a multi-step process. It should moreover identify obstacles that may prevent the application of these norms on regional networks.

CITEL should also seek public-private partnerships and cooperation with other international organizations, such as the ITU (International Telecommunications Union). The partnership with this organization, in particular, resulted in the publication of *Blue Book: Telecommunication Policies for the Americas*.

REMJA

The main responsibility of the meetings of Ministers of Justice or other Ministers or Attorneys General of the Americas (REMJA) is to ensure that OAS member states adopt the necessary legislation to combat cybercrime and protect Internet users. This is done through technical assistance to create proper laws against cybercrime, through capacity-building measures, seminars, and conferences. REMJA can also facilitate the cooperation between national judiciary bodies and enforcement bodies in order to better investigate and prosecute cybercriminals located overseas.

According to the Inter-American Cybersecurity Strategy, all member states must establish prosecutorial and legal prohibitions to attacks against the confidentiality, integrity, and security of computer systems.³⁰ Furthermore, all countries must adopt clear procedures in accordance with international norms regarding the government's access to the communications and data stored, when necessary to the investigation of a felony.³¹

Future Challenges

Given the inherent characteristics of cyberspace, such as its global range, only international cooperation can achieve the goals set by national policy makers, the private sector, and society. The reasons for that are well-known, due to the increasing national dependency on the international ICT infrastructure and the many societal and economic gains that the investment in this kind of technology creates, both in developed and developing countries.

On a global stage, states face a great number of problems, and a new pattern of behavior needs to be adopted in order to finally reach cyber peace. As one author describes it:

The existing governance model, which depends on an almost tribal assembly of stakeholders in various frail institutions, is inadequate for the security and stability needed for a key global infrastructure. Many governments, finding the current situation intolerable, are exploring where it is appropriate for them to increase their role, to reduce risks to their economies, public safety and national security created by a weakly governed Internet. The turbulence over Internet governance, as states extend sovereign control into cyberspace to protect their national interests, will complicate reaching agreement on norms for international cybersecurity.³²

According to the International Telecommunication Union's report *The Quest for Cyber Peace*, "the fundamental problem is the lack of design and analysis methods which are scientifically proven to master the enormous complexity of future interconnected digital systems, especially regarding safety, reliability, functionality and security (privacy, authenticity, data security)."³³

Therefore, it is also necessary that international cooperation be encouraged in various sectors, such as the Internet national nodal centers, the dialogue with the

global service providers, the Computer Emergency Response Teams, the incident management and response field, the critical infrastructure protection, the sharing and deployment of the best methods, the continuous process of raising awareness of cyber threats, the adoption of acceptable legal norms, and coordination between law enforcement agencies.

As one may realize, developed countries have different views on the nature of cybersecurity and on how to prevent its failures from threatening national critical infrastructure. This makes consensual agreements difficult to achieve, especially when the idea of a binding treaty is discussed. In order to prevent the divergences between nations from halting the progress of negotiations related to Internet governance, some principles must be present, like the protection of the freedom of speech, even when it makes anonymity easier. Policy makers must also be mindful that no adequate response can be given without the support of the private sector. The relationship between governments and private companies needs to be transparent, reliable, structured, accountable, and constant.

It is also known that mistrust and misperceptions are common in the discussion of cyber governance. For this reason, the regional organizations may present the best way to find solutions to this particular issue. The United Nations Institute for Disarmament Research, in its report *Confronting Cyberconflict*, states that:

Regional organizations have a long history of working with TCBMs (Transparency and Confidence-Building Measures) in conventional security areas. Housing such initiatives in a regional organization framework has many positive aspects. First, such an initiative builds on models and lines of communication already familiar to participating states. Therefore, methodologies that have been successful in other areas have the potential to be transferred over to cyberspace. Furthermore, regional organizations may be better able to respond to regional concerns or requirements—especially if the cyber capacities of their member states are at a similar stage of development.³⁴

In this sense, the very nature of the Inter-American Cybersecurity Strategy is noteworthy for its visionary planning and that its goals have a multidisciplinary approach. First of all, it has a three-pillar structure, divided between CICTE, CI-TEL, and REMJA, bearing in mind their unique expertise and scope of action. This way, all the fundamental issues that risk the continental cybersecurity are addressed in all possible manners: legally, technically, militarily, socially, and economically.

Second, the Inter-American Cybersecurity Strategy is aware that only through the coordination between nations and institutions, the communication with users and Internet servers, the identification of secure technical practices, and the adoption of proper national legislations that regulates cybercrimes will it be possible to enhance cybersecurity in America.

Another important argument in the cybersecurity debate is how developing countries may be part of the discussions, even though they are not seen as Cyber Powers. Once again, the regional organizations may be the best way to include

small States, as they are also affected by any major cybersecurity breach or incident, given that no national economy is independent from the cyber sphere. With that in mind, it is understandable why Latin America has distinct visions about cybersecurity. While the most developed regions, such as Europe, North America, and some parts of Asia, are worried about issues related to cyberwar and cyber terrorism, Latin American countries are more preoccupied with cyber-mediated crime, such as e-banking scams, money laundering, drug trafficking, and child pornography.

What must be acknowledged is that the increase in Internet access in Latin America is responsible for many permanent changes in different parts of life, such as politics, education, culture, society, and economy. Therefore, the OAS faces some key implications that must be addressed through its multilateral body and through frequent revision of the Inter-American Cybersecurity Strategy, in order to stop it from becoming obsolete in a short period of time. One way of doing so is to broaden the approach taken by the OAS by “accounting for the multi-faceted ways in which cyberspace is generating positive and negative forms of empowerment.”³⁵ That is, although the cyber sphere is responsible for more efficiency both at the public and the private sectors, it also allows criminals to act anonymously and with the likelihood of significant reward at minimal risk.

Another implication for the OAS is that it needs to “monitor change, from a broad to granular scale, and disseminate information on a routine basis,” due to the variety of the characteristics of cyber threats and responses in Latin America. Last, embodied by the Inter-American Cybersecurity Strategy, “close and continuous coordination between states, the private sector and civil society,”³⁶ is the best path towards coping with the challenges posed by the technological digital advances.

Importance must also be given to the respective attributes of states, companies, and, above all, citizens; after all, they are the end users of computer technology and the main victims of cybercrimes. The path that must be followed by nations around the world is the creation of a culture of cybersecurity—which is one of the objectives of the Inter-American Cybersecurity Strategy, specifically of CITELE—and that can only be accomplished by close communication between the participants in the cyber sphere. The United Nations General Assembly has written a resolution with the guiding principles of a global culture of cybersecurity: awareness, responsibility, response, ethics, democracy, risk assessment, security design and implementation, security management, and reassessment. And the OAS has done its part; these principles are all included in the Inter-American Cybersecurity Strategy, and are particularly attributed to the organs that compose the strategy’s three-pillar structure: CICTE, CITELE, and REMJA. However, one must note that the principles defended in the UN resolution need to be constantly revised and put into practice, which poses a challenge to the OAS and its member states: will they be able to carry out the Inter-American Cybersecurity Strategy sustainably?

In the future, light should be shed on the legal discrepancies that characterize the current national cyber legislations, namely the role that REMJA is playing

in the Inter-American Cybersecurity Strategy. However, the legal and prosecutorial cooperation stated in the *Recomendaciones de la Reunión Inicial del Grupo de Expertos Gubernamentales en Materia de Delito Cibernético* in 2003 is not enough to address the issue of cross-border cyber criminality. Actually, the OAS must bear in mind that the legal cooperation aspects present in the Inter-American Cybersecurity Strategy are only the beginning of a journey toward an agreement such as the Budapest Convention. According to the International Telecommunication Union's *Global Cybersecurity Agenda*, it is necessary to give life to "the elaboration of strategies for the development of cybercrime legislation that is globally applicable and interoperable with existing national and regional legislative measures."³⁷

The responsibility of CICTE is also to achieve goals, as the Inter-American Cybersecurity Strategy states, because technical cooperation and development are not enough to attain CICTE's goals. The OAS and its institutions also need to create something that does not simply depend on words, but on actions: trust. In order to accomplish this, a delicate but consistent infrastructure needs to be created in the Americas, so that the member States—their CSIRTs especially—may be able to communicate safely and quickly disclose information to regional stakeholders about any cyber incidents. For this purpose, each and every government in the Americas will need to educate their societies about how users can protect their personal computers and whom to call when a cyber incident happens. Otherwise, given the dependency on critical infrastructure linked to information and communication technologies that can be damaged by cyber offenses, the lack of trust may be responsible for social erosion and national and international instability.

On a national scale, other actions need to be taken. Governments must be responsible for creating a technical regulation to establish security standards to private operators of critical infrastructure, as well as analyzing how the civil society and economy can be injured by cyber disruptions, and elaborating, in collaboration with academia and the private sector, recovery and response plans. The government must also identify possible new threats and train/prepare specialized personnel to operate the national cybersecurity structure. In a recent article, Peter Sommer and Ian Brown describe the holistic approach required to ensure public and private adaptation of cyber security strategy.

Regulators need a better idea of the inter-dependencies of systems supporting critical national infrastructure, as well as an up-to-date understanding of the motivations and capabilities of potential attackers. Policymakers need to be able to identify and remove incentives that are causing market actors to under-protect systems. They also need the capability to horizon-scan for new threats, and to understand the likely long-term direction of technological development. The managers of critical information systems need better facilities to detect and block attempts to breach security controls. Law enforcement agencies need new tools to track the originators of such attacks. Users need much more user-friendly software that enables them to carry out their day-to-day activities in a secure way. Further work is also needed to strengthen the investigative resources of the police and similar agencies.³⁸

The particular case of Latin America is a good example of cyber security

challenges and helps to explain how the OAS can assist its member states in dealing with the cybersecurity issues with the incentive to create national CSIRTs and specialized law enforcement bodies and to adopt proper legal frameworks. However, the OAS needs to find out how the private sector, the civil society, and the Latin American governments can move together toward an environment of close cooperation and cyberpeace under the aegis of a common cybersecurity culture:

It is urgent that Latin American governments devote greater attention to defining norms to govern cyberspace and ensure they take balanced measures. On the one hand, governments must begin adopting more sophisticated approaches to regulating content as a means of addressing some of the perverse outcomes of cybercrime. Likewise, private sector entities should also be encouraged to adopt more proactive actions since they have much to lose from intellectual property theft, piracy and a range of criminal offences. Meanwhile, civil society groups should be supported to draw attention to the implications of such measures on the state-citizen relationship and in particular, privacy.

Developing a cyber security strategy requires a delicate balance. Government responses that are too heavy-handed could result in undue surveillance and repression. At the same time, aggressive policies are necessary to combat a resilient opponent. Hence, cyber crime efforts must be an equilibrium that protects fundamental rights of citizens while at the same time deterring cyber criminals.

Notes

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A primeira Estratégia Nacional de Defesa Brasileira (2008): Cinco Anos Depois

Peterson Silva

Resumo

O objetivo deste trabalho é realizar um breve balanço das repercussões da Estratégia Nacional de Defesa (END) de 2008. Mais especificamente, o foco é analisar as principais transformações derivadas da END no setor de defesa brasileiro entre 2008 e 2013. Nesse sentido, foram analisadas as legislações e as publicações acadêmicas brasileiras mais significativas produzidas sobre o tema durante o período. Argumenta-se que apesar de não se ter alcançado a plenitude das metas previstas na própria END, este documento foi fundamental no que concerne a iniciar o processo de efetiva imersão dos temas de segurança e defesa na agenda de políticas públicas no Brasil.

Introdução

Em 18 de dezembro de 2008, foi lançada a primeira Estratégia Nacional de Defesa (END) brasileira. Seu objetivo era vincular o setor de defesa a uma estratégia nacional de desenvolvimento de longo prazo. Os trabalhos do comitê encarregado da formulação da END foram iniciados em setembro de 2007.¹ Seis anos depois, em setembro de 2013,² o Congresso Nacional aprovou os textos da terceira Política Nacional de Defesa, da segunda Estratégia Nacional de Defesa e do primeiro Livro Branco de Defesa Nacional, concretizando uma série de aperfeiçoamentos institucionais realizados nos últimos cinco anos.

A END de 2008 não significou o fim dos inúmeros problemas encontrados no setor de defesa brasileiro nas últimas décadas. Entretanto, argumenta-se neste trabalho que a primeira END teve um papel crucial no que se refere a iniciar um lento e gradual processo de efetiva imersão dos temas de segurança e defesa na agenda brasileira de políticas públicas.

Nesta direção, este artigo está dividido em duas partes. Na primeira, é apresentado um breve panorama das políticas de defesa brasileiras desde a Constituição de 1988. Na segunda, é feita uma introdução dos principais pontos da END, os quais são acompanhados de uma breve análise dos avanços e desafios verificados entre 2008 e 2013.

Esta discussão se torna importante na medida em que permite melhor compreender o contexto da dinâmica militar brasileira nos últimos anos, lançando luz

aos processos políticos internos de um dos países emergentes mais importantes neste início do século XXI.

Breve panorama sobre o debate acerca da segurança e defesa nacionais após a Constituição de 1988 e o entorno sul-americano

A primeira Política de Defesa Nacional (PDN) foi elaborada em 1996 durante o governo Fernando Henrique Cardoso (1995-2002). Esse documento pode ser visto sob dois ângulos. De um lado, pode-se dizer que a timidez de suas diretrizes não produziu efeitos concretos no setor de defesa brasileiro. Não por acaso, este documento foi rotulado por acadêmicos, políticos e militares como uma espécie de “declaração de intenções” produzida a partir de uma tentativa de conciliação entre concepções diplomáticas e militares (Oliveira, 2005, p. 459-467). De outro lado, a PDN de 1996 lançou as bases do que mais adiante se tornaria o debate sobre a criação, em 1999, do Ministério da Defesa³ (Alsina, 2003; Fuccille, 2006).

Não apenas a elaboração da primeira PDN como também a criação do Ministério da Defesa foram cercadas de várias tensões, como os eventos que culminaram na queda do primeiro ministro da Defesa, Élcio Álvares, poucos meses após sua nomeação (Miyamoto, 2004; Oliveira, 2005; Fuccille, 2006).

Em linhas gerais, é possível destacar os seguintes fatores recorrentes no debate sobre segurança e defesa no Brasil entre 1988 e 1999: o contexto de redemocratização após o regime militar brasileiro (1964-1985), a emergência de uma “crise de identidade” nas forças armadas após o fim da Guerra Fria, o fortalecimento da Amazônia como elemento central das concepções estratégicas nacionais, a pouca prioridade dos assuntos de segurança e defesa na agenda política brasileira e a elevada autonomia militar (Martins Filho e Zirker, 2000; Marques, 2003; Santos, 2004).

Sob a presidência de Luiz Inácio Lula da Silva (2003-2010), é lançada, em 2005, a versão atualizada da Política de Defesa Nacional (PDN).⁴ Esta ainda continha os mesmos traços significativamente genéricos de sua predecessora de 1996. Oliveira (2009, p.75), por exemplo, afirma que a PDN de 2005 tinha incorporado “*conceitos da Escola Superior de Guerra com o tempo da ONU*”.

No entanto, a nova PDN também pode ser visualizada em um contexto de gradual, porém tenso, amadurecimento institucional do Ministério da Defesa. Nesse sentido, são emblemáticas a queda em 2004 do ministro José Viegas⁵ e a escolha do então vice-presidente José Alencar para assumir o posto. Ademais, é possível destacar o lançamento em 2005 da primeira Política Nacional da Indústria de Defesa (PNID),⁶ representando um real avanço nas interações com outros atores nacionais, como o Ministério da Ciência e Tecnologia e os empresários ligados à indústria de defesa.

Um dos mais importantes fatores a ser destacado entre 1999 e 2005 é o surgimento de uma “cultura de ministério da defesa”, apesar de todas as vicissitudes verificadas nesse interregno, sobretudo em termos de relações civis-militares (Winand e Saint-Pierre, 2010). Ainda podem ser apontadas como marcas desse período a adoção gradual de um conceito mais multidimensional⁷ de segurança (Villa e Viana, 2010, p. 94), a resistência dos militares brasileiros à

adoção de “papéis de polícia,”⁸ especialmente no que se refere ao combate direto ao tráfico de drogas (Santos, 2004), e a crescente associação das discussões sobre defesa ao campo mais amplo da ciência e tecnologia (Brasil, 2003).

Em 2008, três ações políticas foram realizadas paralelamente. Em maio, foi lançada oficialmente a Política de Desenvolvimento Produtivo (PDP), a qual incluiu a indústria de defesa em seus “Programas Mobilizadores em Áreas Estratégicas”. Em 16 de dezembro, foi criado o Conselho de Defesa Sul-Americano (CDS)⁹ da União de Nações Sul-Americanas (Unasul). Finalmente, em 18 de dezembro, foi lançada a Estratégia Nacional de Defesa (END),¹⁰ prevendo uma série de novas medidas legais e estudos complementares interna e externamente ao Ministério da Defesa.¹¹

O contexto interno brasileiro foi o principal motivador da elaboração da primeira END. Conforme apontado anteriormente, desde a Constituição de 1988 o setor de defesa brasileiro sofria pela falta de diretrizes claras, bem como pela obsolescência da maioria de seus principais equipamentos militares (Oliveira, 2009, p. 73). Este cenário de falta de solidez institucional e de estagnação de grandes aquisições militares continuou mesmo após a criação do MD, em 1999, e o estabelecimento da PDN de 2005. Enquanto isso, outros países sul-americanos convertiam recursos oriundos, por exemplo, da boa fase das *commodities* no mercado internacional para a modernização de seus equipamentos de defesa, como Venezuela (petróleo) e Chile (cobre), ou mesmo recebiam apoio externo, como no caso da Colômbia (Villa, 2008).

Em 2007, contudo, emergiu mais uma crise civil-militar, tendo como fatores centrais o assim denominado “caos aéreo” na aviação civil e a fragilidade da estrutura e da atuação do MD verificada no episódio (Oliveira, 2009). Abalado pela crise, o ministro Waldir Pires (31/03/2006 - 25/07/2007) deixou o cargo e Nelson Jobim (26/07/2007 - 04/08/2011) assumiu a direção do MD. Jobim, desde o início, teve confiança do presidente Lula não apenas para inicialmente afastar a crise aérea do Palácio do Planalto como também, mais adiante, para liderar o processo de reestruturação das forças armadas.

Assim, foi instituído em setembro de 2007 um comitê interministerial com o objetivo de modernizar a estrutura nacional de defesa. Este comitê foi composto pelos ministros da Defesa, da Secretaria de Planejamento de Longo Prazo da Presidência da República (futura Secretaria de Assuntos Estratégicos – SAE), da Fazenda, do Planejamento e da Ciência e Tecnologia, bem como os comandantes da Marinha, do Exército e da Força Aérea, assessorados pelos seus respectivos estados-maiores. O relatório final com as diretrizes gerais do então denominado “Plano Estratégico Nacional de Defesa” estava previsto para ser entregue ao presidente Lula em sete de setembro de 2008 (Dia da Independência) (Jobim, 2008).

Paralelamente, no contexto de uma posição mais assertiva do segundo mandato do governo Lula (2006-2010) em relação a temas de segurança e defesa (Villa e Viana, 2010), a ideia da criação de um foro no âmbito da União das Nações Sul-americanas (Unasul) dedicado à discussão de temas de segurança e defesa ganhou força. Tal iniciativa contou com o esforço pessoal do ministro Jobim e pode ser vista como uma ligação entre o processo de formulação da END e o

contexto da sequência de tensões sul-americanas observadas nos anos anteriores, como o Plano Colômbia (2000) e as crises na Venezuela (2002), na Bolívia (2004) e no Equador (2005) (Villa e Viana, 2010).

Desde o início, a proposta brasileira de criação do CDS/Unasul não previa o estabelecimento de exércitos comuns, de forças conjuntas de caráter permanente ou uma de aliança militar clássica. A intenção era criar um foro capaz de oferecer soluções pacíficas de controvérsias, mantendo a região livre de conflitos (JOBIM, 2008). Tal visão é coerente com a tradicional relação entre política externa e política de defesa no Brasil, com destaque para, em um esforço de síntese, três pontos considerados fundamentais.

Primeiro, ressalte-se a tradicional postura adotada pela política externa brasileira de manter a América do Sul livre de instabilidades políticas. Alsina (2009, p. 181), por exemplo, afirma que a estratégia brasileira de política externa seria, basicamente, lastreada fortemente pela “*manutenção da estabilidade no subcontinente como forma de evitar o desvio de recursos diplomáticos escassos para o tratamento de temas não diretamente relacionados à problemática do desenvolvimento*”.

Em segundo lugar, o Brasil tem historicamente prescindido do uso da força militar em sua estratégia de inserção internacional. Lima e Hirst (2006), por exemplo, ressaltam que o país tem se esforçado para ser reconhecido como grande ator regional e global, utilizando-se principalmente de ações multilaterais e de *soft power*, abstendo-se consistentemente do desenvolvimento de *hard power*.

Por último, destaca-se a tradicional distância entre política externa e política de defesa no Brasil (Alsina, 2006). Lima (2010, p. 404), por exemplo, afirma:

A bibliografia existente sobre o tema sugere que legado histórico, fatores ideacionais e instituições aprisionaram o desenvolvimento da política externa e da política de defesa em rotas paralelas que, na ausência de uma agência política voltada para a mudança do *status quo*, permaneceram fracamente integradas.

Com base nesse sucinto quadro, as discussões paralelas envolvendo a criação do CDS/Unasul e o estabelecimento da END sem dúvida foram importantes para se evitar percepções equivocadas por parte dos vizinhos sul-americanos ou mesmo de outros países em relação ao processo de reestruturação militar brasileiro em discussão naquele período. Nesse sentido, incluem-se as frequentes percepções sobre o risco de uma “*corrida armamentista*” na América do Sul (Zamora, 2010), inclusive na grande mídia.¹²

Em linhas gerais, dois conjuntos de fatores fornecem pistas mais significativas sobre a origem da série de aquisições militares sul-americanas ocorridas na última década do que a aceção de que uma corrida armamentista nos moldes tradicionais estaria em andamento no subcontinente (Villa, 2008). Primeiro, constata-se que, nos anos 80 e 90, vários programas militares foram sistematicamente adiados ou marginalizados por falta de verbas em todo o subcontinente. Certamente, contribuíram nessa direção a marginalização dos temas de segurança e defesa nas agendas políticas sul-americanas após o fim das diferentes ditaduras observadas na região. Em segundo lugar, o *boom* das *commodities* e o frequente uso nos anos 2000 de discursos nacionalistas por parte de alguns políticos sul-

americanos¹³ voltados para seus respectivos públicos internos completam esse quadro mais provável das explicações possíveis no que se refere às ondas relativamente recentes de modernização militar na região.

Em dezembro de 2008, tanto a END quanto o CDS/Unasul se tornaram realidade. Juntas, essas duas iniciativas marcam um novo passo para o debate brasileiro sobre temas de segurança e defesa, conforme abordado a seguir.

A END de 2008: principais pontos, avanços e desafios

A seguir, são analisados os pontos considerados mais relevantes da Estratégia Nacional de Defesa (END) de 2008, os quais são acompanhados de uma síntese dos avanços, desafios e perspectivas, tendo como base a literatura especializada brasileira, as políticas de defesa elaboradas até então (1996 e 2005), notícias veiculadas na mídia e as principais legislações produzidas, basicamente, entre 2008 e 2013.

A retomada do termo segurança nacional. É interessante notar que, pela primeira vez desde o fim da ditadura militar no Brasil, o termo “segurança nacional” foi retomado em várias passagens da END (Oliveira, 2009, p. 75-76). Contudo, não só nesta parte em especial, mas em outros segmentos da END, o emprego dos conceitos de segurança e defesa deixam algumas dúvidas sobre o escopo das afirmações. No início do documento, por exemplo, o decreto de sua aprovação afirma que “*os órgãos e entidades da administração pública federal deverão considerar, em seus planejamentos, ações que concorram para fortalecer a Defesa Nacional*”. Mesmo para os padrões atuais de constantes buscas por soluções integradas envolvendo vários atores em segurança e defesa (INSS, 2008), torna-se possível questionar até que ponto este documento não poderia se chamar “Estratégia de Segurança e Defesa Nacionais”, como no caso do Reino Unido (2010) ou, mais recentemente, da França (2013).

Portanto, longe de se aventar a perigosa subordinação das variadas dimensões da vida em sociedade aos imperativos de um eventual conceito ampliado de segurança nacional, uma estratégia de segurança e defesa nacionais, bem debatida e elaborada com a efetiva participação de diversos atores, poderia ensejar diretrizes mais claras para outros órgãos federais em relação a temas como saúde (ex. epidemias) ou inteligência (ex. bens sensíveis).

Brasil como país pacífico na América do Sul. Logo na introdução, as duas primeiras orações da END são: “*O Brasil é pacífico por tradição e convicção. Vive em paz com seus vizinhos.*” É louvável, portanto, que as primeiras palavras da primeira estratégia nacional de defesa brasileira remeta à ideia de paz com países vizinhos.

De fato, em termos práticos, as discussões no âmbito do CDS/Unasul têm proporcionado algumas importantes iniciativas de intercâmbio e de cooperação. Além do envolvimento de países como Colômbia, Chile e Argentina no programa do cargueiro KC-390 desenvolvido pela Embraer, podem ser destacados os avanços no projeto de desenvolvimento do primeiro avião de treinamento básico sul-americano (Unasul-1),¹⁴ a criação da Escola Sul-americana de Defesa (Esude),¹⁵

e a aquisição de lanchas colômbianas para serem utilizadas pelo Exército e pela Marinha na Amazônia.¹⁶

Os três eixos estruturantes e os três setores estratégicos. Na exposição de motivos, é possível verificar um resumo da estrutura da END de 2008. Conforme essa passagem, o documento está focado em ações estratégicas de médio e longo prazos com o objetivo de modernizar a estrutura nacional de defesa, atuando em três eixos estruturantes: (1) reorganização das Forças Armadas, (2) reestruturação da indústria de defesa brasileira e (3) política de composição dos efetivos militares.

Mais especificamente sobre a reorganização das Forças Armadas, encontram-se três setores considerados estratégicos: o cibernético, o espacial e o nuclear. No setor cibernético, sob responsabilidade do Exército Brasileiro, o grande impulso ocorreu apenas após as notícias sobre espionagem norte-americana no Brasil no contexto das denúncias de Edward Snowden, ex-colaborador da Agência Nacional de Segurança dos Estados Unidos (NSA). Destaca-se nessa direção o trabalho realizado pelo recém-criado Centro de Defesa Cibernética (CDCiber), bem como as discussões no Congresso sobre o assim denominado “Marco Civil da Internet”.¹⁷

No setor espacial, sob responsabilidade da Força Aérea, é possível dizer que desde o acidente ocorrido em 2003 na Base de Alcântara, as atividades envolvendo o Veículo Lançador de Satélites (VLS-1) não evoluíram significativamente. O VLS é um dos programas militares que se arrastam nos planejamentos de defesa desde os anos 80 (Cavagnari, 1993).¹⁸ No entanto, em 2013, foi assinado o contrato entre a empresa brasileira Visiona (Embraer e Telebrás) e as europeias Thales e Arianespace no quadro do fornecimento do programa do Satélite Geoestacionário de Defesa e Comunicações Estratégicas (SGDC).¹⁹

O Brasil e a questão nuclear. A área nuclear, sob responsabilidade da Marinha, é uma dos três setores considerados estratégicos pela END. Ao longo do documento, o foco da discussão sobre essa área se alterna entre três tópicos principais: o programa do submarino de propulsão nuclear da Marinha, a questão energética e o campo mais amplo da Ciência, Tecnologia & Inovação. Não há quaisquer sinais na END indicando que o Brasil poderá produzir uma arma nuclear no futuro. Ao contrário, o texto é bem explícito em afirmar que “*por imperativo constitucional e por tratado internacional, privou-se o Brasil da faculdade de empregar a energia nuclear para qualquer fim que não seja pacífico*” (Brasil, 2008, p. 33).

De fato, o Brasil possui uma série de elementos constitucionais e internacionais consolidados na área de não-proliferação, como o Tratado de Tlatelolco, o Tratado de Não-Proliferação Nuclear (TNP) e a Agência Brasil-Argentina de Contabilidade e Controle de Material Nuclear (ABAC).

Assim, a afirmação verificada na END de 2008, e mantida na atualização de 2012 (Brasil, 2012a, p. 21), de que o Brasil “*não aderirá a acréscimos ao Tratado de Não-Proliferação de Armas Nucleares destinados a ampliar as restrições do Tratado sem que as potências nucleares tenham avançado na premissa central do Tratado: seu próprio desarmamento nuclear*”, deve ser entendida no contexto da forte oposição por parte de determinados setores do Itamaraty e da Defesa em

relação a tratados desiguais em geral e não no que se refere especificamente a uma descabida eventual ambição nuclear armamentista brasileira.

Apesar de algumas posições nacionalistas isoladas,²⁰ qualquer ambição em relação a um artefato nuclear brasileiro representaria um imenso e desnecessário problema diplomático-militar de consequências regionais e internacionais desastrosas, além de destoante do perfil das políticas externa e de defesa observado nas últimas décadas. Ademais, além dos tradicionais fatores diplomáticos e militares, é possível identificar outros elementos mais amplos de ordem científico-tecnológica (ex. radiofármacos) presentes no debate contemporâneo sobre política nuclear no Brasil.

O trinômio monitoramento/controle, mobilidade e presença. A END estabelece como diretriz a organização das Forças Armadas sob a égide do trinômio monitoramento/controle, mobilidade e presença. É possível dizer que foi com base nessa concepção que projetos como o Sistema Integrado de Monitoramento de Fronteiras (Sisfron) e o Sistema de Gerenciamento da Amazônia Azul (Sisgaaz) ganharam força nos últimos anos.

Basicamente, o Sisfron é um programa, sob responsabilidade do Exército, com o objetivo de, em coordenação com outras agências, monitorar os mais de 16.000 km de fronteiras terrestres brasileiras.

O Sisfron também é considerado uma peça fundamental para o Plano Estratégico de Fronteiras (PEF).²¹ O PEF é um dos resultados mais concretos dos debates ocorridos no contexto da primeira END. Trata-se de uma iniciativa interagências lançada em 2011 com o objetivo de enfrentar ilícitos transfronteiriços e fortalecer a integração com países vizinhos. A base de suas ações são as operações “Ágata” (de caráter temporário) e “Sentinela” (permanente), as quais envolvem a ação coordenada de vários órgãos federais e estaduais, como as Forças Armadas, a Polícia Federal, a Receita Federal, o Instituto Brasileiro de Meio Ambiente e Recursos Naturais Renováveis (Ibama), a Agência Brasileira de Inteligência (Abin), o Centro Gestor e Operacional do Sistema de Proteção da Amazônia (Censipam), a Fundação Nacional do Índio (FUNAI), entre outros, além de órgãos estaduais (ex. polícias militares e civis).

O Sisgaaz, por sua vez, é um programa sob a responsabilidade da Marinha do Brasil com o objetivo de monitorar, proteger e permitir a exploração sustentável da costa marítima brasileira. Ao lado do Programa de Submarinos (Prosub), o Sisgaaz conquistou espaço nos últimos anos entre as prioridades militares brasileiras em função da descoberta de vastas reservas de petróleo em águas profundas (Pré-Sal). Além disso, estima-se que mais de 90% do comércio exterior brasileiro seja realizado por vias marítimas.

Tanto o Sisfron quanto o Sisgaaz representam os mais complexos “sistemas de sistemas” já adquiridos pelo Brasil desde as discussões na década de 90 envolvendo o Sistema de Vigilância da Amazônia (Sivam - atual Censipam). Este, por sua vez, foi transferido da Presidência da República para o Ministério da Defesa em 2011.²² No mesmo ano, o MD deixou de atuar diretamente na área da aviação civil após a transferência da Agência de Aviação Civil (ANAC) para a Presidência da República.

O fortalecimento do ministro da Defesa. A mudança mais significativa após a END de 2008 foi a “Lei da Nova Defesa”²³, aprovada em 2010, a qual basicamente ampliou os poderes do ministro da defesa perante as Forças Armadas. Com essa lei, os comandantes militares passaram a ser indicados pelo ministro da Defesa e nomeados pelo Presidente da República.

A mesma lei estabeleceu a implantação do então inédito Livro Branco de Defesa Nacional, lançado em 2012, bem como estendeu o poder de polícia do Exército na faixa de fronteira brasileira para a Marinha e a Força Aérea, algo que até pouco tempo encontrava significativas resistências por parte dos militares.

A criação do EMCFA e da Secretaria-Geral. Uma das grandes inovações da END foi indicar a criação de um Estado-Maior Conjunto das Forças Armadas (EMCFA), o qual foi criado em 2010 pela “Lei da Nova Defesa”, com o objetivo de enfrentar a tradicional autonomia das respectivas Forças (Marinha, Exército e Força Aérea).

Mais adiante, em 2013, foi criada, no mesmo nível institucional do EMCFA, a Secretaria-Geral do MD com o intuito de conferir maior organicidade à vertente civil da Defesa, bem como de possibilitar ao ministro da Defesa se dedicar mais diretamente aos assuntos de direção política do MD.²⁴ Sob a Secretaria-Geral ficaram o Departamento do Programa Calha Norte (DPCN) e o Centro Gestor e Operacional do Sistema de Proteção da Amazônia (Censipam).

Criação da Seprod/MD. Em 2011, foi criada a Secretaria de Produtos de Defesa (Seprod),²⁵ com o objetivo de formular e dirigir de forma mais centralizada a política de compras de produtos de defesa do MD, facilitando o diálogo com outros órgãos e entidades governamentais e com o setor privado brasileiro. A Seprod/MD foi prevista na END de 2008 com o objetivo de “*formular e dirigir a política de compras de produtos de defesa*” (Brasil, 2008, p. 36). Ademais, conforme a mesma END, o ministro da Defesa delegaria “*aos órgãos das três Forças poderes para executarem a política formulada pela Secretaria quanto a encomendas e compras de produtos de defesa específicos de sua área, sujeita tal execução à avaliação permanente pelo Ministério*” (Ibidem). No entanto, essa visão mais centralizadora das compras militares brasileiras indicada pela END de 2008, praticamente desapareceu na END de 2012, ainda não se tornou uma realidade, permanecendo as Forças com relativo elevado grau de autonomia nesse segmento, sobretudo em função do atraso na elaboração do Plano de Articulação e Equipamentos de Defesa (PAED).

O Retid. Conforme previsto na END de 2008 (Brasil, 2008, p. 18), foram lançados, em 2012, os fundamentos do Regime Especial Tributário para a Indústria de Defesa (Retid).²⁶ O Retid estabelece normas especiais para compras, contratações e desenvolvimentos de produtos e de sistemas de defesa.

Por um lado, essa lei pode ser considerada fruto direto dos contatos regulares entre membros do governo, grupos de militares e empresários do setor de defesa ao logo da última década, com destaque para o papel exercido pelo Comitê da Indústria de Defesa (Comdefesa) da Federação das Indústrias do Estado de São Paulo (Fiesp)²⁷ e pela Associação Brasileira das Indústrias de Materiais de Defesa

e Segurança (Abimde).

Por outro lado, até o momento, ainda não é possível avaliar os resultados práticos dessa medida, uma vez que a instrução normativa dispoendo sobre a aplicação do Retid, emitida pela Secretaria da Receita Federal, só ocorreu em 2014.²⁸

O Paed. A END de 2008 previa a elaboração de planos de equipamento e articulação das Forças Armadas, tendo em vista um período de vinte anos. Esses planos seriam conjugados em uma proposta de projeto de lei de equipamento e articulação de defesa nacional, originalmente prevista para 2009. Na época, uma das inspirações balizadoras dessa proposta era a experiência francesa com a Lei de Programação Militar (“*Loi de Programmation Militaire*”).

Em 2012, o Livro Branco de Defesa Nacional apresentou pela primeira vez o Plano de Articulação e Equipamento de Defesa (PAED), afirmando que “*o PAED consubstancia, de forma coerente, os projetos estratégicos das Forças Armadas que visam a atender às demandas por novas capacidades da Defesa*” (Brasil, 2012a, p. 192). Todavia, este Plano, conforme apresentado no Livro Branco de Defesa de 2012, resumia-se a uma espécie de lista de compras sem articulação interna.

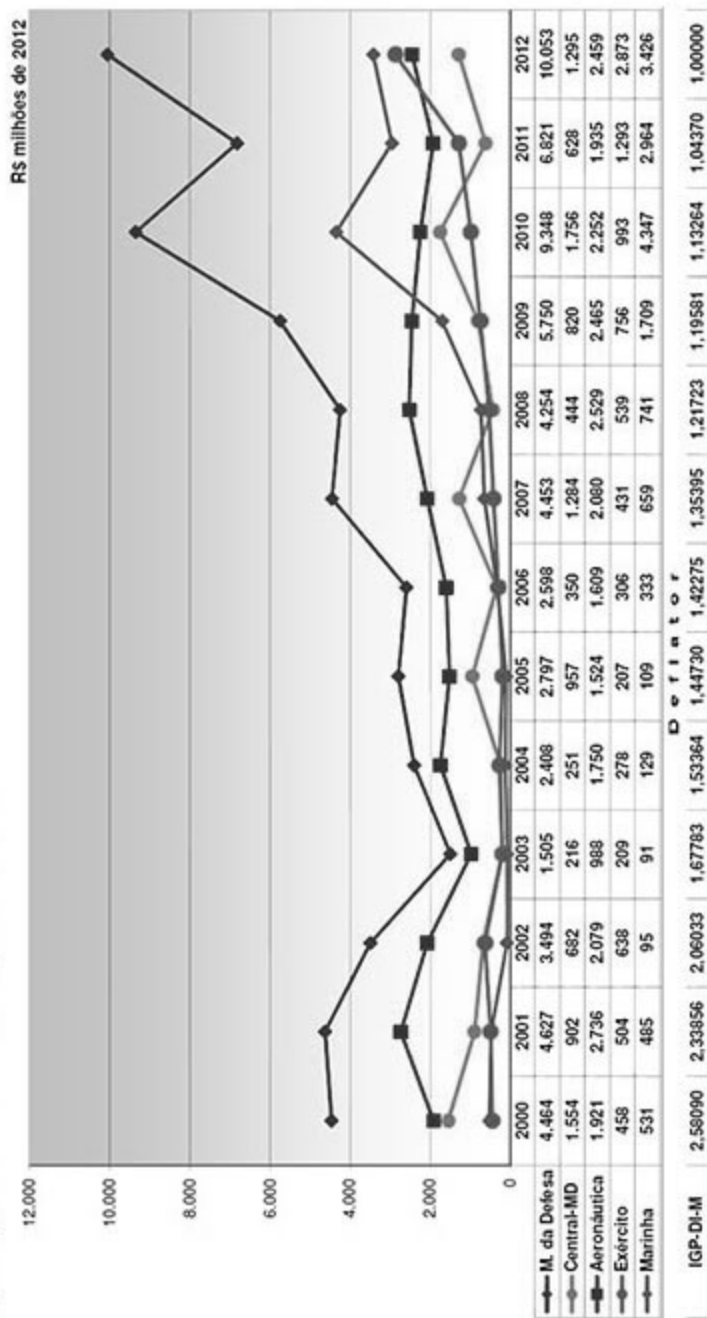
Os projetos foram apresentados separados por Força (Marinha, Exército e Força Aérea), abrangendo prazos excessivamente longos (ex. 2009-2033) e sem quaisquer priorizações ou relações de complementaridade interforças, bem como sem previsão de fontes de recursos, indicadores, metas, planos contingentes ou critérios objetivos de monitoramento e de avaliação de desempenho.

No total, a soma dos projetos elencados no Paed, de acordo com o Livro Branco de 2012, atinge cerca de R\$ 400 bilhões ao longo de aproximadamente 20 anos, ou seja, uma média de quase R\$ 20 bilhões por ano. Esse valor, portanto, destoia substancialmente do histórico de investimentos do MD. Conforme podemos verificar a partir de dados disponibilizados oficialmente (Figura 1), a média do montante de investimentos anual do Ministério da Defesa, no período 2000-2012, foi de aproximadamente R\$ 4,8 bilhões, com picos de cerca de R\$ 9 bilhões (2010) e de R\$ 10 bilhões (2012). Portanto, levando em consideração apenas o montante total, torna-se bastante questionável a viabilidade dessa versão inicial do Paed, a qual até o momento ainda não foi alterada.

Os comandos conjuntos. Na END de 2008 é possível encontrar em várias passagens um esforço de buscar a articulação entre as três Forças, incluindo a indicação de formação de comandos conjuntos ao longo de todo o território nacional, como exemplificado a seguir:

Pelas mesmas razões que exigem a formação do Estado-Maior Conjunto das Forças Armadas, os Distritos Navais [no caso da Marinha] ou Comandos de Área [nos casos do Exército e da Força Aérea] das três Forças terão suas áreas de jurisdição coincidentes, ressalvados impedimentos decorrentes de circunstâncias locais e específicas [...]. Em cada área deverá ser estruturado um Estado-Maior Conjunto, que será ativado para realizar e atualizar, desde o tempo de paz, os planejamentos operacionais

FIGURA 1
MINISTÉRIO DA DEFESA
 Evolução Orçamentária de 2000 a 2012, INVESTIMENTOS



Obs. Despesas com Investições Financeiras estão agregadas aos Investimentos

MINISTÉRIO DA DEFESA/SEORUDEORF. Execução Orçamentária. Séries Estatísticas (2000-2012). Investimentos. p. 29

da área (Brasil, 2008, p. 14).

Nesse quesito em especial, até o momento, não é possível verificar avanços significativos. Tal previsão, contudo, foi mantida na END de 2012 (Brasil, 2012a, p. 34-35). Certamente, trata-se de uma mudança organizacional (e cultu-ral) ambiciosa que demandará tempo e cursos específicos ao longo das respectivas carreiras militares. Uma questão que não está devidamente esclarecida, entretanto, é se haverá uma espécie de representação do MD nesses futuros Estados-Maiores Conjuntos Nacionais, tendo em vista esforços de adensamento das relações com diferentes segmentos da sociedade, como associações de empresários do setor de defesa (ex. Comdefesa e Abimde) e universidades/centros de pesquisas civis (ex. cursos, seminários e estágios), ou outros órgãos governamentais (ex. PF e Receita Federal).

Forças armadas e segurança pública. Uma das diretrizes encontradas na END de 2008 é a de preparar efetivos para o cumprimento de operações de garantia da lei e da ordem (GLO). O emprego das Forças Armadas em questões de segurança pública é uma questão recorrente desde a Constituição de 1988, salientando a Operação Rio de 1994 (Fuccille, 1999). Em 2001, foi aprovada a lei que fixa as diretrizes para o emprego das Forças Armadas em operações GLO.²⁹ Em 2004, esse tipo de operação foi mais uma vez tratado pela legislação, mas no contexto de missões subsidiárias em geral.³⁰ Contudo, foi apenas com a “Lei da Nova Defesa” que tais limites ficaram mais delimitados, conforme previstos na primeira END (Brasil, 2008, p. 16-17):

O País cuida para evitar que as Forças Armadas desempenhem papel de polícia. Efetuar operações internas em garantia da lei e da ordem, quando os poderes constituídos não conseguem garantir a paz pública e um dos Chefes dos três Poderes o requer, faz parte das responsabilidades constitucionais das Forças Armadas. A legitimação de tais responsabilidades pressupõe, entretanto, legislação que ordene e respalde as condições específicas e os procedimentos federativos que deem ensejo a tais operações, com resguardo de seus integrantes.

Em 2010, em uma operação de escala até então inédita, policiais do Rio de Janeiro ocuparam as favelas do Complexo do Alemão apoiados pelas Forças Armadas. Blindados da Marinha, helicópteros do Exército e soldados do Batalhão de Operações Especiais da Polícia Militar do Rio de Janeiro (BOPE) ganharam as páginas dos noticiários no Brasil e no exterior.³¹ O envolvimento das Forças Armadas em operações GLO ocorreu em várias oportunidades, com destaque para a atuação em favelas do Rio de Janeiro (2011),³² no contexto da greve de polícias militares na Bahia (2012),³³ na Conferência das Nações Unidas da Rio+20 (2012), na visita do Papa Francisco ao Rio de Janeiro (2013), na Copa das Confederações (2013) e na proteção do leilão do campo petrolífero de Libra (2013).

Em 2014, foi editado pelo EMCFA/MD o Manual da Lei da Ordem, com o objetivo de estabelecer orientações para o planejamento e o emprego das Forças Armadas em operações de GLO.³⁴ Também em 2014, está previsto o envolvi-

mento das Forças Armadas em mais uma ocupação de favelas no Rio de Janeiro, sendo a sexta vez que esse tipo de operação é realizado neste estado desde 2007.³⁵

É possível dizer, portanto, que as operações GLO, ao lado das operações Ágata e Sentinela no contexto do Plano Estratégico de Fronteiras (PEF), correspondem às missões mais demandadas às forças armadas brasileiras desde a primeira END, especialmente quando considerados os próximos grandes eventos a serem realizados no país: a Copa do Mundo (2014) e os Jogos Olímpicos (2016).

Gastos com pessoal e manutenção do serviço militar obrigatório. Um dos eixos estruturantes da END de 2008 é a questão da composição dos efetivos das Forças Armadas. Entre as diretrizes do documento está a de manter o Serviço Militar Obrigatório (SMO). Mais especificamente, o “*objetivo, a ser perseguido gradativamente, é tornar o Serviço Militar realmente obrigatório*” (Brasil, 2008, p. 19). Há explicitamente na END a valorização do SMO como instrumento de unidade nacional, algo que não pode ser ignorado considerando-se as dimensões territoriais e a diversidade cultural do Brasil.

No entanto, em primeiro lugar, em um mundo de transformações tecnológicas aceleradas e de recursos limitados, torna-se possível questionar a efetividade dessa orientação. Ademais, a END de 2008 orienta que as “*Forças Armadas limitarão e reverterão a tendência de diminuir a proporção de recrutas e de aumentar a proporção de soldados profissionais*” (Brasil, 2008, p. 37). Na prática, tal orientação se mostra inviável para qualquer força militar moderna, especialmente em segmentos aéreos (ex. caças) e navais (ex. submarinos) nos quais são exigidos anos de aperfeiçoamento e de constante treinamento. Não por acaso, vários países têm abandonado a conscrição, com destaque para o “berço” do serviço militar universal moderno: a França.³⁶

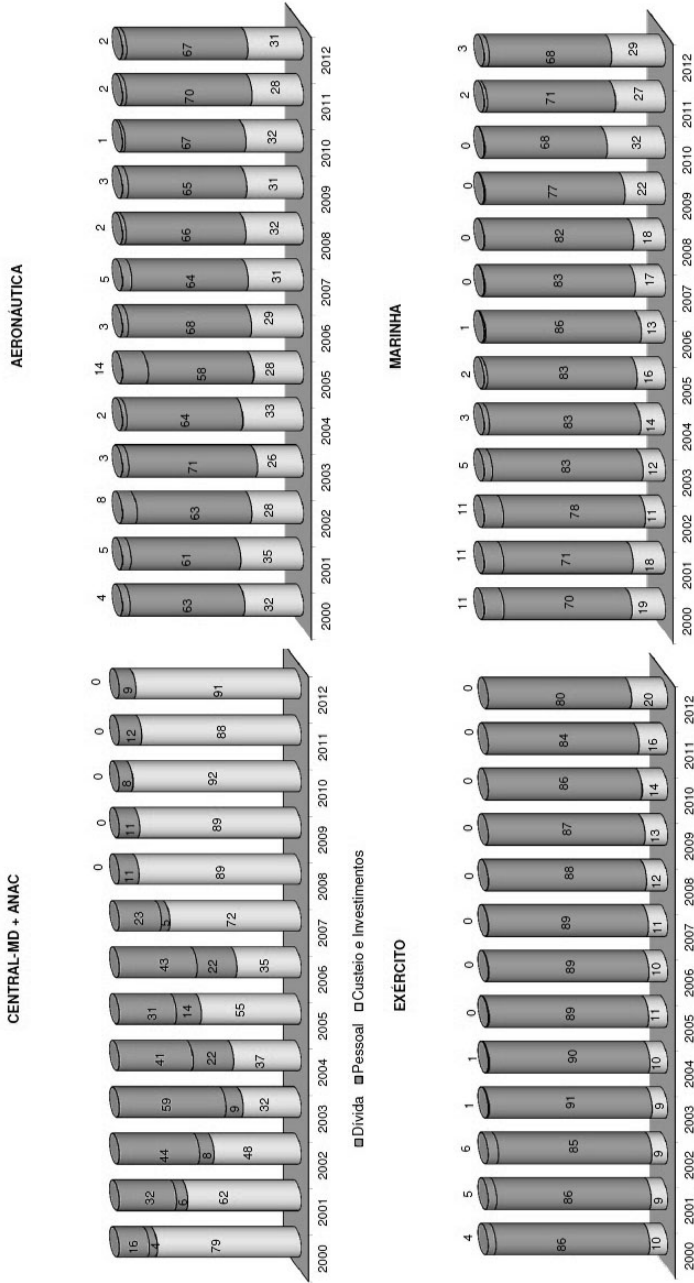
Na END de 2012, o trecho supracitado simplesmente desaparece. Ademais, conforme observado por Oliveira (2009, p. 78), as mulheres ainda não podem cumprir o SMO no Brasil. Porém, havia a previsão na END de 2008 de um futuro “serviço civil” no Brasil (Brasil, 2008, p. 38), no qual as mulheres poderiam participar. Curiosamente, a ideia do serviço civil no Brasil também desaparece na END de 2012.

É possível afirmar que a questão do SMO está diretamente relacionada à composição de efetivos e aos impactos dos gastos com pessoal. Mais especificamente, o maior desafio do MD é lidar com o crescente peso do pagamento de inativos e pensionistas. Com base em dados disponibilizados pelo MD (Figura 2), cerca de 71% do orçamento militar brasileiro de 2012 foi destinada para o pagamento de pessoal.

Entretanto, também conforme dados do MD (Figura 3), cerca de 62% dos gastos com pessoal são destinados para pagamentos de inativos e pensionistas. Trata-se, portanto, de uma difícil questão a ser considerada nos próximos anos.

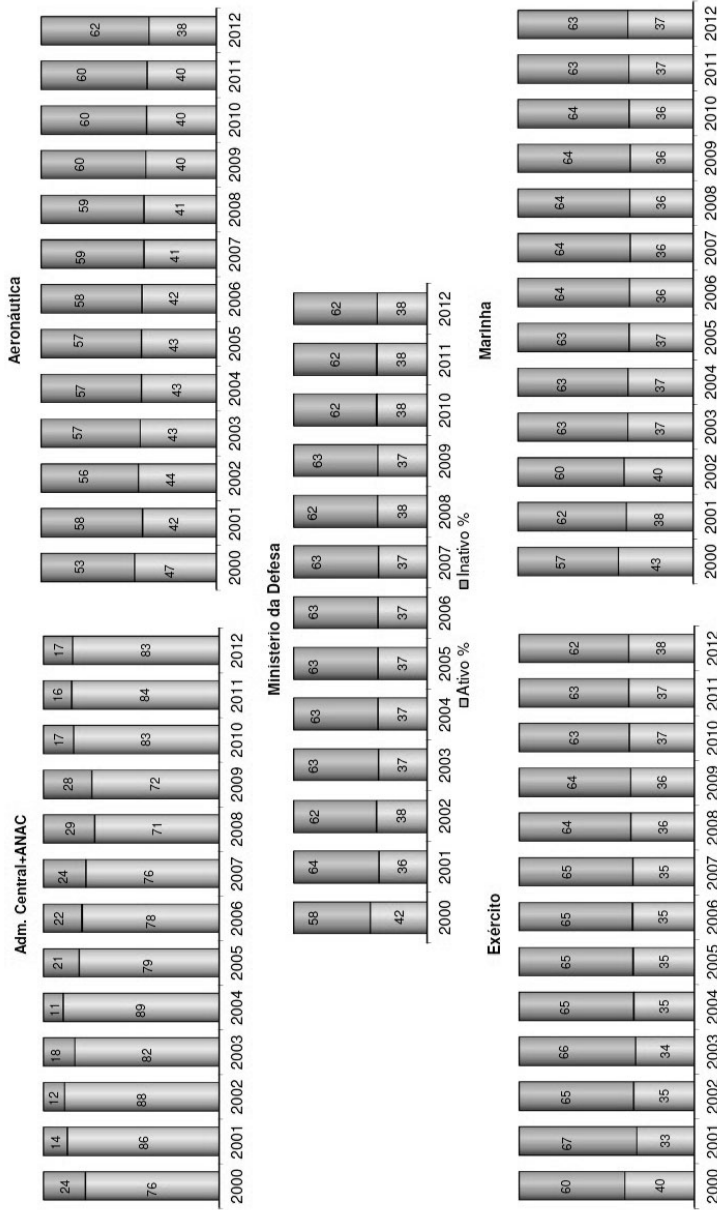
Defesa e Congresso. Os membros do Congresso têm paulatinamente aumentado sua presença na agenda política de defesa nos últimos anos, tanto em termos de ações individuais de congressistas, quanto no que diz respeito a ações mais institucionais. Destaca-se, nesse sentido, os trabalhos no âmbito da Comissão de

FIGURA 2
Ministério da Defesa
Execução Orçamentária de 2000 a 2012, DESPESA TOTAL (Em percentagens)



MINISTÉRIO DA DEFESA/SEOR/DEORF. Execução Orçamentária. Séries Estatísticas (2000-2012). Despesa Total, p. 13

FIGURA 3
MINISTÉRIO DA DEFESA
Execução Orçamentária de 2000 a 2012, PESSOAL E ENCARGOS SOCIAIS (Exclusivo Anistiados)



MINISTÉRIO DA DEFESA-SEOR/DEORF. Execução Orçamentária. Séries Estatísticas (2000-2012). Pessoal e encargos sociais, p. 18

Relações Exteriores e de Defesa Nacional da Câmara dos Deputados (Credn) e da Comissão de Relações Exteriores e Defesa Nacional do Senado (CRE). Ambas as comissões vêm realizando uma série de audiências públicas, seminários e divulgação de atividades legislativas, inclusive utilizando a rede mundial de computadores. Em 2008, por exemplo, foi lançada a Frente Parlamentar da Defesa Nacional na Câmara dos Deputados, a qual foi renovada, em 2011, com mais de 200 parlamentares.³⁷

Ademais, a “Lei da Nova Defesa” estabelece que o Congresso apreciará a cada quatro anos, a partir de 2012, versões atualizadas da Política de Defesa Nacional, da Estratégia Nacional de Defesa e do Livro Branco de Defesa Nacional encaminhadas pelo Poder Executivo, o que claramente contribui para o fortalecimento do controle civil dos temas de segurança e defesa.

A carreira civil no Ministério da Defesa. A primeira END estabelece a criação de uma carreira de especialistas civis em defesa na Administração Pública. Trata-se, evidentemente, da medida mais sólida no que tange a conferir efetiva direção política civil da Defesa no longo prazo (Cleary, 2006).

Por um lado, o envolvimento direto e regular dos militares no MD foi, sem dúvida, essencial para o amadurecimento de uma “cultura de MD”. A participação dos militares no dia-a-dia do Ministério também pode ser vista como uma forma de possibilitar uma transição mais gradual no que se refere à realidade da convivência por vezes difícil não só entre diferentes Forças (Marinha, Exército e Força Aérea), e suas respectivas peculiaridades terminológicas e culturais, mas também entre diferentes ministérios, órgãos e entidades da Administração Pública, políticos, empresários, contrapartes internacionais, entre outros, a partir de uma perspectiva mais ampla, isto é, do ponto de vista de um Ministério da Defesa.

Por outro lado, depois de todo o avanço institucional sucintamente relatado neste artigo, especialmente após a END de 2008, não faz sentido inexistir uma carreira de Estado na área de defesa ou ao menos outras formas mais flexíveis e transparentes de seleção. Hoje, por exemplo, a Escola Superior de Guerra (ESG), a Secretaria de Assuntos Estratégicos da Presidência da República (SAE) e o Ministério da Defesa não possuem quaisquer canais de recrutamento e de seleção profissional regulares e transparentes para civis. Há apenas, por enquanto, cargos e funções de confiança (DAS), os quais são preenchidos preponderantemente a partir de critérios políticos.

Tal quadro proporciona alguns desafios consideráveis em termos administrativos. Ao mesmo tempo que a rotatividade de militares no MD se mostrou extremamente salutar para o surgimento e posterior consolidação de uma “cultura de MD”, também apresenta problemas em relação à continuidade de discussões e projetos em função da elevada rotatividade dos militares nos diferentes postos e, conseqüentemente, da dificuldade em se manter uma espécie de memória institucional atinente a determinados temas e discussões. Salienta-se que até o momento tal carreira ainda não foi criada no MD, embora conste na END de 2012.

Considerações finais

A primeira Estratégia Nacional de Defesa (2008) é, sem dúvida, um marco no debate sobre temas de segurança e defesa no Brasil. Com base no breve balanço dos desdobramentos deste documento realizado neste artigo, é possível verificar um sólido avanço institucional no Ministério da Defesa nos últimos cinco anos.

Embora a totalidade das tarefas previstas na END de 2008 ainda não tenha sido alcançada, seu principal mérito foi o de ter iniciado um processo de efetiva imersão dos temas de segurança e defesa na agenda de políticas públicas no Brasil.

A partir do sucinto balanço realizado neste trabalho, também é possível vislumbrar dois dos principais desafios apresentados ao MD nos próximos anos.

Em primeiro lugar, a questão dos elevados gastos com pessoal, em especial com inativos e pensionistas, certamente terá que ser enfrentada em alguma medida. Esses relativos altos gastos com pessoal culminam em uma espécie de “achatamento” da parcela destinada para custeio e, sobretudo, para investimentos. Simplesmente aumentar o gasto de defesa brasileiro, portanto, não se apresenta como uma opção eficiente e razoável tendo em vista a avalanche de outras prioridades nacionais, inclusive em áreas mais próximas, como a segurança pública, conforme o aumento das operações GLO realizadas pelas forças armadas nas últimas décadas evidencia. Enfrentar tal questão, obviamente, não é algo trivial e também não pode ser resultado de decisões precipitadas, mas sim deve ser inserido no contexto mais amplo da contínua busca pela qualidade do gasto público, de se fazer “mais e melhor com menos”.

Em segundo lugar, certamente o próximo desafio do MD será relativo à priorização de objetivos face a recursos limitados. Hoje, as forças armadas brasileiras estão orientadas para um amplo leque de missões/atividades além das prerrogativas clássicas (ex. GLO, missões de paz, proteção de fronteiras, formação cidadã, C&T), bem como detêm a ambição de implementar simultaneamente vários mega-programas militares (ex. Sisfron, Sigsaz, Prosub e Proteger). Tais atuações ocorrerão cada vez mais intrincadas com vários outros atores (ex. Congresso, ministérios, associações empresariais, universidades). Assim, a concepção de prioridades e sua gestão não podem ser mais visualizadas como algo eminentemente técnico e militar, mas sim crescentemente intersetorial. Daí a importância de uma carreira civil na Defesa que, no médio e longo prazos, seja capaz de contribuir para uma maior organicidade à formulação, implementação, monitoramento e avaliação de políticas públicas tendo em vista o papel da Defesa. Nesse sentido, a excessiva simplicidade com que o Paed foi inicialmente apresentado no Livro Branco de Defesa Nacional de 2012 sinaliza a crucialidade dessa carreira para o MD na atualidade.

Notas

1. Decreto Presidencial de 06 de setembro de 2007.
2. Decreto Legislativo nº 373, de 25 de setembro de 2013.
3. Lei Complementar nº 97, de 9 de junho de 1999.
4. Decreto Presidencial nº 5.484, de 30 de junho de 2005.
5. Em 2004, o ministro Viegas entregou sua carta de demissão ao presidente Lula, em função de vários atritos políticos com as Forças Armadas, com destaque para o episódio envolvendo o então comandante do Exército, General Francisco Albuquerque, e posições sobre o Golpe de 64.
6. Portaria Normativa nº 899, de 19 de julho de 2005.
7. Tal concepção pode ser representada pela “Declaração sobre Segurança nas Américas” da Organização dos Estados Americanos (OEA), de outubro de 2003.
8. Ressalte-se nessa direção a criação, pelo Decreto nº 5.289, de 29 de novembro de 2004, da Força Nacional de Segurança Pública (FNSP). O intuito da FNSP foi justamente criar uma opção intermediária entre as polícias estaduais e o emprego das forças armadas brasileiras em situações de crises.
9. O CDS é composto pelos ministros da Defesa da Argentina, Brasil, Uruguai, Paraguai, Bolívia, Colômbia, Equador, Peru, Chile, Guiana, Suriname e Venezuela.
10. Decreto nº 6.703, de 18 de dezembro de 2008.
11. A própria END elencava tarefas a serem realizadas em suas “Disposições finais” (BRASIL, 2008, p. 67-70).
12. Consultar, por exemplo, “*Uruguay and US fear arms race in South America*”. The Guardian, 15/10/2009. “A South American arms race?” TIME, por Andrew Downie, 21/12/2007.
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19. “Visiona assina contratos com fornecedores do sistema do satélite geostacionário brasileiro”. Embraer, *Press Release*, 12/12/2013.
20. Em 2006, por exemplo, o então secretário-geral do Itamaraty, Samuel Pinheiro Guimarães, se envolveu em uma polêmica sobre a possibilidade de o Brasil abandonar o TNP. “Itamaraty negar ter intenção de deixar tratado nuclear”. BBC Brasil, 10 de novembro de 2006.
21. Lei nº 7.496, de 08 de junho de 2011.
22. Decreto nº 7.424, de 05 de janeiro de 2011.
23. A Lei Complementar nº 136, de 25 de agosto de 2010 alterou a Lei Complementar nº 97, de 9 de junho de 1999.
24. Discurso de posse do secretário-geral do Ministério da Defesa, Ari Matos Cardoso, 03/05/2013.
25. Decreto nº 7.364, de 23 de novembro de 2010.
26. Lei nº 12.598, de 22 de março de 2012.
27. O Comdefesa foi criado em 2004 e hoje é um departamento na Fiesp, do qual este autor

é, até o momento, membro-convidado no contexto de atividades com fins estritamente acadêmicos.

28. Instrução Normativa n.º 1.454, de 25 de fevereiro de 2014.

29. Decreto n.º 3.897, de 24 de agosto de 2001.

30. Lei Complementar n.º 117, de 2 de setembro de 2004.

31. “*Brazil sends military troops to violence-plagued Rio*”. CNN, 27/11/2010.

32. “*Hundreds of Brazilian military police raid slum in Rio de Janeiro*”. CNN, 19/06/2011.

33. “Aniversariante, general recebe bolo e saudações de manifestantes na BA”. Portal G1, 07/02/2012.

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Derechos Humanos y la Lucha Contra las Organizaciones Criminales Transnacionales: Una Estrategia Imprescindible

Pat Paterson y Cristina Blain

Resumen

Los gobiernos de América Latina han tenido que recurrir a sus Fuerzas Militares para combatir el crimen organizado. Los militares, muy respetados en la mayoría de las naciones latinoamericanas, tienen la disciplina y el poder de las armas para contrarrestar estos grupos. Sin embargo, el uso a los militares en operaciones policiales es una solución peligrosa. Soldados sin el entrenamiento o la educación adecuada, podrían incurrir en violaciones de derechos humanos y poner en riesgo la legitimidad de la institución castrense ante la sociedad civil. La experiencia de EE.UU. en Irak demuestra los riesgos de desplegar las fuerzas armadas que carecen de un entrenamiento apropiado. Utilizada incorrectamente, esta fuerza puede ser contraproducente y puede poner en peligro el objetivo estratégico más importante: el apoyo de la población. El respeto por los derechos humanos genera legitimidad que conduce a la colaboración y el apoyo ciudadano y oportunidades de inteligencia para las fuerzas militares.

Introducción

A lo largo de la región latinoamericana, los gobiernos han tenido que recurrir a sus Fuerzas Militares para combatir el crimen organizado. Estos grupos criminales –narcotraficantes en Colombia, carteles en México, maras en Honduras o pandillas en Brasil– usan la violencia para aterrorizar a sus oponentes y manejan gigantescos recursos financieros obtenidos del tráfico ilegal. Los militares, muy respetados en la mayoría de las naciones latinoamericanas, tienen la disciplina y el poder de las armas para contrarrestar estos grupos. Sin embargo, usar a los militares en operaciones policiales es una solución peligrosa, un riesgo cargado de complicaciones. Los soldados, normalmente entrenados para derrotar a su enemigo usando máxima fuerza letal, necesitan un entrenamiento extenso sobre la lucha contra un enemigo que se encuentra mezclado con la población. Soldados sin el entrenamiento o la educación adecuada, podrían incurrir en violaciones de derechos humanos y poner en riesgo la legitimidad de la institución castrense ante la sociedad civil. En consecuencia, el despliegue de fuerzas armadas conlleva

serios riesgos tanto para los civiles en regiones particularmente afectadas por el crimen organizado, como para la misma reputación de las instituciones militares.

Este artículo examina el uso de las Fuerzas Militares latinoamericanas en operaciones policiales domésticas. Asimismo, describimos a las Organizaciones Criminales Transnacionales (OCT), sus tácticas, su centro de gravedad y sus objetivos estratégicos. Comparamos estos grupos de crimen organizado con grupos de insurgencia política, e identificamos características comunes entre ambos. Analizamos por qué las policías, normalmente bien entrenadas y preparadas para misiones que requieren discreción en el uso de la fuerza, son a menudo incapaces de combatir las OCT. También revisamos el marco legal del conflicto armado bajo estas circunstancias, los principios de guerra contenidos en el derecho internacional humanitario DIH, y cómo éstas pueden aplicarse a este tipo de conflictos. Por otra parte analizamos los desafíos de identificar intenciones hostiles, mientras se combate un enemigo entremezclado con la población civil, y cómo las fuerzas de seguridad son posteriormente contenidas/limitadas al uso de la defensa propia. Comparamos estos casos con la experiencia de Estados Unidos en Iraq, para demostrar los riesgos de desplegar fuerzas armadas carentes de un entrenamiento apropiado. Por último, cuestionamos qué tan apropiado es el marco institucional de las fuerzas armadas para enfrentar esta problemática.

Después de nuestro análisis, llegamos a una serie de conclusiones: En primer lugar, los militares en América Latina a quienes se les ha asignado este tipo de misiones, luchan en un conflicto similar contra la insurgencia política que muchos de los países de la región han experimentado. La amenaza actual no está motivada políticamente, pero es igual de compleja y multifacética. Los grupos de crimen organizado en las Américas representan un tipo de insurgencia urbana, integrada por criminales violentos, llenos de recursos y motivados por la avaricia, con la intención de maximizar su utilidad, y que buscan libertad de maniobra tomando el control sobre territorios apartados, lejos del poder y la presencia legítima del Estado. Más importante aún, es que muchos de los elementos que caracterizan a la insurgencia política, se encuentran presentes en las organizaciones criminales. Es esencial que los líderes de la región identifiquen correctamente la naturaleza y los aspectos particulares de la amenaza para poder desarrollar estrategias apropiadas para combatir el crimen organizado. En segundo lugar, hemos encontrado que algunas naciones latinoamericanas están utilizando tácticas que son contraproducentes a la estrategia general. Nuestros hallazgos distan de la táctica de Mano Dura utilizada por muchas naciones, de la creencia general de que métodos agresivos son, por sí mismos, adecuados y suficientes para solucionar el problema. Como en la insurgencia política, la fuerza militar es solo una de muchas herramientas necesarias para la victoria. Utilizada incorrectamente, esta fuerza puede ser contraproducente, y poner en peligro el objetivo estratégico más importante: el apoyo de la población. El respeto por los derechos humanos – y la rendición de cuentas cuando se cometen errores– genera legitimidad que conduce a la colaboración y el apoyo ciudadano y oportunidades de inteligencia para las fuerzas militares. Por último, concluimos que muchas de las fuerzas armadas en América Latina están mal preparadas para este tipo de operaciones. Existen obstáculos institucionales

y culturales dentro de las fuerzas armadas, para desarrollar una estrategia adecuada. Pero quizá el mayor impedimento para combatir efectivamente el crimen organizado en la región es la carencia de educación y entrenamiento de las fuerzas militares con respecto a la verdadera naturaleza de la amenaza y las tácticas apropiadas para combatirla.

Organizaciones criminales transnacionales

Las Organizaciones Criminales Transnacionales (OCT) en América Latina representan en este momento la más grande amenaza a la seguridad y estabilidad de la región.¹ Estos grupos trafican drogas, armamento y personas, y dependen de las ganancias ilícitas para financiar sus operaciones. Ellos representan una amenaza irregular a las ideas tradicionales de soberanía. No son controladas por un gobierno central, no están reguladas ni restringidas por las fronteras internacionales y no representan un Estado-nación. Por el contrario, tienen un sistema de mando altamente descentralizado, y son más una red de criminales que una fuerza militar cohesionada. Sus estructuras de mando están descentralizadas de tal manera que es casi imposible derrotar al enemigo capturando o dando de baja a los líderes de la organización. Debido a que trafican en el mercado negro con productos como drogas y armas, los gobiernos deben combatir las fuerzas de demanda del mercado. En otras palabras, las OCT utilizan problemáticas comunes en muchos países latinoamericanos (corrupción, pobreza, desempleo, y una juventud privada de derechos), como una fuente de reclutamiento y motivación.²

Las OCT son quizá el oponente más formidable que nuestras fuerzas militares han enfrentado en décadas. Están equipadas con armamento pesado, incluyendo rifles de alto calibre y carros bomba. Estos grupos no cumplen normas internacionales sobre conflicto armado que los militares están obligados a cumplir según el derecho internacional. Las OCT aterrorizan a sus oponentes, no hacen distinciones entre civiles y militares y usan el chantaje y la extorsión de manera reiterada. Tienen vastas organizaciones de inteligencia conformadas por espías humanos y abogados que han logrado penetrar los más altos niveles del gobierno y del poder. Jueces y funcionarios estatales se han convertido en parte de la nómina del cartel, brindando protección política y jurídica a estos grupos. Están extremadamente bien financiados; se estima que sus ganancias son de aproximadamente US\$6.2 trillones al año, el equivalente al 10% del PIB mundial.³

Estos grupos son de diversas dimensiones y con características únicas. Las Fuerzas Armadas Revolucionarias de Colombia – FARC-EP, por ejemplo, se originaron como una guerrilla subversiva en los años sesenta para luchar contra el gobierno central corrupto en Bogotá. No obstante, en los años noventa, el grupo se degeneró para convertirse en una organización criminal enfocada en el tráfico de cocaína y marihuana, la extorsión y el secuestro. En su punto más alto de influencia a finales de esa década, las FARC llegaron a controlar cerca del 40% del área rural colombiana.

Los Zetas, uno de los carteles más grandes y feroces de las docenas de organizaciones existentes en México, fueron engendrados de los cuerpos de guardaespalda del Cartel del Golfo en las provincias del noreste del país. En 2010,

éstos traicionaron a sus antiguos líderes y hoy son el cartel que opera en la mayor porción del territorio mexicano. Su red de operaciones se expandió desde Centroamérica a través de casi todo México oriental y a cientos de ciudades de los Estados Unidos. Algunos reportes de seguridad han registrado que esta organización opera incluso en Venezuela y Colombia.⁴ En lugar de utilizar la extorsión para mantener el control de sus lucrativos corredores de tráfico ilegal, emplean tácticas brutales de violencia –decapitaciones, desmembramientos, linchamiento público, tortura y masacres indiscriminadas de migrantes.

Las pandillas de Centroamérica –la Mara Salvatrucha (MS-13) y Calle 18 (M-18) son las más notorias– se estima que alcanzan entre los 70,000 y 100,000 miembros.⁵ Operan en varias ciudades centroamericanas y se basan en la extorsión y crímenes menores para financiar sus actividades. Su vasta red de miembros se extiende a lo largo de la región y frecuentemente sirven como soldados de a pie y mensajeros de los grandes carteles de la droga.

En Brasil, las organizaciones como Primeiro Comando da Capital o Comando Vermelho, operan desde las favelas en las ciudades principales como Rio de Janeiro y Sao Paulo. Trafican principalmente con armas y drogas ilícitas, problemas que han aumentado en los últimos años, debido a que cada vez más narcóticos son traficados a través de Brasil. De acuerdo con una fuente, las bandas controlan entre el 40% y el 50% de las favelas en Rio de Janeiro.⁶

El “nuevo Paradigma” para los Militares en América Latina⁷

Las operaciones de seguridad que se llevan a cabo en la actualidad en el hemisferio contra las Organizaciones Criminales Transnacionales, no encajan en la definición estricta de operaciones contra-insurgentes. De acuerdo con la doctrina de Estados Unidos, la insurgencia es un movimiento organizado que busca derrocar un gobierno a través del uso de la subversión y el conflicto armado.⁸ En este sentido, los insurgentes pueden tener fines políticos, religiosos o ideológicos. Las OCT en América Latina por su parte, son grupos criminales profesionales motivados por la codicia y la avaricia, y no necesariamente por poder político.

Sin embargo, es cierto que algunos elementos de la violencia en México y Centroamérica son comunes a los de la insurgencia política.⁹ Las OCT aunque no pretenden derrocar el gobierno central o regional, buscan suficiente control sobre el gobierno y las fuerzas de seguridad oficiales, para asegurar su libre movilidad y evitar ser perseguidos por la justicia. Buscan controlar el territorio de un país no por el control político, sino para obtener un beneficio económico. Esto lo pueden lograr aterrorizando autoridades locales, intimidando a las fuerzas de seguridad, o conspirando con funcionarios corruptos que les aseguren la protección legal en caso de ser arrestados.¹⁰ Al sobornar a funcionarios del gobierno, a las fuerzas armadas, jueces, y patrullas fronterizas, las OCT logran mover su producto ilegal libremente dentro y fuera del territorio nacional. El presidente de Guatemala Pérez Molina reconoció la magnitud de la problemática cuando declaró: “el narcotráfico ha crecido, ha penetrado las instituciones, a los fiscales y a los jueces...”¹¹ Esto efectivamente significa que los criminales toman el control de un área, sea de manera directa o indirecta, para convertirse en líderes de facto de la zona.¹²

En 2011 por ejemplo, algunos analistas declararon que el estado de Tamaulipas al este de México como cercano a un estado fallido, debido a que las fuerzas del gobierno habían perdido presuntamente el control de toda la provincia, quedando en manos de fracciones del cartel de los Zetas.¹³

A lo largo de América Latina, los líderes políticos han enviado a sus militares a las calles a combatir la oleada de crímenes que han convertido a esta región en la más violenta del mundo.¹⁴ De las 50 ciudades con más homicidios en el mundo, 42 se encuentran en Latinoamérica, producto de la violencia del crimen organizado que ha consumido la región.¹⁵ El ejemplo más reciente en el cual el gobierno ha ordenado a los militares a combatir el crimen organizado fue en abril de 2014 en Brasil, para la “pacificación” de las favelas en las ciudades más grandes del país. En marzo de 2014, Colombia desplegó 2,400 soldados e infantes de marina al puerto de Buenaventura en el Pacífico para tomar el control de diferentes zonas de la ciudad que estaban en manos de grupos criminales. México, Perú y la mayor parte de naciones de Centroamérica están presenciando la confrontación violenta de las fuerzas militares con las redes criminales.

En estas operaciones contra el crimen organizado, la inteligencia juega un papel fundamental. La oscura red de criminales depende de la clandestinidad para mover sus productos ilícitos y mantener una base de operaciones. Consecuentemente, el apoyo y legitimidad de la población civil es el centro de gravedad y la clave para obtener la victoria en un conflicto de estas características.¹⁶ Las fuerzas de seguridad así como los grupos criminales intentan obtener el mayor apoyo posible de la población. En países donde la pobreza, los bajos niveles de educación y un débil sistema de salud son lo común, surgen oportunidades para que las organizaciones criminales tomen ventaja de la falta de presencia gubernamental. Cualquier estructura, lícita o ilícita, presente en estas zonas, ofrece incentivos financieros y cierto nivel de estabilidad para las familias. Los civiles tienen la opción de apoyar o rechazar ya sea a los grupos criminales o a las fuerzas de seguridad, con base en su percepción de cuál puede generarles un mayor beneficio. A pesar de tener el riesgo de retaliación por parte de los miembros de los carteles, los civiles que cooperen con las fuerzas militares pueden llegar a resistir los esfuerzos de coerción de los criminales, y proveer inteligencia vital a las fuerzas de seguridad sobre la ubicación y el quehacer de los miembros de un grupo criminal. Esta es inteligencia valiosa, difícil de obtener y mantener con otros métodos. Los civiles que cooperan con los militares lo hacen bajo su propio riesgo. Saben que una vez que los soldados dejen de hacer presencia, ellos o sus familias serán sujetos de retaliaciones por parte de los grupos criminales.¹⁷

Como en una insurgencia política tradicional, puede haber un espectro de la población que apoya o se opone a la estructura criminal. Una porción de la población estará asistiendo directamente a los criminales a cambio de un pago. Los civiles que apoyan las OCT pueden aportar asistencia crítica con nuevos reclutas, líneas de abastecimiento y logística, e información sobre los esfuerzos del gobierno. Otros pueden ser ambivalentes, sin apoyar directamente el crimen organizado ni oponiéndose a éste, por miedo a sufrir represalias. Otros incluso pueden ser abiertamente opositores de la actividad criminal. El comportamiento de la fuerza

de seguridad es esencial para mantener el apoyo de la población, disuadir a otros ciudadanos de cooperar con los grupos criminales, y reclutar más seguidores que puedan proveer inteligencia valiosa.

Esta inteligencia puede también aportar información para desarrollar programas de desarrollo por parte de los gobiernos en zonas que necesitan estímulos económicos. Si las fuerzas de seguridad son percibidas como justas, la población local apoyará la presencia militar sostenida, facilitando otro tipo de esfuerzos del gobierno en el área, tales como proyectos de desarrollo. Esto desalentará a los ciudadanos marginales a desarrollar actividades ilícitas como fuente de ingresos y como resultado, reduciría su apoyo a los grupos de crimen organizado.¹⁸

Por estas razones, es transcendental que las fuerzas de seguridad tomen todas las precauciones para evitar daños colaterales o afectar víctimas inocentes durante las operaciones de seguridad. Como el enemigo continuamente opera entre la población, los civiles corren el riesgo de ser víctimas de balas perdidas, fuego cruzado o incluso ser atacadas por equivocación. Las fuerzas militares que no están entrenadas en este tipo de operaciones centradas en la población civil, pueden excederse en el uso excesivo de la fuerza contra la población. Teniendo en cuenta que el apoyo de la comunidad es clave para la victoria, las acciones equivocadas pueden enemistar a la población con las fuerzas oficiales.

La ley del conflicto armado está diseñada para proteger a los no-combatientes en estas situaciones. También llamada Derecho Internacional Humanitario, esta ley está compuesta por los principios de guerra reconocidos internacionalmente diseñados para proteger a los no-combatientes en tiempos de guerra. En términos formales, esto es conocido como *Jus in bello*, la ley que regula las acciones de los Estados una vez iniciado un conflicto bélico. En otras palabras, los Estados y sus fuerzas, tienen limitaciones legales y morales que se aplican a la conducta de desatar una guerra. Estas están codificadas en las Convenciones de Ginebra y en muchos otros tratados aceptados internacionalmente.¹⁹

Las leyes más reconocidas que regulan la guerra, incluyen los principios de discriminación, necesidad, humanidad, y proporcionalidad. La discriminación (también referida como distinción), es el principio más importante. Requiere que las partes de un conflicto dirijan sus acciones solo contra combatientes y objetivos militares, y que tomen las medidas apropiadas para distinguir entre combatientes y no combatientes. Los ataques militares deberían estar dirigidos al enemigo y nunca hacia civiles o propiedad privada. La necesidad le exige a las partes limitar sus acciones a aquellas que son indispensables para asegurar la sumisión total del enemigo tan pronto sea posible. El principio de humanidad prohíbe a las partes infligir actos violentos o emplear métodos calculados para causar sufrimiento innecesario. Dicho de otro modo, el derecho de los beligerantes a adoptar medios para herir al enemigo no es ilimitado. Está prohibido utilizar armas, proyectiles o materiales que causen sufrimiento innecesario. El principio de proporcionalidad, le exige a las partes asegurar que las pérdidas de vida anticipada o de propiedades a partir de un ataque, no sea excesivo en relación con la ventaja militar directa que se espera obtener del mismo. Un ataque en el cual se espera la pérdida incidental de vidas civiles, heridas o daños a su persona o propiedad, deben ser evitados.²⁰

Es importante reconocer que la ley del conflicto armado permite una amplia variedad de conductas que serían ilegales en una situación de paz. Por lo general, la destrucción intencional de propiedad privada y la restricción severa a las libertades individuales son inaceptables en tiempos de paz, pero aceptables en épocas de guerra. Incluso las acciones que un combatiente sabe podrían poner a la población en peligro de muerte, son legales cuando son aplicadas de acuerdo a los principios de necesidad, humanidad, proporcionalidad y distinción. Esto representa una responsabilidad moral inmensa para las fuerzas de seguridad. Cuando ocurre un incidente que involucra una violación de derechos humanos, no es suficiente declarar que la acción militar era necesaria de acuerdo con los principios del conflicto armado. Los hechos deben concordar con la narrativa. Si la rendición de cuentas por parte de los militares es dudosa o engañosa, o si es contraria a los reportes de testigos, la reputación de la unidad militar será cuestionada.

La aplicación y vigilancia apropiadas de la ley del conflicto afectarán la legitimidad de las fuerzas armadas. Cuando la población acepta la legitimidad de la acción militar y su presencia, también pueden llegar a perdonar errores cometidos por las fuerzas militares si los soldados son percibidos como cuidadosos en evitar causar daños excesivos. Si las fuerzas de seguridad no son percibidas por el público como respetuosas de los derechos humanos y de los principios del derecho internacional humanitario, sus acciones, incluso aquellas que sean aceptables dentro del marco legal del conflicto, podrían generar resentimiento público.

Durante las operaciones contra las OCT, las fuerzas de seguridad siguen estas reglas con el fin de evitar causar violaciones a los derechos humanos. Estas condiciones son difíciles de cumplir en circunstancias tan salvajes y austeras como las que enfrentan las unidades en medio del combate. El oponente se mezcla entre la población, algunos miembros de la comunidad en ocasiones colaboran o coluden con los criminales y las fuerzas irregulares que no utilizan uniformes son difíciles de distinguir de los civiles inocentes. Los soldados deben aceptar un riesgo adicional para evitar hacerles daño a los no-combatientes. Cuando hay una confrontación con los criminales de un área urbana, los soldados deben a menudo hacer una pausa para confirmar la identificación de su blanco, y decidir cuál es la decisión más apropiada. Bajo estas circunstancias, esta pausa puede marcar la diferencia entre la vida y la muerte.

En estas situaciones, gran parte de la responsabilidad resta en el comandante de la unidad para asegurar que sus hombres y mujeres estén adecuadamente preparados para estas operaciones y que el liderazgo de la unidad esté pendiente para asegurar que el comportamiento de los soldados sea el adecuado. De acuerdo con la doctrina del derecho internacional humanitario, no es admisible excusarse con que el soldado simplemente seguía órdenes. Los soldados están obligados a desobedecer órdenes ilegales. Sin embargo, son raros los casos en los que el soldado tenga este comportamiento. Parte de la disciplina inculcada en gran parte de la doctrina militar seguir órdenes sin dudar ni debatirlas. Muchos elementos de las leyes del conflicto armado son demasiado complejos y largos, para un soldado. Si las violaciones en efecto ocurren, el comandante debe llevar a cabo una investigación, pedir al militar que rinda

cuentas y tomar la acción correctiva para prevenir que un incidente similar se repita.²¹

Comparación entre las capacidades de la policía y las fuerzas militares.

En muchos países latinoamericanos, particularmente en México y la mayoría de países de Centroamérica, la responsabilidad de combatir el crimen organizado queda en manos de los militares y no de la policía. La policía no tiene el entrenamiento ni el equipamiento necesario para combatir OCT fuertemente armadas. Adicionalmente, la policía en la región es generalmente muy mal remunerada, y por lo tanto, vulnerable a la corrupción y al soborno ofrecido por los grupos criminales.²²

Esta corrupción genera una carencia de confianza por parte de la población. Por ejemplo en una encuesta de 2008, en promedio el 44% de los latinoamericanos pensaban que su policía estaba involucrada en acciones ilegales. En Argentina, Bolivia, Guatemala y Venezuela más del 60% percibían que su policía nacional estaba involucrada en acciones delincuenciales.²³ Incluso en países en los que se han llevado reformas al interior de la policía, para evitar la comisión sistemática de abusos de derechos, su debilidad a la hora de combatir el crimen los dejaba con mínima credibilidad operacional. Esto se manifiesta en una falta de colaboración ciudadana con la policía. La corrupción de la policía y la colusión con criminales no es cierta en todos los casos de la región. La policía nacional colombiana y la carabineros chilena por ejemplo, son consideradas como instituciones muy profesionales que reciben relativamente pocas reclamaciones relacionadas con derechos humanos, y tienen procesos relativamente transparentes de investigación, sistemas judiciales imparciales y programas robustos de supervisión.

Las mismas ventajas que los militares tienen sobre la policía pueden generar detrimento al involucramiento de los militares en operaciones contra el crimen organizado. Los soldados son entrenados para ganar guerras usando el máximo de su fuerza, incluyendo fuerza letal.²⁴ Esto es contrario a la acción policial, la cual debe utilizar el mínimo de fuerza y a minimizar el escalamiento de la misma. El rol de la policía normalmente requiere un alto grado de discreción en sus juicios, tales como la decisión de prevenir o detener, ignorar o investigar. Las armas militares están diseñadas para acabar con el enemigo, y generalmente no son apropiadas para el propósito de contrarrestar actividades menores de delincuencia. Los soldados no están preparados para patrullar las calles o tratar con criminales difíciles de distinguir entre los civiles y que se presumen inocentes mientras no se les compruebe lo contrario. La lógica militar, su capacidad de disparo y de ataque, cuando son ejercidos para la seguridad doméstica o en misiones similares, como combatir el narcotráfico, plantean un alto riesgo a la seguridad de los ciudadanos. La participación militar en asuntos internos y misiones de seguridad ha llevado en múltiples ocasiones a que se presenten casos de violación de derechos humanos.²⁵

Actos hostiles vs. Intenciones hostiles

Mientras que las unidades militares llevan a cabo operaciones para el mantenimiento del orden entre la población civil, los soldados con frecuencia deben

utilizar la fuerza para protegerse ellos mismos, a su unidad, o a otras personas o propiedades. En general, las fuerzas militares pueden utilizar su fuerza letal cuando son sujetos de un acto hostil o una intención hostil. Un acto hostil —el uso de la fuerza contra una unidad militar— es relativamente fácil de distinguir. Ocurre cuando una unidad o un objetivo que la unidad debe proteger, recibe ataques de fuego de un criminal o un enemigo.

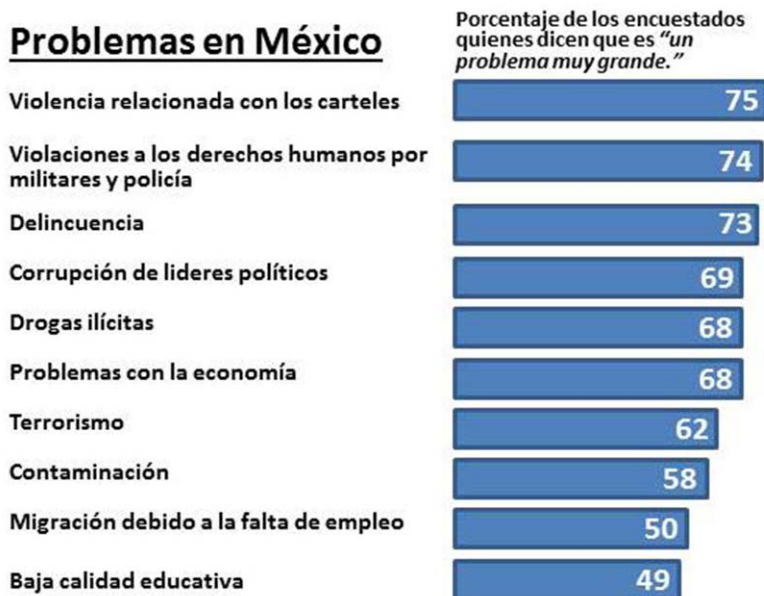
Lo que es más difícil de determinar en estas situaciones es la intención hostil. La intención hostil está definida como la amenaza del uso inminente de la fuerza contra una unidad o un objetivo que la unidad debe proteger.²⁶ En operaciones domésticas de mantenimiento de la ley y el orden, se pueden presentar diversos escenarios. Los soldados pueden ser enviados para instalar puestos de control, barricadas, controles de carreteras, inspeccionar casas o llevar a cabo operaciones directas contra un enemigo conocido. ¿Qué ocurre si un vehículo hace caso omiso en un retén de carretera y no disminuye la velocidad? ¿Qué acciones son permitidas en esta situación? ¿Qué ocurre si el sujeto que desobedece es un enemigo emprendiendo la huida? ¿Pueden los soldados disparar contra el sujeto? ¿Qué pasa si el perpetrador huye después de enfrentar a la unidad militar? ¿Pueden los soldados disparar al enemigo si hay presencia de civiles en el área con el riesgo de que haya daños colaterales?²⁷ Las acciones militares pueden generar resentimiento y protestas de la población local. En estas circunstancias, los soldados pueden encontrar una amplia variedad de situaciones de intención hostil por parte de los civiles. Por ejemplo, ¿podrían los soldados disparar contra manifestantes que estén atacando con piedras a la unidad? ¿Usando ladrillos? ¿Bombas molotov? ¿Qué nivel de uso de la fuerza es permisible en esas circunstancias?

A las fuerzas armadas siempre se les ha permitido el uso de la defensa propia para protegerse a ellos mismos y a otras unidades.²⁸ Cuando una unidad militar opera en entornos peligrosos y no están adecuadamente educados o entrenados en el escalamiento de las técnicas de uso de la fuerza, pueden tomar una postura agresiva, cuando aún quedan otras opciones no-letales.²⁹

Como resultado, las unidades militares en estas situaciones deberían preocuparse más por la protección de la fuerza, que por evitar la generación de daños colaterales. En estas circunstancias, darle demasiado énfasis a la defensa propia puede estar en detrimento del éxito de una misión. Al mismo tiempo, el uso moderado de la fuerza y la discriminación de los objetivos genera riesgos para las unidades. Es un riesgo necesario. Si las fuerzas militares abren fuego contra cada presunta amenaza, se cometerán errores, se hará daño a los civiles y la confianza y legitimidad del esfuerzo militar se pondrá en peligro.³⁰ Estos incidentes pueden incluso llevar a ciudadanos ambivalentes o indiferentes a unirse a grupos de crimen organizado por resentimiento o animosidad de las fuerzas de seguridad.

En México por ejemplo, una encuesta de 2012 reveló que había una mayor preocupación en asuntos de violación de derechos humanos por los militares y la policía que por el crimen la corrupción y el narcotráfico.³¹ Setenta y cuatro por ciento de los encuestados consideran que las violaciones de derechos humanos por parte de fuerzas oficiales son un asunto de suma gravedad, casi igual al de la violencia derivada del narcotráfico (la cual alcanzó un 75%). Quizá como resul-

Gráfica 1. Problemas en México



Fuente: *Pew Research Center* (2012), Q23a-b, d-h, l-n.

tado, la percepción y el apoyo del público de los militares mexicanos disminuyó drásticamente, de 77% en 2009 a 62% en 2011.³²

Legitimidad

Como en las campañas de contrainsurgencia, la lucha contra las OCT es esencialmente una competencia entre criminales y fuerzas de seguridad por la legitimidad.³³ En cualquier sociedad moderna, los ciudadanos apoyan a líderes que ellos consideran representan mejor sus intereses. Estos líderes les proveen servicios básicos como seguridad, educación, salud y asistencia en épocas de crisis. A cambio, los ciudadanos aceptan realizar determinados sacrificios, tales como pagar impuestos, aceptar la autoridad de los líderes y sus representantes, y pueden perdonar los errores cometidos por sus gobernantes siempre y cuando hayan ocurrido durante la ejecución de sus funciones oficiales y dentro del marco de la ley nacional. La legitimidad representa justicia o legalidad. Significa la aceptación y el apoyo de una población, de un conjunto de reglas y de una autoridad. La autoridad política depende del acuerdo tácito o explícito de la población.³⁴ Aceptar la autoridad como legítima implica cierto nivel de consentimiento por parte de la población hacia las acciones de esa autoridad. Y más allá, implica aceptar las decisiones de dicha autoridad, incluso si dichas acciones no son deseadas. De acuerdo con la doctrina norteamericana de contrainsurgencia, la victoria se logra

cuando la población consiente la legitimidad del gobierno y deja de apoyar activa o pasivamente la insurgencia.³⁵

En la lucha moderna contra las OCT, las fuerzas militares son percibidas como representantes legítimos del gobierno. A las fuerzas militares se les da autoridad extraordinaria especialmente durante estados de excepción cuando las libertades políticas y civiles son suspendidas para permitir operaciones de seguridad urgentes. Bajo estas condiciones, cada operación tiene un componente de principio de legalidad.³⁶ Cualquier acto que la población considere ilegítimo (tal como el maltrato de detenidos u otros actos criminales perpetrados por soldados) puede incitar a la desobediencia por parte de los civiles al Estado de derecho. De acuerdo con la doctrina norteamericana sobre el principio de legalidad, “la habilidad de una unidad militar de establecer el Estado de derecho dentro de su zona de control depende de su propio cumplimiento a las normas que restringen las acciones de los soldados y protegen a la población del aparente uso arbitrario de la fuerza”.³⁷

La experiencia de los Estados Unidos en Iraq

La experiencia norteamericana en Iraq brinda muchas lecciones para las naciones latinoamericanas comprometidas en conflictos contemporáneos semejantes.³⁸ Habiendo iniciado en 2003 después de una victoria relativamente rápida de una guerra convencional sobre los militares de Saddam Hussein, las fuerzas estadounidenses no estaban preparadas para llevar a cabo operaciones policiales de mantenimiento de la ley y el orden durante la fase de postconflicto en el país. Los Estados Unidos utilizaron la estrategia equivocada y en repetidas ocasiones, tácticas inapropiadas en el intento de proveer seguridad y derrotar la insurgencia en ese país. Como resultado, Estados Unidos casi pierde la guerra. De hecho sufrió pérdidas humanas significativas entre sus propias tropas, entre las fuerzas de coalición, y entre la población civil que en retrospectiva, pudieran haberse evitado.

En 2006, Estados Unidos implementó una nueva estrategia en Iraq que se enfocaba en proveer seguridad a los civiles iraquíes, demostrando su respeto por los derechos humanos y enfatizando en el acatamiento de los principios de guerra, lo que permitió casi revertir la situación. Como resultado, la situación casi da un vuelco total y los cambios positivos no tenían precedentes. El número de ataques a las fuerzas norteamericanas disminuyó, el apoyo civil hacia las mismas incrementó, y los soldados estadounidenses percibieron un aumento en la cooperación en inteligencia provista por los ciudadanos iraquíes.

Mucho se ha escrito de la experiencia estadounidense en Iraq.³⁹ Cerca de 2.5 millones de hombres y mujeres valientes sirvieron en Iraq. Muchos ejecutaron acciones heroicas en las circunstancias más peligrosas. De ninguna manera insinuamos siquiera que esta fue una fuerza, nada menos que de profesionales y honorables militares. Sin embargo, se cometieron errores críticos principalmente por dos razones: (1) educación y entrenamiento inadecuados para un ambiente peligroso y hostil, y (2) una estrategia inapropiada. El costo de estos errores fue muy alto. Cerca de 4,500 estadounidenses murieron y aproximadamente 32,000 más fueron heridos. Más de 100,000 civiles iraquíes murieron durante el con-

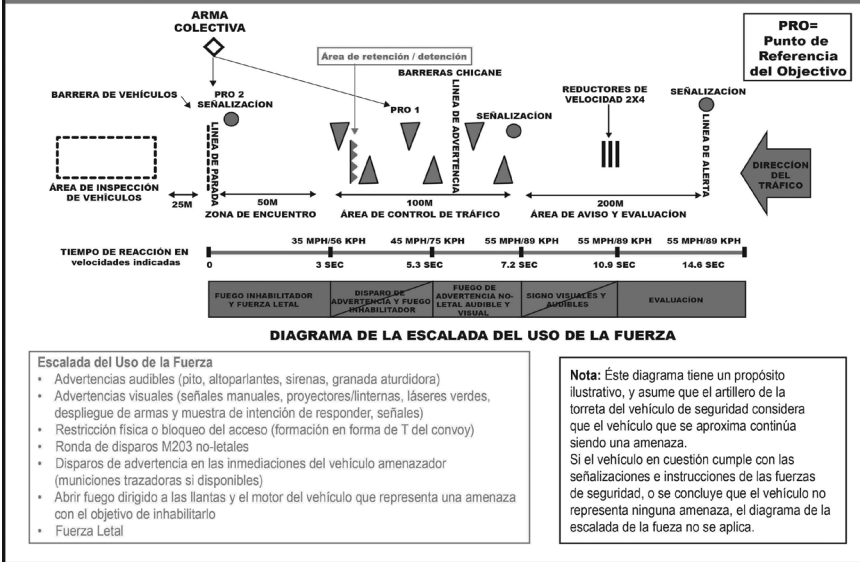
flicto.⁴⁰ Nuestra intención en esta sección no es revisar por qué se cometieron errores estratégicos y tácticos. Por el contrario, buscamos evaluar las lecciones de la experiencia estadounidense en Iraq, que pueden ser aplicadas a los casos latinoamericanos en circunstancias similares. Por una parte, la lucha contra un enemigo irregular adaptable, violento y oscuro mezclado con la población; por otra parte pueden aprenderse lecciones de cómo una estrategia que incluye el respeto por los derechos humanos puede alimentar sustancialmente el apoyo de la comunidad y contribuir en el éxito en el conflicto.

Después de la primera invasión a Iraq el 20 de marzo de 2003, la armada y los *Marine Corps* necesitaban menos de tres semanas para conquistar Bagdad. El 9 de abril los marines derrocaron una estatua de Hussein en la plaza Firdos, marcando de manera simbólica el fin a 24 años de tiranía en el país. A pesar del rápido éxito de las fuerzas estadounidenses durante las fases de combate del conflicto, Estados Unidos no estaba en absoluto preparado para la inestabilidad, el caos y la lucha interna que surgiría inmediatamente después. En abril de 2003, Bagdad y otras ciudades principales colapsaron ante una ola de caos y anarquía. El país rápidamente se deterioró hacia un escenario de conflicto étnico principalmente entre Suní y Chiitas por el poder.⁴¹ Los soldados americanos, sin entrenamiento ni preparación para este tipo de operaciones policiales, se enfocaron erróneamente en la estrategia centrada en el enemigo de “capturar o matar” a los rebeldes, propugnada por el comandante en Iraq General Ricardo Sánchez (2003-2004) y su sucesor el General George Casey (2004-2007).⁴²

Muchas lecciones de la experiencia en Iraq pueden ser aplicadas al caso de las OCT en América Latina. En primero lugar, el primer error de Estados Unidos fue no haber entrenado y educado apropiadamente a sus soldados.⁴³ Bajo estas condiciones, las fuerzas americanas fueron obligadas a llevar a cabo una serie de misiones para las cuales no estaban entrenadas. Estados Unidos había estado preparado para combatir una guerra convencional contra fuerzas regulares, tales como la Guardia Republicana Iraquí, un enemigo previamente identificable y un tipo de conflicto que permitía hacer el uso máximo de la fuerza para aniquilar al oponente. El Dr. Colin Kahl, profesor de la Universidad de Georgetown a quien le fue asignada la tarea de evaluar las tácticas militares en Iraq, declaró que “los militares de Estados Unidos no se prepararon ni entrenaron adecuadamente para operaciones de estabilización y contrainsurgencia.”⁴⁴ Por el contrario, el país enfrentaba un enemigo imposible de distinguir de la población civil y que permanecía escondido usando explosivos en las carreteras, carro bombas, y francotiradores para atacar a las fuerzas de la coalición. A medida que aumentó el estado de anarquía y violencia, los iraquíes vieron a las fuerzas americanas como parte del problema y no como la solución. Los ataques a unidades militares norteamericanas se intensificaron y escalaron rápidamente.⁴⁵

Las críticas a las tácticas de los militares americanos llegaron desde sectores inesperados. Un oficial militar británico, consternado por el evidente descuido al respeto de los derechos humanos por parte de los soldados americanos, escribió: “El uso de la fuerza de los americanos no es proporcional y excede la amenaza a la que nos enfrentamos. Ellos no están preocupados por las muertes de iraquíes.

EJEMPLO DE UN PUESTO DE CONTROL UTILIZANDO LOS PROCEDIMIENTOS ESTADOUNIDENSES DE LA ESCALADA DEL USO DE LA FUERZA



Su actitud hacia los iraquíes es trágica. Es espantosa.⁴⁶

Las condiciones del combate en este ambiente requerían el máximo de discreción. Antes de 2005 por ejemplo, pocas fuerzas americanas tenían el entrenamiento y la doctrina en procedimiento para el uso de puestos de control y barricadas. Cientos de retenes y barricadas fueron instalados alrededor de las ciudades iraquíes. Muchas de estas estaciones requerían mejor iluminación, uso de luces de bengala, señales de advertencia en el idioma local, luces intermitentes y barreras para reducir la velocidad de los automóviles. Los soldados no tenían ningún método para advertirle a los vehículos que se acercaban que disminuirían la velocidad: ni advertencias verbales, ni medios no letales de detención, ni disparos de advertencia, ni barrotes o clavos en la carretera y ni siquiera disparos para averiar el vehículo. En vez de eso, los soldados en innumerables casos abrieron fuego y usaron la fuerza letal.⁴⁷

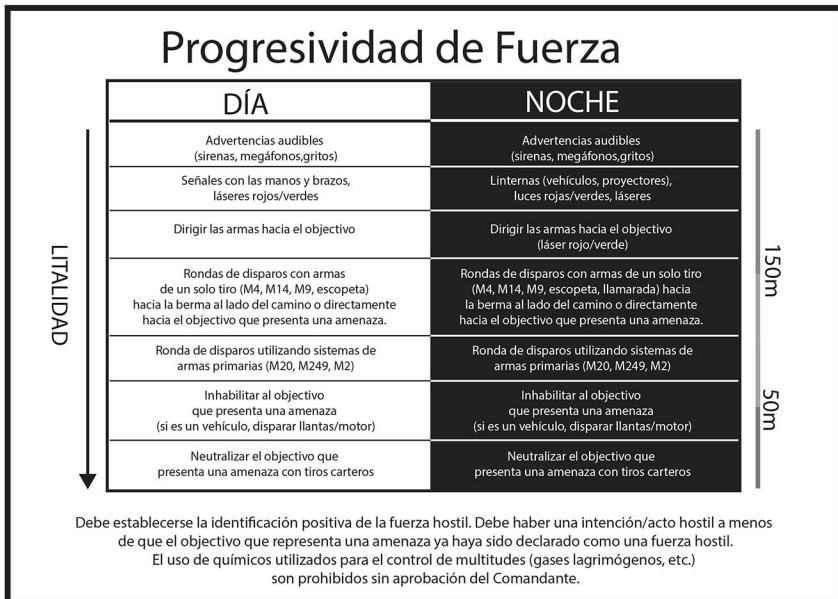
Como parte de esta búsqueda agresiva de insurgentes y municiones escondidas, Estados Unidos condujo el allanamiento de aproximadamente 8000 casas desde mayo de 2003 hasta mayo de 2005. Muchas de estas redadas fueron realizadas durante la noche y causaron daños a la propiedad de civiles iraquíes, generando en consecuencia, el resentimiento y humillación por parte de la población. Aproximadamente 80.000 hombres iraquíes fueron arrestados y encarcelados como resultado de estas redadas. A pesar de esto, solo 30% del total produjo algún tipo de evidencia.⁴⁸

Las bombas instaladas en las carreteras (dispositivos explosivos improvisados o DEI) y carros bomba suicidas, causaron la mayor parte de bajas de la coalición. Para 2007 alcanzaron casi 2/3 de todas las bajas norteamericanas.⁴⁹

Como resultado, los soldados americanos temían el acercamiento de vehículos iraquíes a sus convoyes y con frecuencia disparaban cuando estos vehículos se aproximaban mucho. Los DEI eran normalmente activados a través de teléfonos celulares. Por lo tanto, los civiles usando celulares representaban una amenaza para los soldados y se convertían en un blanco.⁵⁰

Otros ejemplos incluyen fuerzas norteamericanas usando fuego anti asalto contra morteros. Una de las tácticas de la insurgencia era ingresar a un barrio y camuflarse entre la comunidad, disparar morteros dirigidos a las fuerzas de coalición y retirarse inmediatamente. Estados Unidos desarrolló un radar anti asalto que le permitía a las fuerzas de coalición identificar la ubicación del origen del disparo de mortero. Sin embargo, la precisión de esta tecnología era insuficiente para responder con exactitud al enemigo, y las fuerzas norteamericanas terminaban por disparar a zonas pobladas con su artillería pesada.⁵¹

Los soldados americanos, bajo extrema presión y estrés operacional, cometieron horribles errores que trajeron ira a los iraquíes y ensombrecieron muchas de las acciones positivas que habían adelantado las fuerzas de Estados Unidos. En abril 28 de 2003 por ejemplo, las fuerzas americanas en Fallujah dispararon contra una multitud de manifestantes asesinando a 15 personas.⁵² Este suceso generó una serie de ataques de venganza contra las fuerzas americanas. Uno de los peores ejemplos es la masacre de Haditha el 19 de noviembre de 2005. Después de un ataque con DEI a su convoy, en el cual murió un marine y quedaron dos más heridos, los marines estadounidenses masacraron 24 civiles iraquíes, incluyendo mujeres y niños, como parte de un esfuerzo vengativo. Para empeorar las cosas, el evento fue inicialmente calificado como un ataque por parte de los rebeldes, hasta que la revista *Time* desafió a las autoridades militares a llevar una



inspección más profunda de los hechos. El intento de ocultar o lavar la verdad de los hechos, degradó aún más la imagen y credibilidad de Estados Unidos y provocó la ira de los rebeldes en el país.

Los oficiales norteamericanos se preguntaban cómo unas fuerzas tan entrenadas y disciplinadas como los marines podrían llegar a cometer tales atrocidades. La investigación oficial concluyó en el 2006 y determinó que la cadena de mando del grupo ignoró indicaciones de desobediencia, “una falta de voluntad, cercana a la negación, por parte del comandante de batallón de examinar un incidente que le podría resultar inconveniente a él y a sus marines”. También reportó que los soldados americanos consideraban que proteger civiles iraquíes no era tan importante como proteger soldados americanos. Los marines, quizá como resultado de la insensibilización inevitable que se desprende de un ambiente de guerra, consideraron que el daño colateral fue el “costo de hacer negocios, y que los marines debían llevar a cabo su trabajo, sin importar qué haya que hacer para lograrlo.”⁵³

Algunas encuestas realizadas a soldados y a marines revelaron que muchos de ellos no reconocían la directiva estratégica de respetar los derechos humanos y el derecho de guerra.⁵⁴ En una encuesta dirigida por la armada norteamericana, de sus soldados que tenían una exposición frecuente en combate, 10% reportaron haber maltratado civiles o dañado propiedad privada sin que fuera necesario, solo 38% afirmó que los civiles deberían ser tratados con respeto y dignidad, un tercio estaría dispuesto a torturar a un enemigo capturado si esto salvara la vida de un compañero, menos de la mitad de los encuestados dijeron que reportarían incidentes de conductas antiéticas.⁵⁵ Incluso después del año adicional de entrenamiento y adoctrinamiento, los resultados de la encuesta mostraban un leve cambio de tendencia. La encuesta MHAT (*Mental Health Advisory Team*) de 2007 reportó muy pocas mejoras sobre incumplimientos éticos de los soldados y marines en Iraq.⁵⁶

Cuando los errores se cometieron, Estados Unidos intentó reparar a las víctimas o a sus familias. Por ejemplo, el 4 de marzo de 2007, en un acto suicida donde una camioneta se estrelló contra un convoy de Infantería de Marina cerca de Jalabad, Afganistán. Durante la consiguiente confusión, los infantes abrieron fuego indiscriminadamente contra la población a lo largo de numerosas millas de una carretera llena de multitud. Diecinueve civiles fueron asesinados y otros 50 resultaron heridos. El comandante de brigada de la armada encargado, declaró a las familias de las víctimas estar “profundamente avergonzado” por este incidente y lo denominó un “terrible error”. Las familias de los sobrevivientes fueron indemnizadas cada una con US\$2,000 para compensar su pérdida.⁵⁷ De acuerdo con una fuente, los oficiales americanos pagaron US\$32 millones en reparaciones. En otros casos, los funcionarios pidieron perdón por los errores de sus tropas. En otro incidente, el vice almirante McRaven, un veterano de operaciones especiales, pidió perdón personalmente a un padre que perdió a varios miembros de su familia por un error de las fuerzas americanas.⁵⁸

En 2006 la situación en Iraq era tan nefasta que muchos políticos contemplaron la retirada del conflicto. En las encuestas públicas, cada vez más iraquíes culpaban a las fuerzas de Estados Unidos por la violencia en el país, más que a la insurgencia sunita, las milicias chiitas o los terroristas de Al Qaeda juntos.⁵⁹ Como

resultado, casi 50% de la población de Iraq apoyaba los ataques a las fuerzas invasoras de coalición.⁶⁰ El Iraq *Study Group*, un grupo de asesores en diseños de política pública, fue convocado por el presidente Bush en 2006 para plantear alternativas. En octubre de ese año, reportaron que la situación era grave y en deterioro.

El segundo gran problema que impedía el éxito de Estados Unidos en Iraq, era la inapropiada estrategia y doctrina aplicada al ambiente de combate. De acuerdo con un reporte sobre los militares norteamericanos en Iraq durante el mandato de Sánchez, “no solo no había un plan de contrainsurgencia, sino de ningún tipo: ni estrategia, ni misión, ni criterios o *benchmarks* para medir e incluso definir el éxito o el fracaso”. De hecho, Estados Unidos no contaba con un marco estratégico para manejar a las comunidades y a la población civil en general.⁶¹ Oficiales de alto rango de Estados Unidos estimaron que la operación de este país solo podría durar algunos meses y que las tropas estarían de regreso en verano.⁶²

No fue hasta que el general David Petraeus se hizo cargo de las operaciones en Iraq en 2007 e implementó una estrategia centrada en la población, que las condiciones iniciaron un mejoramiento real.⁶³ La estrategia de Petraeus enfatizaba en la protección de la población, un uso más discrecional de la fuerza y un fuerte enfoque en derechos humanos. Su llegada coincidió con la etapa más violenta de la guerra. Había 160 ataques rebeldes diarios y Estados Unidos sufría más de 80 muertes al mes. Con la nueva estrategia, las muertes civiles descendieron dramáticamente de 3500 al mes en julio de 2006 a 600 en enero de 2008. El número de tropas americanas caídas en combate descendió también de 600 por mes en 2007 a 200 en 2008.⁶⁴

Petraeus y otros altos mandos entendieron que este tipo de conflicto requería una nueva aproximación al uso de la fuerza. El almirante Mike Mullen, asesor del presidente dijo: “en este tipo de guerra, cuando el objetivo no es la derrota del enemigo, sino el éxito del pueblo, menos es realmente más. Cada vez que una bomba errante o una bomba precisa es erróneamente dirigida asesinando o hiriendo civiles, tomamos el riesgo de revertir nuestra estrategia meses, si no, años. Los incidentes de bajas civiles, nos hieren más en el largo plazo, que los éxitos tácticos que logremos contra el enemigo”.⁶⁵

El liderazgo norteamericano también elevó los principios de guerra relacionados con derechos humanos a niveles sin precedentes. La perseverancia, la legitimidad, y limitación se convirtieron en objetivos militares tan importantes como otros principios tradicionales de la guerra, tales como la sorpresa, la unidad de mando, masa y maniobra.⁶⁶

Petraeus notó la importancia de que todas las fuerzas norteamericanas entendieran los riesgos asociados con el uso excesivo de la fuerza. Un pequeño error táctico de un oficial o de un soldado podría acarrear repercusiones para la estrategia. Él se refería a los soldados jóvenes operando en estas condiciones como “tenientes estratégicos”, o “cabos estratégicos” debido a que un error de un líder de escuadrón, un comandante de pelotón o un oficial de compañía, puede a menudo generar olas de resentimiento. Dichas acciones pueden servir como catalizador de protestas masivas.

En 2009, el secretario de defensa Robert Gates tomó una decisión inusual de retirar del cargo al general David McKiernan, comandante de las fuerzas americanas en Afganistán. Éste era percibido como un oficial demasiado convencional y reacio a la adopción de la estrategia centrada en la población.⁶⁷ Era la primera vez que un comandante había sido retirado de su cargo desde la guerra de Corea. En su lugar, Gates designó al teniente general Stanley McChrystal, un veterano en operaciones especiales quien, como Gates y Petraeus, era visto como un líder más creativo y estratega más innovador que entendía la urgencia de ganar apoyo de la población limitando el uso de la fuerza.

McChrystal continuó haciendo énfasis en las tácticas de contrainsurgencia establecidas por Petraeus. El hizo un llamado a un cambio cultural entre las tropas, diciéndoles: “Debemos cambiar la manera en que pensamos, actuamos y operamos”. También reconoció el alto riesgo que su estrategia centrada en la población implicaba para las fuerzas americanas. Como una de sus primeras órdenes, les pidió a los comandantes usar una mayor discreción y limitación con el uso de la fuerza. “Reconozco que el uso controlado y disciplinado de la fuerza conlleva riesgos para nuestras tropas, pero el uso excesivo de la misma que deriva en una población enemistada, producirá muchos y mayores riesgos”.⁶⁸

En retrospectiva, Estados Unidos carecía severamente de preparación para una tarea de la magnitud de Iraq. Las fuerzas americanas desde 2003 hasta 2006 no tenían una estrategia establecida, ciertamente ninguna que hiciera énfasis en los derechos humano, en principios de distinción y limitación y en la población como una fuente fundamental de inteligencia. Una vez que la nueva estrategia fue implementada en 2007, las condiciones en Iraq –para las fuerzas norteamericanas así como para los civiles iraquíes– empezaron a mejorar. Estados Unidos estaba en el filo de un abismo, una posición que un asesor denominó “la derrota estratégica más colosal en la historia de los Estados Unidos”.⁶⁹

Los altos mandos oficiales consideraron a los retos que las fuerzas militares estadounidenses tenían en Iraq –construcción del Estado-nación, enfoque centrado en la población, y respeto por los derechos humanos–, como una revolución en los asuntos militares. Este tipo de tácticas son una parte crítica de los requisitos operacionales extremadamente complejos que demandan largos e intensos entrenamientos previos al despliegue de tropas. El general del ejército Peter Chiarelli, se refirió a los requisitos multi-tareas del soldado contemporáneo como “operaciones de espectro total” en las cuales este debía ser capaz de llevar a cabo operaciones defensivas, ofensivas y de estabilización de manera simultánea. En estas situaciones se requiere que los soldados conduzcan operaciones de combate, entrenen fuerzas extranjeras, provean servicios esenciales, contribuyan al buen gobierno, y promuevan el pluralismo económico, todo al mismo tiempo. Cada tarea implica un ambiente dinámico con grados variables de riesgo y agilidad mental para identificar los requerimientos de fuerza necesarios.⁷⁰ Otro oficial militar, el general ex comandante de la Infantería de Marina Charles Krulak, definió la complejidad de la guerra moderna, como tener que luchar una guerra de tres bloques. Un bloque, los infantes de marina, estarían en una guerra dirigida contra el oponente. En un bloque adyacente, podrían estar separando facciones y

brindando primeros auxilios a civiles heridos. En un tercer bloque ellos podrían estar implementando proyectos de desarrollo y entregando ayuda humanitaria a los refugiados.⁷¹

Retos y obstáculos

El respeto por los derechos humanos y por los principios del derecho internacional humanitario es necesario, pero puede no ser suficiente para asegurar la guerra en la lucha contra el crimen organizado. En muchos casos, la única opción para poder enfrentar muchos criminales expertos es capturarlos o darlos de baja. Sin embargo, la acción militar es uno de una variada cantidad de instrumentos necesarios para combatir el crimen organizado. Hay otros componentes de gran importancia para una estrategia holística contra las OCT: Un plan de comunicaciones estratégico, negación de asilo para miembros de la organización criminal, minimización de áreas no gobernadas, reducción de la corrupción, promoción de proyectos de desarrollo social y económico, provisión de servicios básicos y de seguridad ciudadana.

Más allá del ambiente nublado y frecuentemente confuso de operaciones, hay varias razones en las que las violaciones de derechos humanos por parte de fuerzas de seguridad ocurren bajo otras circunstancias.⁷² Sin embargo como lo demostró la experiencia de Iraq, las dos razones más comunes son la falta de entrenamiento y educación, y el apoyo de los líderes hacia una estrategia centrada en la población. Las operaciones contra las OCT son complejas y es difícil preparar a las fuerzas militares para cada contingencia a la que se enfrentarán. Adicionalmente hay muchas otras preparaciones que las unidades militares deben recibir antes de su despliegue. Comunicaciones, maniobra y patrullaje, armas, primeros auxilios, protección de la fuerza, procedimientos en los puestos de control, asuntos civiles, escalamiento de la fuerza, etc. Estas demandas compiten con una cantidad limitada de tiempo para la capacitación antes del despliegue.

Tan importante como es la capacitación y el entrenamiento, el liderazgo es de gran peso para prevenir violaciones de derechos humanos y errores tácticos. Los líderes militares que establezcan una doctrina en la cual los Derechos Humanos (DDHH) son tratados como imperativos estratégicos, pueden comunicar esos estándares y expectativas a sus subordinados. Los soldados seguirán órdenes. Si estas órdenes son transmitidas efectivamente, desde la cadena de mando, y reforzadas con supervisión, los errores se reducirán. Sin embargo una falta de imposición y aplicación, o la imposibilidad de llevar a cabo investigaciones, y una limitada rendición de cuentas por parte de los superiores enviará el mensaje a la tropa de que el apoyo a los derechos humanos es más retórico que real. Los altos mandos deben promulgar el respeto por los DDHH a través de órdenes verbales y escritas, y hacerles seguimiento para asegurar que dichas órdenes se estén cumpliendo apropiadamente.⁷³

Los líderes políticos comparten la responsabilidad de las acciones militares. Antes de que un militar sea asignado para una operación contra OCT, los políticos civiles deben asegurarse que estos estén entrenados y equipados apropiadamente para la misión. Además los líderes políticos deben brindar una guía clara a

sus fuerzas a través de la promulgación de reglas de enfrentamiento (RDE) para entablar combate. Las RDE proveen una guía táctica y protección legal para las decisiones que deban tomar de vida o muerte durante el combate. Las RDE también deben ser desarrolladas de tal manera que expongan una lista de acciones admisibles y acordes con los objetivos diplomáticos, económicos, políticos y legales.⁷⁴ Estas reglas deberían ser desarrolladas para rendir cuentas de las circunstancias de seguridad en las que los soldados operan. Es imposible predecir todos los escenarios pero una cuidadosa deliberación de los requerimientos de la misión le permitirá a los líderes nacionales a proveer una apropiada RDE para sus fuerzas.

La cultura dentro de muchas instituciones militares puede ser también un impedimento para las acciones contra las OCT. Las fuerzas armadas, con su larga tradición y costumbres, no son instituciones fáciles de cambiar. Las unidades militares son generalmente organizaciones cercanas y fraternales. La lealtad hacia la unidad en el servicio es una característica importante que genera cohesión e insularidad. Cuando se cometen errores, es difícil para los altos mandos conducir investigaciones imparciales sobre violaciones de DDHH. Los oficiales con frecuencia no quieren abrir investigaciones a las acciones de su tropa, temen que se exponga su propia mala conducta o sus errores. Incluso si las intenciones del comandante son moralmente imparciales, una cultura de silencio entre los soldados es frecuentemente un fruncido para compartir información que los incrimine.⁷⁵

Adicionalmente estas operaciones muchas veces requieren una presencia de largo plazo y una gran cantidad de paciencia política. El enemigo es evasivo, adaptable e inteligente. Opera desde las sombras y evita la confrontación directa con las fuerzas de seguridad. Si son conducidos por un área, esperarán y volverán cuando sea ventajoso hacerlo. En contraste, las operaciones militares son relativamente de corto plazo. Las unidades militares son rotadas frecuentemente y las nuevas unidades entrantes necesitan semanas incluso meses, para desarrollar un ritmo de operaciones, establecer contactos con los civiles, y entender la naturaleza de la amenaza. En el momento en que se vuelven competentes en estas operaciones, en muchos casos están listos para retirarse. Los errores que se cometen durante la transición de estas fuerzas pueden generar enemistad. Por esta razón las fuerzas militares deben ser ofensivas y operar con rapidez. Necesitan mucha voluntad política de sus representantes electos y paciencia por parte del público para que les permita cumplir la misión a tiempo.

Las fuerzas de seguridad que operan en estas condiciones difíciles tienden a deshumanizar o des-individualizar al enemigo. La deshumanización implica ignorar las calidades humanas de una persona y tratarla como un objeto en vez de un ciudadano con derechos humanos y civiles inherentes.⁷⁶ En teoría, es más fácil justificar las acciones de uso de la fuerza contra personas que son retratadas como menos que un ser humano. Esta puede ser una preocupación entre los países latinoamericanos, con problemas graves de exclusión política y grandes poblaciones de ciudadanos indígenas.

En otros casos, los soldados pueden justificar sus acciones a través de una desconexión moral en la cual racionalizan que sus acciones, especialmente aque-

llas que resultan en violaciones de DDHH, son menos severas que las acciones de los criminales.⁷⁷ En general esto es cierto; los errores en DDHH cometidos por fuerzas de seguridad latinoamericanas no son cercanos a las tácticas brutales y horribles de las OCT, conocidas por desmembrar, torturar, y decapitar a sus víctimas. Sin embargo, esta comparación es una falacia. Los soldados de un gobierno son representantes de un estado legítimo y por lo tanto están obligados a cumplir leyes del conflicto armado, y tratados internacionales que su país haya ratificado. Los miembros de las OCT por su parte son criminales y al ser arrestados deberían rendir cuentas en una corte penal por sus acciones.

La frustración y falta de confianza en el sistema judicial puede convencer a muchos militares a tomar acciones de justicia por su cuenta, como árbitros de la culpa o la inocencia, porque creen que el sistema judicial tiene tantos defectos o está tan corrupto, que no es capaz de procesar efectivamente a los criminales.⁷⁸ La tasa de impunidad en países de Latinoamérica supera el 95% en parte, debido a que las cortes están sobrecargadas de casos, no hay suficientes profesionales en derecho para procesar y existe un componente de corrupción. Esto significa que los criminales arrestados y acusados difícilmente puedan ser procesados y sentenciados por sus crímenes. Asimismo, muchos sospechosos languidecen en la cárcel esperando a ser procesados o enjuiciados durante meses o años. Teniendo conocimiento de esto, algunas fuerzas de seguridad pueden creer que hacer justicia en las calles puede ser una respuesta más oportuna en la lucha contra las OCT.⁷⁹ Por las mismas razones, frecuentemente se dan asesinatos por venganza ejecutados por militares o policías a lo largo de la región.

Conclusiones

Los líderes militares en América Latina enfrentan un gran reto. Deben entrenar a sus soldados para que éstos comprendan y se comprometan con las reglas de enfrentamiento en las operaciones policiales locales, protejan a los civiles y a su vez se protejan a ellos mismos. Muchos soldados tienen experiencia en operaciones internas pero principalmente en operaciones de atención a desastres como terremotos o huracanes, o en operaciones internacionales de mantenimiento de la paz, y no contra criminales violentos que usan tácticas terroristas y se entremezclan hábilmente con la población. Muchos soldados en este tipo de situaciones son jóvenes, sin experiencia, asustados, débilmente entrenados, enojados, confundidos y cansados. Deben tomar decisiones de vida o muerte en segundos. El conocimiento en DDHH, del derecho internacional humanitario y las reglas de enfrentamiento, deben ser su segunda naturaleza, de tal manera que cuando se enfrenten a un escenario difícil, el entrenamiento les permita tomar una decisión eficaz y bien informada. Para muchos de ellos, pueden percibir que el sistema está diseñado para encerrarlos: cámaras de video omnipresentes que graban sus acciones, leyes internacionales que les limitan el uso de la fuerza, y prensa y ONG que vigilan cada una de sus acciones.

La mayoría de los militares reconocen los riesgos inherentes de llevar a cabo operaciones policiales. Es un tipo de misión que muchos de ellos no buscarían ni preferirían. Sin embargo, la situación de seguridad en la mayoría de los países

de América Latina es tan nefasta que existen pocas opciones disponibles para los líderes políticos diferentes a desplegar a sus fuerzas armadas para operaciones internas para mantener la ley y el orden.⁸⁰ Las tasas disparadas de crimen, la inseguridad ciudadana, cárceles sobrepobladas y violentas, y sistemas judiciales disfuncionales, han creado una crisis en la seguridad de la región. Sin embargo, a menos que los militares estén entrenados específicamente para este tipo de operaciones, sus acciones pueden empeorar la situación. Antes de ser desplegados en este tipo de entorno, los soldados deberían recibir un entrenamiento riguroso que incluya control de masas, reglas de enfrentamiento, escalamiento de la fuerza, maniobras en áreas densamente pobladas, y relaciones y asuntos civiles entre muchos otros.⁸¹

Varios países que han tenido este tipo de experiencia pueden proveer una lista de mejores prácticas en este sentido. Primero, desarrollar un centro de entrenamiento en derechos humanos y derecho internacional humanitario (DIH) para todas las fuerzas de despliegue. Segundo, brindar entrenamiento y educación en derechos humanos y DIH antes de cada operación. No hay tiempo durante la crisis. Tercero, complementar la capacitación y el entrenamiento con escenarios y ejercicios. Cuarto, practicar el escalonamiento del uso de la fuerza. Por último, desplegar abogados especializados en asuntos militares al terreno.

En este caso, la adaptación estratégica es un imperativo que puede marcar la diferencia entre la victoria o la derrota. Como los EE.UU. se dio cuenta de que en Iraq, los militares latinoamericanos pueden tener éxito tácticamente pero fallan estratégicamente si no desarrollan la estrategia adecuada.⁸² Como el general John Galvin escribió en su citado artículo *“Uncomfortable Wars: Toward a New Paradigm”*, la “efectividad de un oficial y su oportunidad de éxito, ahora y en el futuro, dependen no solo de su carácter, conocimientos y habilidades, sino también y más que nunca, de su habilidad para comprender el ambiente cambiante del conflicto”.⁸³

Las condiciones de seguridad en América Latina no tienden a mejorar en el mediano plazo. La pobreza y la exclusión continuarán produciendo nuevos reclutas para las OCT. La demanda por drogas ilícitas y otros productos seguirá creciendo. Los nativos continuarán su lucha por libertades políticas y civiles. Como el ex secretario de defensa, Robert Gates atestiguó que “podemos esperar que una guerra asimétrica permanecerá como el principal soporte del campo de batalla por un tiempo indeterminado”.⁸⁴ Los militares de la región estarán involucrados en este tipo de misiones por mucho tiempo. Entre más rápido desarrollen la doctrina apropiada y aprendan las tácticas necesarias para ganar el apoyo de la comunidad, más rápido vencerán ese oponente resistente y adaptable.

Anexo 1. Ejemplos de despliegues recientes de militares en América Latina

<i>País</i>	<i>Año</i>	<i>Observación</i>
Bolivia	2003	El Presidente Gonzalo Sánchez ordenó a las tropas mantener el control de El Alto después de unas manifestaciones masivas por los altos precios del gas. 64 manifestantes fueron asesinados en medio de la violencia. En 2012 varios oficiales militares fueron declarados culpables de homicidio y sentenciados a 10 a 15 años de cárcel.
Bolivia	2008	El Presidente Evo Morales declaró el estado de sitio en las provincias del este y envió tropas para acabar con unas protestas. Al menos 10 personas murieron.
Brasil	2010-actualidad	En 2010, Brasil desplegó a las fuerzas armadas y a la policía militar a varias ciudades para combatir las bandas que operan en las favelas. En 2014, militares y policía estaban operando en 174 favelas de Rio de Janeiro en su intento por reducir la criminalidad antes de la Copa del Mundo 2014. En una operación en marzo de 2014, 2700 soldados e infantes de marina apoyados por helicópteros y vehículos blindados ocuparon el complejo de la favela Mare, un lugar habitado por 120.000 personas y cercano a varias instalaciones de la Copa del Mundo. Adicionalmente en junio de 2014 se desplegó la policía militar a cinco ciudades principales para controlar a los manifestantes que demandaban mejoras en los servicios públicos.
Chile	Febrero 2010	Chile desplegó 7000-10,000 soldados a Concepción después del terremoto y el Tsunami.
Colombia	2001-actualidad	Bajo el mandato del Presidente Uribe, las fuerzas militares lanzaron una inmensa campaña a las guerrillas dedicadas al narcotráfico tales como FARC y ELN. Los guerrilleros de estos dos grupos estaban estimados en 25,000. En su mejor momento, llegaron a controlar el 40% del campo colombiano y se enriquecieron del narcotráfico la extorsión y el secuestro. Las fuerzas paramilitares, otro grave problema en Colombia, se desmovilizaron en 2006. Sin embargo muchos de estos grupos siguieron en la ilegalidad a través de bandas criminales más pequeñas.
Colombia	2013	El presidente Juan Manuel Santos desplegó patrullas del ejército para patrullar Bogotá después de unas protestas.
Colombia	Marzo 2014	Colombia envió tropas adicionales al Puerto de Buenaventura para detener la violencia perpetrada por OCT y narcotraficantes. Un total de 2400 soldados e infantes de marina fueron desplegados al área para recuperar porciones de la ciudad que estaban bajo el control de las OCT.
Ecuador	2005	El Presidente Lucio Gutiérrez declaró el estado de emergencia frente a las manifestaciones que solicitaban su renuncia. Los militares fueron puestos a cargo del mantenimiento del orden público.

<i>País</i>	<i>Año</i>	<i>Observación</i>
Ecuador	2010	El Presidente Rafael Correa declare el estado de sitio durante las rebeliones de la policía por corrupción. Los militares fueron asignados para mantener el orden y suspender las libertades civiles.
Guatemala	Septiembre 2006	3000 policías y soldados recuperaron el control de la Cárcel de Pavón cerca de la capital. La prisión había sido tomada por los reos.
Guatemala	2010-actualidad	En Diciembre de 2010, el Presidente Álvaro Colom desplegó a los militares a Alta Verapaz para combatir el cartel mexicano que se había tomado el control de la zona. En 2011, declaró el estado de sitio en Petén después de que 29 inmigrantes fueran brutalmente asesinados en Los Cocos por miembro de los Zetas. El Presidente Otto Pérez Molina (elegido en Enero de 2012) envió 21,000 tropas a nueve estados a combatir las OCT. En octubre de 2012, en Totonicapán, durante una protesta sobre reformas educativas, algunos soldados dispararon contra una multitud de miles de protestantes en su mayoría indígenas, asesinando a 7 e hiriendo a 30.
Honduras	2002	El Presidente Ricardo Maduro autorizó la participación de 6,000 soldados en un patrullaje conjunto con la policía en una agresiva campaña anti pandillas llamada Libertad Azul.
Honduras	2006	El Presidente Manuel Zelaya desplegó 10,000 soldados por todo el país para proveer seguridad.
Honduras	2009-actualidad	Se enviaron militares a las calles para mantener el orden después del derrocamiento militar del presidente Zelaya. El presidente Porfirio Lobo Sosa continuó haciendo uso de los militares para proveer seguridad en regiones dominadas por las pandillas y combatir el crimen organizado en áreas violentas de Tegucigalpa y San Pedro de Sula. En Agosto de 2013, los militares ayudaron a retomar el control de la cárcel más grande del país en Tegucigalpa.
México	2006-actualidad	Los militares mexicanos han estado participando en operaciones internas de mantenimiento del orden y el estado de derecho desde mitad de la década de 1990. Sin embargo el uso de militares se ha incrementado significativamente en 2006 cuando el presidente Felipe Calderón desplegó miles de soldados e infantes de marina en una campaña masiva contra los carteles del narcotráfico. Un estimado de 85,000 personas han muerto desde que esta campaña liderada por los militares fue iniciada.
Venezuela	2013-actualidad	Se enviaron soldados a las ciudades venezolanas para combatir la ola de crimen que ha convertido a este país en el segundo más violento del mundo. En marzo de 2014, el gobierno envió a las fuerzas armadas a muchas ciudades para mantener el orden, de cara a numerosas protestas que había contra el gobierno de Maduro.

Notas

1. Los funcionarios del gobierno de los Estados Unidos actualmente caracterizan a las organizaciones de narcotráfico (DTO por su sigla en inglés de *drug trafficking organizations*) en México, como la mayor amenaza de crimen organizado para el país. Las DTO mexicanas “dominan la provisión y distribución al por mayor de la mayor parte de drogas ilícitas en Estados Unidos” y están presentes en más de mil ciudades norteamericanas. Fuente: “National Drug Threat Assessment 2011,” National Drug Intelligence Center, pág. 7. La “Declaration on Security in the Americas” en 2003, de la Organización de Estados Americanos (OEA) detalla muchas de las amenazas de los grupos de crimen organizado transnacional.
2. En su reconocido artículo “Etnicidad, Insurgencia y Guerra Civil”, de los politólogos James Fearon y David Laitin, concluyen que la mayor parte de los conflictos modernos no son el resultados de disputas étnicas o religiosas, diferencias políticas e ideológicas, ni reclamos económicos, sino la existencia misma de condiciones que favorecen la insurgencia, tales como gobiernos centrales débiles, corrupción, y territorios sin control estatal. James Fearon and David Laitin, “Ethnicity, Insurgency, and Civil War,” *American Political Science Review*, vol 97, no. 1, Febrero, 2003.
3. Doug Farah, “Transnational Organized Crime, Terrorism, and Criminalized States in Latin America: An Emerging Tier-One National Security Priority,” Strategic Studies Institute, Carlisle, PA, Agosto 2012.
4. “National Drug Threat Assessment 2011,” National Drug Intelligence Center. 2011.
5. Ana Arana, “How the Street Gangs took Central America,” *Foreign Policy*, May/June 2005; Ana Arana, “The New Battle for Central America,” *Foreign Policy*, Nov/Dec 2001; Federico Breve, “The Maras: A Menace to the Americas,” *Military Review*, 2007; 88-95.
6. En 2006 las organizaciones criminales de Brasil lanzaron ataques coordinados contra unidades policiales y desencadenaron revueltas en diferentes cárceles del país. Treinta personas, principalmente policías, murieron en medio de 55 ataques simultáneos. De acuerdo con un estudio del Centro de Investigación sobre la Violencia de la Universidad de Rio de Janeiro, en 2008 el Comando Vermelho controlaba el 38.8% de las áreas más violentas de la ciudad, frente a un 53% en 2005. Fuente: Gollo, Luiz Augusto. “Vigilante Groups in Brazil Trump Drug Gangs and Become Rio’s New Authority”. Brasil, Noviembre 11, 2009.
7. El general británico Rupert Smith es uno de los funcionarios oficiales contemporáneos en utilizar la frase “the new normal” y “guerra entre la gente” para describir los retos de combatir enemigos irregulares que operan entre la población civil. Ver Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (Londres: Penguin Books, 2006), 16-17.
8. De acuerdo con la doctrina militar norteamericana, “una estrategia militar de contra-insurgencia incluye acciones militares, paramilitares, políticas, económicas, psicológicas y cívicas, llevadas a cabo por un gobierno para derrotar la insurgencia”. Fuente: COIN Manual FM 3-24, 2006. Otras definiciones más amplias pueden ajustarse mejor a la lucha contra el crimen organizado en América Latina. Por ejemplo, David Kilcullen define la insurgencia como un “movimiento popular que busca cambiar el statu quo a través de la violencia y la subversión”. Fuente: *Contrainsurgencia* (Londres: Oxford University Press, 2010), 12.
9. Diversos académicos especializados en asuntos de seguridad en América Latina describen el crimen organizado como un tipo de insurgencia. Por ejemplo, el Dr. Max Manwaring del U.S. Army War College, afirma que las pandillas son una mutación de la insurgencia urbana, “debido a que buscan controlar el poder político para garantizar la libertad para ac-

tuar y para tener el ambiente comercial que ellas desean”. Ver Max G. Manwaring, “Street Gangs: The New Urban Insurgency,” Strategic Studies Institute, Marzo 2005. Link: <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub597.pdf>. Otro autor, Robert Killebrew, aduce que el crimen organizado en el continente Americano “ha dejado de ser un simple asunto de delincuencia, y se ha convertido en una amenaza que ha evolucionado hacia una forma de insurgencia criminal expandida y conectada a través de redes”. Killebrew y Bernal, “Crime Wars Gangs, Cartels and U.S. National Security” 2010 Link: http://www.cnas.org/files/documents/publications/CNAS_CrimeWars_KillebrewBernal.pdf.

10. La lista de funcionarios de alto rango en América Latina acusados de colaborar con grupos de crimen organizado es larga y distinguido. En 1989 el ministro del interior de Bolivia Arce Gómez fue arrestado y acusado por narcotráfico y sentenciado a 30 años de cárcel. En 1990 el presidente de Panamá Manuel Noriega fue acusado de narcotráfico. En 1994 el presidente colombiano Ernesto Samper fue acusado de recibir fondos de los carteles de la droga para su candidatura. En 1997, el zar antidroga, General Jesús Gutiérrez Rebollo, fue arrestado por narcotráfico y corrupción. En 2007, el Departamento del Tesoro de Estados Unidos acusó a tres altos funcionarios del gobierno venezolano (incluyendo al alto mando de inteligencia militar, al director de inteligencia y al ex ministro de interior y justicia) como cerebros y cómplices de tráfico de estupefacientes. En noviembre de 2008, el zar antidrogas mexicano Noé Ramírez fue acusado de aceptar sobornos de narcotraficantes. En 2010 el director de la Policía de Guatemala y el zar antidrogas fueron arrestados por coludir con organizaciones narcotraficantes. En 2011 el general Rene Sanabria, exdirector antidrogas de la policía de Bolivia fue sentenciado a 15 años de cárcel por intentar traficar 3000 libras de cocaína hacia Chile. El actual presidente de Surinam Desi Bouterse fue declarado in absentia en Países Bajos por tráfico de drogas; a pesar de este hecho, este fue reelegido en 2010.

11. Juan Forero, “Entrevista: Presidente de Guatemala Otto Pérez Molina,” *Washington Post*, Abril 10, 2012.

12. Moises Naim describe las naciones bajo el control del crimen organizados como “Estados mafiosos”. “Mafia States: Organized Crime Takes Office.” *Foreign Affairs*, Mayo/Junio 2012. Ver también Gary Hale, “A ‘Failed State’ in Mexico: Tamaulipas Declares Itself Ungovernable,” James A. Baker Institute for Public Policy, Rice University, 2011; y Julian Miglierini, “Tamaulipas: ‘Failed State’ in Mexico’s war on drugs.” *BBC News*, Abril 13, 2011.

13. Existen axiomas que generan sensibilidad en torno al significado de insurgencia. En septiembre de 2012, la secretaria de Estado de Estados Unidos Hillary Clinton comparó la lucha del gobierno mexicano contra las OCT, con el combate por parte del gobierno colombiano contra la insurgencia de las guerrillas de izquierda, en particular las FARC. Su analogía provocó una reacción del presidente Obama, quien al día siguiente declaró que la comparación no era acertada: Colombia enfrentaba una insurgencia política genuina en la cual los guerrilleros pretendían derrocar el gobierno central; por su parte los carteles mexicanos eran organizaciones criminales profesionales que buscaban la libertad de movimiento para su beneficio económico sin pretender tomarse el poder central.

14. David Luhnow, “Latin America is World’s Most Violent Region.” *Wall Street Journal*, abril 11, 2014.

15. Anahi Rama, “Honduras and Venezuela have the world’s highest murder rates: UN,” Reuters, Abril 10, 2014; Ver también Seguridad, Paz y Justicia. Las 50 ciudades más violentas del mundo, Ranking 2012. Disponible en línea en: <http://www.seguridadjusticiaypaz.org.mx>.

16. David Galula, *Counterinsurgency Warfare: Theory and Practice* (New York: Praeger,

2006), 74. En la doctrina militar norteamericana, el centro de gravedad se refiere a las “fuentes de poder de una fuerza militar que deriva su libertad de acción, su fortaleza física y su voluntad de lucha”. El centro de gravedad, la vulnerabilidad clave del enemigo que puede ser atacada y explotada, es donde las fuerzas de seguridad deberían enfocar sus capacidades y recursos. En consecuencia, identificar el centro de gravedad del enemigo y desarrollar los medios para derrotarlo es el camino más directo para la victoria. Fuente: Joint Publication 1-02, DOD Dictionary of Military and Associated Terms (Washington DC, U.S. Government Printing Office).

17. Rebecca Bill Chavez, “Integrating Human Rights and Public Security,” *Joint Force Quarterly* 64 (2), 2012; 67-73.

18. La competencia por el apoyo del público es tan importante para el enemigo como para las fuerzas de seguridad legítimas del gobierno. En Irak, la fuerzas armadas norteamericanas interceptaron en septiembre de 2005 un mensaje del segundo al mando de la organización terrorista Al Qaeda Ayman al-Zawahiri advirtiéndole al líder de esta organización en Irak, que sus tácticas indiscriminadas y violentas contra los musulmanes en Irak estaban generando el rechazo de la opinión pública contra Al Qaeda. Ver: Peter Bergen, “Ayman al-Zawahiri: How He Became Bin Laden’s No. 1.” *Time Magazine*, Abril 30, 2006.

19. La Convención de Ginebra se aplica al conflicto armado internacional (CAI) y al conflicto armado no-internacional (CANI). La mayoría de las OCT en América Latina no se clasifican dentro de ninguna de estas categorías. El conflicto en la medida que es transnacional, no es internacional (entre Estados). Asimismo las OCT no cumplen con los criterios para los CANI (en donde las fuerzas que se enfrentan son regulares, hay una fuerza militar organizada sujeta a un mando central en control y autoridad, con soberanía territorial, y que demuestra respeto por la ley de la guerra). Por lo tanto, los miembros de las OCT son perseguidos de acuerdo con la ley penal de los países donde operan. En todo caso, el DIH como la convención de Ginebra contiene reglas universales sobre el uso de la fuerza que debe ser aplicado a cualquier situación de combate. (por ejemplo tomando precauciones para que no se involucre a la situación civil durante la confrontación).

20. Información extraída del Manual de Derecho Operacional de EE.UU., producido por el Juez de la Fiscalía General de Charlottesville, VA.

21. Ver por ejemplo “Human Rights Watch Rips Mexico for Rights Abuses by Military.” *Latin American Herald Tribune*, Enero 24, 2012.

22. Para conocer dos análisis sobre los retos de las fuerzas policiales en América Latina ver: Stephen Johnson, Johanna Mendelson Forman, and Katherine Bliss, “Police Reform in Latin America: Implications for U.S. Policy,” Center for Strategic & International Studies (CSIS), Febrero 2012; and “Protect and Serve? The Status of Police Reform in Central America,” Washington Office on Latin America, 2009.

23. Numerosas encuestas del Latin American Public Opinion Poll (LAPOP, www.vanderbilt.edu/lapop/) indican que la mala conducta de la policía es considerada un problema crítico en muchas naciones de la región. Ver por ejemplo: “Police Abuse in Latin America” (LAPOP, 2009), “Police Misconduct and Democracy in Latin America” (LAPOP, 2010), “Trust in the National Police” (Americas Barometer, 2011).

24. Por ejemplo en Estados Unidos la doctrina Powell (denominada así por el director Colin Powell) se refiere a la estrategia militar de usar el máximo de poder destructivo para aniquilar al enemigo.

25. Donald Campbell y Kathleen Campbell, “Soldiers as Police Officers/Police Officers as Soldiers: Role Evolution and Revolution in the United States.” *Armed Forces and Society* 36(2), 339.

26. Definiciones de acto hostil e intención hostil han sido obtenidas del U.S. Operational

Law Handbook, producido por el U.S. Judge Advocate General's Legal Center en Charlottesville, Virginia. Las definiciones entre los dos términos pueden diferir en cada país de América Latina y el Caribe.

27. Muchos militares latinoamericanos llevan a cabo entrenamientos similares para unidades destinadas a realizar operaciones internacionales de mantenimiento de la paz (PKO).

28. El derecho inherente de la defensa propia es una doctrina de la Carta de las Naciones Unidas: "Nada en esta carta debería prevenir el derecho inherente de la defensa propia individual o colectiva bajo un ataque armado".

29. Dos incidentes recientes exponen ejemplos de respuestas adecuadas e incorrectas en este tipo de circunstancias: En julio de 2012 en Toribío, Colombia, una unidad militar fue asignada para proteger una estación de comunicaciones en una colina, pero fue confrontada por manifestantes de la etnia indígena Nasa. Armados solo con garrotes, los manifestantes rodearon la estación y solicitaron a los soldados colombianos abandonar el área. El oficial encargado de la instalación, enfrentando una decisión de disparar contra los manifestantes y causar una posible masacre, ordenó a sus hombres no hacer uso de la fuerza para repeler la protesta. Varios fotógrafos capturaron en imágenes y video el momento en que los manifestantes expulsaron a los soldados forzosamente de la instalación. Cuando estas imágenes se hicieron públicas, los soldados obtuvieron elogios por parte de la opinión pública por negarse a usar la fuerza y evitar el derrame de sangre. En otro ejemplo en el cual estas circunstancias fueron manejadas inadecuadamente, la policía y los militares de Guatemala enfrentaron una protesta de indígenas mayas, quienes bloqueaban las carreteras en Totonicapán en 4 octubre 4 de 2012. Los soldados guatemaltecos dispararon contra los manifestantes que solicitaban reformas educativas y por servicios básicos, dejando un saldo de ocho muertos y 30 heridos. El coronel que estaba al mando de esta operación y ocho soldados más fueron arrestados y procesados por la justicia. Ver: Randal Archibold, "Guatemala Shooting Raises Questions About Military's Expanded Role," *New York Times*, 20 Octubre 2012.

30. Quizá el ejemplo más convincente de la historia de los Estado Unidos es el incidente en Kent State, Ohio en mayo de 1970. La guardia nacional intentó sofocar una protesta estudiantil contra la expansión de la guerra de Vietnam hacia Camboya en el campus de la universidad. Los soldados afirmaron que oyeron disparos y por defender su vida, abrieron fuego contra estudiantes desarmados asesinando a cuatro e hiriendo a nueve. El incidente generó una ira nacional y fue catalizador para que la opinión pública se opusiera a la guerra en Vietnam y contra la administración de Nixon.

31. Pew Research Center, "Mexicans Back Military Campaign Against Cartels." Junio 20, 2012. <http://www.pewglobal.org/2012/06/20/mexicans-back-military-campaign-against-cartels/>.

32. Pew Research Center, "Crime and Drug Cartels Top Concerns in Mexico." Agosto 31, 2011. <http://www.pewglobal.org/files/2011/08/Pew-Global-Attitudes-Mexico-Report-FINAL-August-31-2011.pdf>. Otra referencia recomendada: Roderic Ai Camp, "Armed Forces and Drugs: Public Perceptions and Institutional Challenges," Washington DC: Woodrow Wilson International Center for Scholars, 2010; Archibold, Randal, "Mexican General is Charged in Killings and Abuses." *New York Times*, Febrero 1, 2012.

33. David Galula describió la contrainsurgencia como una "batalla por la población". *Counterinsurgency Warfare: Theory and Practice*, 1964.

34. El sociólogo Max Weber definió el Estado como "una entidad que reclama el monopolio del uso legítimo de la violencia". La política como vocación. Max Weber, *Politics as a Vocation* (New York: Oxford University Press, 1946).

35. David Galula, *Counterinsurgency Warfare: Theory and Practice*, 75-76. También cita-

do en el FM 3-24 Counterinsurgency Manual, 1-3. La legitimidad es el principal objetivo de la estrategia contrainsurgente. El término “legitimidad” aparece más de 130 veces en el manual anteriormente referido. Este concepto es tan esencial a la doctrina militar norteamericana que ha sido elevado al nivel de otros principios básicos de guerra, incluyendo la maniobra, la unidad de comando, y la sorpresa. Ver Joint Publication 3-0, Joint Operations. Para un excelente resumen sobre legitimidad durante operaciones militares ver: James W. Hammond, “Legitimacy and Military Operations.” *Military Review*, 2010; 68-79.

36. Thomas B. Nachbar, *The Rule of Law Handbook: A Practitioner’s Guide*, (Charlottesville, VA: Center for Law and Military Operations, 2008), 316.

37. Thomas B. Nachbar, “Defining the Rule of Law Problem,” *Green Bag*, primavera de 2009, 316.

38. Reconocemos que la experiencia de Estados Unidos en Irak es fundamentalmente diferente de las de muchos países latinoamericanos cuyas fuerzas militares han llevado a cabo operaciones para el mantenimiento del orden público dentro de sus propios países. La norteamericana era una fuerza de ocupación extranjera en un país extranjero que planteaba obstáculos lingüísticos, sociales y culturales durante un conflicto sectario. En contraste, las fuerzas militares latinoamericanas operan dentro de sus propios países, confrontando grupos de crimen organizado, donde se habla el mismo idioma y se comprenden las identidades sociales y culturales. Al mismo tiempo, existen numerosas similitudes entre la experiencia estadounidense y la de los militares latinoamericanos. Ambas fuerzas operan en contra de un enemigo extremadamente violento que comete atrocidades y genera terror, y el cual posee una fuerza irregular que no se puede distinguir entre los civiles. Ambas fuerzas están obligadas a operar en áreas con presencia mínima del Estado, están reemplazadas temporalmente a las fuerzas de seguridad locales hasta que estas puedan ser desarrolladas adecuadamente y son generalmente obligadas a operar en áreas altamente pobladas.

39. Ver por ejemplo Thomas Ricks, *Fiasco: The American Military Misadventure in Iraq* (New York: Penguin, 2006); Michael Gordon y Bernard Trainor, *Cobra II: The Inside Story of the Invasion and Occupation of Iraq* (New York: Vintage, 2007); James Fallow, “Blind into Baghdad,” *The Atlantic*, 01 Enero 2004; George Packer, *The Assassin’s Gate: America in Iraq* (New York: Farrar, Straus, and Giroux, 2005); Bob Woodward, *State of Denial: Bush at War, Part III* (New York: Simon and Schuster, 2006); Thomas Ricks, *The Gamble* (New York: Penguin, 2009).

40. El Cuerpo de Conteo de Irak, una página de internet dedicada al conteo de bajas durante la guerra, ha sido reconocida por su metodología, en la cual estima el número total de bajas civiles (no combatientes) alrededor de 120,000. Ver <https://www.iraqbodycount.org/>. Adicionalmente varios académicos han examinado la responsabilidad de Estados Unidos por la muerte de los civiles en Irak. El Dr. Colin Kahl, profesor de Georgetown University y consultor del Departamento de Defensa, junto con la comunidad de inteligencia, examinaron cuidadosamente este hecho. Kahl fue diputado asistente de la Secretaría de Defensa para Medio Oriente en el Pentágono desde febrero de 2009 a diciembre de 2011. En sus funciones, fue asesor senior de política para la secretaria de defensa para Egipto, Irán, Irak, Israel y los territorios Palestinos. En sus investigaciones concluyó que “la escala general de muertes civiles en Irak es una acusación al fracaso del gobierno de Estados Unidos de planear adecuadamente para las contingencias posteriores a la invasión, lo cual permitió la emergencia del caos desde el inicio de cambio de régimen”. Fuente: Colin Kahl, “In the Crossfire or the Crosshairs?” *International Security*, Vol. 32, no. 1, Verano 2007.

41. Los sunitas eran la minoría en el país pero retenían la mayor parte del poder político bajo el mandato de Saddam Hussein. Cuando fue derrocado la mayoría chiita rápidamente llenaron el vacío de poder que se generó. En muchos casos buscaron vengarse de los

funcionarios sunitas por la tiranía perpetrada durante tres décadas con Saddam Hussein. Los sunitas en respuesta, formaron una insurgencia contra el gobierno central. Los chiitas formaron a su vez milicias para protegerse de los ataques de la insurgencia. La situación se tornó en poco tiempo en una lucha sectaria. Sunitas representaban aproximadamente 20% de la población, los kurdos de 20%, y los chiitas para el 60% restante.

42. Según numerosas fuentes, Sánchez nunca desarrolló una estrategia coherente en su año al mando en Irak. Casey, por su parte, desarrolló una estrategia centrada en el enemigo, uno que se centra en matar o capturar insurgentes. Con respecto a su estrategia, Casey dijo: “Nuestra intención es mantener la presión sobre los insurgentes mientras nos dirigimos hacia las elecciones. No se trata de ganar corazones y mentes; no vamos a hacer eso aquí en Irak”. *The Economist*, “When Deadly Force Bumps into Hearts and Minds,” 29 December 2004.

43. La mayoría de soldados norteamericanos desplegados a Irak recibieron un entrenamiento en uno de estos centros: (1) National Training Center en Fort Irwin, California, (2) Marine Corps Air Ground Combat Center en Twentynine Palms, California, o (3) Joint Readiness Training Center en Fort Polk, Louisiana. En 2006 el General George Casey inauguró una academia COIN en Taji, Irak, Las fuerzas que ingresaban al país debían atender un entrenamiento de una semana para cubrir la comprensión básica de conceptos sobre contrainsurgencia incluyendo el respeto por los derechos humanos, la protección a la población y la consecución de inteligencia a través de contactos civiles.

44. Colin Kahl, “In the Crossfire or the Crosshairs?” *International Security*, vol 32, no. 1, Verano 2007, 20.

45. El número de ataques contra fuerzas norteamericanas y de la coalición se dispararon de un promedio de 200 por semana en enero de 2004 a 1200 semanales en julio de 2006.

46. Sean Rayment, “US Tactics in Iraq Condemned by Top British Officers,” *The Telegraph*, Abril 12 de 2004.

47. En marzo de 2005, fuerzas norteamericanas dispararon contra un vehículo que transportaba un general de la armada italiana quien llevaba consigo a un rehén recientemente liberado en el aeropuerto internacional de Irak. El General Mayor Nicola Calipari fue asesinado en el incidente. Los soldados norteamericanos declararon que el vehículo no acató las señales de tráfico a medida que se aproximaba al puesto de control. El automóvil recibió más de una docena de disparos de rifles automáticos. Las oficiales italianos reclamaron que los soldados estadounidenses usaron un exceso de fuerza. Este incidente generó un enredo internacional y dañó las relaciones italo-americanas.

48. Colin Kahl, “In the Crossfire or the Crosshairs?” *International Security*, vol 32, no. 1, Verano 2007, 9.” También ver *The Economist*, “When Deadly Force Bumps into Hearts and Minds,” 29 December 2004.

49. “More Attacks, Mounting Casualties,” *Washington Post*, 30 Sept 2007; Rick Atkinson. “Hubo una curva de aprendizaje de dos años... y mucha gente murió en ese lapso” *Washington Post*, Octubre, 2007. Ver también Iraq Index from Brookings Institution, Diciembre 2007.

50. Los militares Americanos fueron denigrados por la prensa por sus tácticas violentas. Neta Crawford del Boston Globe escribió “el tipo de guerra que Estados Unidos está luchando y las reglas para entablar combate producen atrocidades sistemáticas”. Fuente: Neta Crawford, “Democracy and Norms of War: Locating Moral Responsibility for Atrocity in Iraq,” redactado para la conferencia de 2006 de la American Political Science Association en Filadelfia. Seymour Hersh del New Yorker declaró que “Nunca había existido una Fuerza Armada tan violenta y sanguinaria como la que ha estado en Irak”. Fuente: Martin Lukacs, “There has never been an Army as Violent and Murderous as the one in

Iraq,” *McGill Daily*, October 2006. Ambos citados por Kahl, 2007, 4 y 5.

51. Human Rights Watch, “Off Target: The Conduct of the War and Civilian Casualties in Iraq (New York: Human Rights Watch, Diciembre 2003), 41-54. Ver también Nigel Aylwin-Foster, “Changing the Army for Counterinsurgency Operations,” *Military Review*, Oct-Nov 2005.

52. Alice Hills, “Fear and Loathing in Falluja,” *Armed Forces and Society*, Vol 32/no. 4, July 2006, 623-639.

53. “‘Simple Failures’ and ‘Disastrous Results’: Excerpts from Major General Eldon A. Bargewell’s Report,” *Washington Post*, Abril 2007, pag. A13. También ver James W. Hammond, “Legitimacy and Military Operations,” *Military Review*, 2010; 68-79.

54. Este sentimiento fue capturado por las fuerzas militares en su examen posterior sobre el ambiente de combate. En un análisis de 127 operaciones de pacificación en Irak entre mayo de 2003 y mayo de 2005, ha existido un fuerte enfoque a las operaciones de redadas, acordonamiento, barridos y búsqueda. Había una inclinación hacia las maniobras cinéticas de gran escala y el enfoque al asesinato de insurgentes, sin proteger a la población. Reportado en Nigel Aylwin-Foster, “Changing the Army for Counterinsurgency Operations,” *Military Review*, Oct-Nov 2005.

55. Military Health Advisory Team IV survey, 2007. Link: <http://armymedicine.mil/Documents/Redacted1-MHATV-OIF-4-FEB-2008Report.pdf>.

56. Military Health Advisory Team V Encuesta, Febrero 14 2008, 12.

57. Josh White, “69 Afghans’ Families Get a U.S. Apology,” *Washington Post*, Mayo 9, 2007.

58. Ambos eventos ocurrieron en Afganistán y no en Irak, pero son buenos ejemplos del tipo de reparaciones y rendición de cuentas que muchos miembros del servicio procuraron para ganar apoyo de la población. El segundo evento tuvo lugar en Afganistán después de una redada de las fuerzas especiales estadounidenses basadas en inteligencia errónea que resultó en la muerte de dos mujeres embarazadas. Mcraven no solo pidió disculpas públicas sino que ofreció una compensación en ganado por las pérdidas, un gesto común en las costumbres de la zona. Fuente: Nick Shifrin, “U.S. Vice Admiral Apologizes for Afghan Deaths,” *ABC News*, Abril 10 2010.

59. Iraq Index, Brookings Institution, diciembre 2007, 46.

60. Iraq Index, Brookings Institution, marzo 2006, 40.

61. Fred Kaplan, *The Insurgents* (New York: Simon and Schuster, 2013), 96. El general Casey intentó desarrollar una estrategia de contrainsurgencia a su llegada en Bagdad en Agosto de 2004. Sin embargo, enfrentó resistencias al interior de la institución en el Pentágono y con su falta de experiencia propia con el concepto. Un equipo de expertos fue finalmente convocado en febrero de 2006 para redactar el nuevo manual de contrainsurgencia (FM 3-24), el cual no fue publicado sino hasta diciembre de 2006.

62. Kaplan, 59.

63. Petraeus llegó a Irak en marzo de 2003 como comandante mayor general de la división 101st Airborne Division. Después de luchar en el sur de Bagdad, sus fuerzas fueron asignadas a Mosul y áreas adyacentes del norte de Irak. Fue muy reconocido por implementar uno de los mejores planes de contrainsurgencia en Irak entre 2003 y 2004. La revista Newsweek reportó que sobre su unidad que “no existía una fuerza que trabajara más para conquistar los corazones y mentes de los iraquíes, que la 101st Airborne Division liderada por Petraeus”, en un artículo acerca de él. Ver Brian Mosely, “Can This Man Save Iraq?” *Newsweek*, Junio 2004. Después de una segunda vez en Irak en 2004 fue seleccionado para suceder por el General George Casey como comandante general de las Fuerzas Multinacionales en Irak.

64. Josh White, Charles Lane y Julie Tate, "Homicide Charges Rare in Iraq War; Few Troops Tried for Killing Civilians," *Washington Post*, agosto 28, 2006. Ver también Iraq Index, Brookings Institution, Diciembre 2008.
65. Landon Lecture Series Remarks. Adm. Mike Mullen, Joint Chiefs Staff, Kansas State University, Marzo 2010. Mullen también agregó que el uso de la fuerza puede ser contraproducente si esta es usada imprudentemente. Recomendó a las tropas evitar el uso de la fuerza de manera excesiva, y solo de manera precisa y basada en principios". También reportada por Tom Shanker "Joint Chiefs Chairman Readjusts Principles on the Use of Force," *Washington Post*, Marzo 2010. Con esta nueva estrategia, Estados Unidos tomó numerosas precauciones para evitar que se causaran daños colaterales. Colina Kahl en su artículo lista muchas maneras en que Estados Unidos buscó evadir el daño durante la guerra de Irak, por ejemplo, en el caso en que planeadores de inteligencia identificaron 12.700 blancos que fueran protegidos de ser atacados. Esto incluyó colegios, hospitales, plantas de tratamiento de agua, plantas eléctricas y otro tipo de infraestructura. La lista diseñada para cumplir con la ley internacional humanitaria que prohíbe los ataques a este tipo de blancos, fue diseñada con la asistencia de ONG de derechos humanos, y actualizada ocasionalmente por juristas militares. Los militares también intentaron usar municiones de precisión guiadas cada vez que fuera posible. Las municiones que tuvieran un gran potencial explosivo eran demasiado riesgosas para ser usadas en concentraciones urbanas. Las municiones guiadas con menor perímetro de explosión ayudaron a reducir el daño colateral. De acuerdo con una fuente, 97% de las municiones usadas en Irak en 2007 y 2010 eran PGM mientras que en 2003 eran 68%. Colin Kahl, "In the Crossfire or the Crosshairs?" *International Security*, Vol. 32, no. 1, Verano 2007.
66. Joint Publications 3-0, Joint Operations, Agosto 11 2011.
67. Ann Scott Tyson, "General David McKiernan Ousted as Top U.S. Commander in Afghanistan," *Washington Post*, Mayo 12 2009.
68. ISAF Commander Counterinsurgency Guidance, http://www.nato.int/isaf/docu/official_texts/counterinsurgency_guidance.pdf. Ver también McChrystal's Frank Talk on Afghanistan, Septiembre 24, 2009. CBS entrevista de 60 minutos. También reportado en Kaplan, 325-326.
69. Kaplan, 252.
70. Peter W. Chiarelli and Patrick R. Michaelis, "Winning the Peace: The Requirement for Full-Spectrum Operations." *Military Review*, Julio – agosto 2005, 4-17. El ex secretario de defensa Robert Gates describió estas condiciones en los siguientes términos: "El éxito militar no es suficiente para ganar. El desarrollo económico, la construcción de instituciones y el Estado de derecho, la promoción de la reconciliación interna, el buen gobierno, la provisión de servicios básicos." Source: Robert Gates, Landon Lecture at the Kansas State University, November 26, 2007.
71. El general Krulak concebía la idea una guerra de tres bloques durante su cargo entre 1995 y 1999. Se basaba en sus observaciones sobre Somalia y otras operaciones. Consideraba que el futuro campo de batalla sería urbano y asimétrico, con condiciones cambiantes y dificultad para distinguir entre combatientes y no combatientes. Charles Krulak, "The Strategic Corporal: Leadership in the Three Block War," *Marines Magazine*, January 1999. También ver Walter Dorn y Michael Varey, "The Rise and Demise of the 'Three Block War,'" *Canadian Military Journal*, Vol 10, no 1, 2009, 38-45.
72. La investigación militar sobre la masacre de My Lai en Vietnam identificó nueve factores que contribuyeron en el incidente: falta de entrenamiento adecuado, actitudes hacia los vietnamitas, actitud permisiva, factores psicológicos, problemas organizacionales, naturaleza del enemigo, planes y órdenes, actitud de los funcionarios del gobierno, y liderazgo.

Otra investigación militar determinó que las “tropas americanas no comprendían de lleno la Convención de Ginebra”. W R. Peers, *The My Lai Inquiry* (New York and London: W. W. Norton and Company, 1979), 3. Ver también Robert Rielly, “The Inclination for War Crimes,” *Military Review*, 2010, 52-58.

73. Una falta de liderazgo fue definida como la principal causa del incidente de My Lai en Vientam en Marzo de 1968, cuando cerca de 350 civiles vietnamitas fueron masacrados por soldados norteamericanos durante las operaciones llevadas a cabo en el sur de Vietnam.

74. Estas condiciones –como el deseo militar de la flexibilidad en el uso de la fuerza y la imposición de limitaciones frente a los civiles– pueden crear fricciones entre los militares y los civiles. Por ejemplo en la primera batalla de Fallujah, Irak en abril de 2004, los marines rodearon esta ciudad que resguardaba a insurgente sunitas. No obstante, solo después de tres días los líderes civiles dieron la orden de detener las operaciones. El general James Conway dio una reprimenda a los líderes civiles por solicitar un ataque tanto agresivo y después ordenando que se suspendiera. Seis meses después en noviembre de 2004, Estados Unidos lanzó una segunda batalla en Fallujah, esta vez con 10,000 tropas. Rajiv Chandrasekaran, “Key General Criticizes April Attack in Fallujah,” *Washington Post*, septiembre 2004, A17. Ver también Robert Jay Lifton, “Haditha: In an ‘Atrocity-Producing Situation’ – Who is to Blame?” *Editor and Publisher*, junio 14, 2006. Varios reportes indican el esfuerzo que los marines hacían para evitar bajas de civiles. Kahl, fn 80.

75. Douglas Pryer, “At What Cost, Intelligence?,” *Military Review*, 2010, 100; Mark Sappenfield, “Can the Military Effectively Investigate Itself?” *Christian Science Monitor*, junio 2006. También ver Josh White, Charles Lane y Julie Tate, “Homicide Charges Rare in Iraq War; Few Troops Tried for Killing Civilians,” *Washington Post*, Agosto 28, 2006.

76. Christopher Barnes, “Moral Disengagements: When Will Good Soldiers Do Bad Things?” *Military Review*, 2010, 46-51; Robert Rielly, “The Inclination for War Crimes,” *Military Review*, 2010, 52-58.

77. Christopher Barnes and Keith Leavitt, “Moral Disengagement: When Good Soldiers do Bad Things,” *Military Review*, 2010, 46-51.

78. Mark Ungar, *Policing Democracy: Overcoming Obstacles to Citizen Security in Latin America*, (Washington, DC and Baltimore: Woodrow Wilson Center Press and Johns Hopkins University Press, 2012). En Irak en marzo de 2007, soldados estadounidenses capturaron cuatro iraquíes durante una operación. Frustrados con los procedimientos legales que frecuentemente resultaban en la liberación de los sospechosos, los soldados condujeron a los hombres a un área alejada, los ejecutaron y arrojaron sus cuerpos por un canal. Durante la investigación que se realizó de este caso, uno de los altos mandos justificó sus acciones quejándose de las debilidades legales y las insuficiencias de la justicia que muchas veces resultan en que el sospechoso sea liberado: Christopher Barnes and Keith Leavitt, “Moral Disengagement: When Good Soldiers do Bad Things.” *Military Review*, 2010, 49.

79. “Explaining Support for Vigilante Justice in Mexico,” Latin American Public Opinion Poll (LAPOP, www.vanderbilt.edu/lapop/), 2010.

80. Incluso el Alto comisionado de Derechos Humanos de Naciones Unidas reconoce que estas puedan ser acciones necesarias. “Entiendo que en situaciones extraordinarias, deben tomarse decisiones difíciles –como el uso de los militares en funciones de orden público. Pero estas medidas excepcionales deben mantenerse verdaderas a su naturaleza –extraordinarias y limitadas en el tiempo–. Y deben ser llevadas a cabo bajo la supervisión civil y dentro de los límites de los principios y estándares de los derechos humanos”. Navi Pillay, UN High Commissioner for Human Rights, Conferencia en Mexico DF, 2011. Link: “UN human rights chief voices concern over high level of violence in Mexico,” UN News Center, Link <http://www.un.org/apps/news/story.asp?NewsID=38990&Cr=Mexico&Cr1#>.

U0MKAbEpBdg.

81. Existen parámetros en el uso de la fuerza producidos por organizaciones internacionales. Por ejemplo en 1990 Naciones Unidas publicó “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”. En 1998 Amnistía Internacional publicó Ten Basic Human Rights Standards for Law Enforcement Officials. En 2004 Naciones Unidas publicó los Estándares y Práctica sobre DDHH para la Policía. El Comité Internacional de la Cruz Roja publicó: “Servir y Proteger”, un extenso resumen de las consideraciones de derechos humanos para la policía y las fuerzas de seguridad. El documento está disponible en la página web del CICR. Ver la página de United Nations Office for the High Commissioner of Human Rights para una excelente guía de buenas prácticas y normas.

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The Rise of China in the Americas

R. Evan Ellis

Abstract

This article examines the expansion of economic, political, and military activities by the People's Republic of China in Latin America and the Caribbean. It examines how the presence is transforming the region, including the reformulation of the agenda of its leaders, businessmen, and publics, changes to its physical infrastructure, new patterns of trans-Pacific organized crime, fuel to extend the life of populist regimes, and impacts on how member countries relate to each other. It also analyzes how the new presence of China impacts U.S. interests in the region and globally, and how China both complements, and at times competes with, other external actors in the region, such as Russia, Iran, and India.

Introduction

The exponential expansion of Chinese trade, business, political, and military presence in the Americas since the beginning of the millennium is arguably one of the factors that has most transformed, and continues to transform, the economic and political environment of the hemisphere.

Prior to the admission of the People's Republic of China (PRC) into the World Trade Organization in 2001, Chinese commercial interactions with Latin America and the Caribbean were minimal, albeit growing rapidly. During that period, PRC relationships with countries of the region were relatively low-level, centering on matters such as persuading countries that diplomatically recognized the Republic of China (ROC) to change their position, and building friendships around the theme of developing world solidarity and the non-aligned movement.

The inflection point for the Chinese relationship with the region was arguably the 2001 PRC admission into the World Trade Organization, followed by the official promulgation of the "Go Out" strategy, as part of the 10th 5-Year plan of the Chinese Communist Party in 2002. WTO admission allowed Chinese companies to more effectively exploit the country's labor cost advantage in order to export to the region, as well as to developed nation markets such as the United States, Canada, and Europe. The "Go Out" strategy gave Chinese companies the political blessing to build the relationships with overseas markets and sources of supply required by China's export-oriented growth strategy.

In the decade following these two events, PRC trade with the region expanded almost ten-fold, from \$29 billion in 2003 to \$270 billion in 2012.¹ Initially, the relationship was confined almost entirely to trade, with Chinese companies importing a limited number of primary products from the region, and Latin America

importing a broad array of Chinese manufactured products. Concurrent with this expanding commerce, however, PRC-based companies were growing and gaining experience and sophistication, businessmen on both sides of the Pacific were building relationships, and governments were constructing the legal and financial infrastructures that would permit a dramatic expansion in Chinese companies operating in the region. The Economic Committee for Latin America and the Caribbean estimates that Chinese non-financial foreign direct investment in Latin America between 1990 and the end of 2012 was \$38.5 billion, of which \$32.2 billion was made after 2009.²

The new wave of Chinese investment in the region dates from approximately 2009 and is concentrated in four sectors, each with its own logic and dynamics: (1) petroleum, metals, minerals, and other primary products, (2) construction, (3) manufacturing, and (4) select services including telecommunications, banking, and logistics.³

In mining and petroleum, Chinese companies began a wave of acquisitions in 2009, giving them access to proven oilfields and mineral deposits, then later started to bring in their own engineering and petroleum service companies to develop the territories acquired. With time, those companies have also begun to compete for the rights to invest in less developed fields (with greater risk but bigger potential payoffs), including the successful 2013 bid by the Chinese oil companies CNPC and CNOOC for the Libra block in Brazil.⁴

In construction, starting in approximately 2009, Chinese companies significantly expanded their presence in Latin America and the Caribbean, from building a modest number of stadiums, clinics, and road given as gifts for governments who diplomatically recognized the PRC, to much larger projects such as hydroelectric facilities, paid for by loans from Chinese banks. More recently, Chinese companies have begun building resorts in the Caribbean, including Baha Mar and Blackwood Pointe in the Bahamas, collectively worth almost \$10 billion, as well as Bachelot Bay in Grenada.

In manufacturing, Chinese electronics, motorcycle, auto, and heavy equipment companies have begun to invest in final assembly facilities in the region, in conjunction with local partners. Motivations include avoidance of import taxes, better serving local markets like Brazil, and exporting to nearby markets like the U.S.⁵

In services, Chinese telecommunication companies such as Huawei and ZTE have rapidly built a presence in Latin America, both selling their telephones and other equipment, and building third and fourth generation communication infrastructures for both government and private sector providers. In recent years, they have also begun to establish footholds in the smaller telecommunications markets of the Caribbean, and in Central America, including in countries that do not recognize the PRC.

In banking, PRC-based institutions have moved from partnerships and representational offices in support of Chinese partners, to branch banking on Latin American soil. Significant advances in this area include the November 2012 acquisition of Argentina's Standard Bank by ICBC, and the 2013 proposed acquisi-

tion of Brazil's BicBanco by China Construction Bank.

While the expanding Chinese presence described in the preceding paragraphs has fueled an array of journalistic and scholarly analyses, the focus of such works has generally been economic, including broad accounts of what was transpiring,⁶ analyses of the character and impacts of Chinese trade with the region,⁷ and book-length compiled volumes of country-specific studies.⁸ In contrast to these works, the focus of the present article is to build upon the descriptive works and economic analyses that have preceded it, to examine how the new Chinese engagement is impacting the strategic environment of the region.

Impact on the Latin American and Caribbean Security Environment

The expanding commercial activities of the PRC in Latin America and the Caribbean are transforming the political and social dynamics of the region in multiple ways, including:

- The Orientation of Latin American Political and Business Leaders and Publics
- The Socioeconomic Dynamics Within Latin America States
- Patterns of Commerce and Human Interaction
- The Orientation of Armed Forces in the Region
- U.S. Leverage in Areas such as Trade, Democracy, and Human Rights
- The Economic Viability of Political Blocks Hostile to the U.S.
- The Orientation of Latin American States toward Each Other
- Ideological Cleavages in the Region
- Trans-Pacific Organized Crime

Orientation of Latin American Political and Business Leaders and Publics

The emergence of the PRC as an important market and source of loans and investment has captured the attention of political and business elites across Latin America and the Caribbean, and has driven them to invest time and resources to capture a portion of such benefits. Such efforts include regular trips to the PRC by Latin American officials and business delegations, greater attention to Asia by government trade promotion organizations and private business federations, and the building of new business partnerships in the region. Former Costa Rican president Oscar Arias felt so strongly about the importance of the PRC to the future of his country that he conducted a year of secret diplomacy to change Costa Rica's diplomatic position to recognize the PRC.⁹ For governments such as those of the Bolivarian Alliance for the Americas (ALBA),¹⁰ the PRC is seen as a political as well as an economic alternative to the West, with former Venezuelan leader Hugo Chávez traveling to the PRC six times during his fourteen years in office, and

Bolivian President Evo Morales proclaiming his admiration for Chinese revolutionary leader Mao Zedong.¹¹ At the popular level, China has also given rise to a flowering of interest among Latin American students to study the country, how to do business there, and Chinese languages and culture.

In general terms, the influence of the PRC is reflected in the result of a 2012 region-wide attitudinal survey in which the average respondent perceived China to have “some influence” in their country, with 63 percent viewing that influence as “positive” or “very positive.”¹²

Socioeconomic Dynamics of Latin America States

Over the past decade, competition with Chinese exports has significantly affected the manufacturing sectors of Latin America and the Caribbean, with manufacturing as a percentage of GDP falling from 16.5 percent in 2001 to 13.5 percent in 2012.¹³ At the same time, exports to the PRC and associated rises in commodity prices have increased the importance of sectors such as oil, mining, timber, and agriculture with the contribution of mining alone in the region increasing 50 percent from 4.1 percent of GDP in 2001 to 6.1 percent of GDP in 2012.¹⁴

As noted previously, Chinese companies are gradually establishing themselves as relevant domestic actors throughout the region, operating oilfields, mines, manufacturing and retail facilities, building transportation, power, and telecommunications infrastructure, performing branch banking and running logistics facilities and shipping lines in the region.

While the PRC arguably has not yet applied its growing “soft power”¹⁵ in a manner commensurate with the increasing economic weight and physical presence of Chinese companies in the region,¹⁶ its impact on the socioeconomic dynamics of Latin American states can be felt in the new social and political issues that presence has spawned, including conflicts between Chinese companies and regional labor forces and subcontractors,¹⁷ relations with local communities,¹⁸ environmentalists and indigenous groups,¹⁹ and commercial competitors,²⁰ and security challenges Chinese companies confront.²¹

Patterns of Commerce and Human Interaction

Engagement with China is transforming the physical infrastructure of Latin America and the Caribbean, including projects funded by Chinese banks and done by Chinese companies, as well as others inspired by the new trade with the PRC. In the process, patterns of commerce and human interactions in the region are also changing, with strategic implications.

From the ports of Manzanillo and Lazaro Cardenas in Mexico, to Valparaiso and Concepcion in Chile, the region’s Pacific Coast ports are being expanded and modernized, while improved roads and new rail lines are being built to connect that infrastructure to the interior and Atlantic coast of the continent. Important projects include the “Bi-Oceanic” corridors being improved to connect the north, central and south coasts of Peru to the Brazilian Amazon, the “Trans-Oceanic” corridor linking the interior of Brazil through Bolivia to ports on the northern coast of Chile, and the “Manta-Manaus” corridor from the Pacific coast

of Ecuador, through Peru to Brazil. Other key projects driven in part by the region's growing commerce with the Pacific include the \$5.2 billion expansion and modernization of the Panama Canal, the possible construction of a second canal through Nicaragua, and potential "dry canal" road and rail links proposed through Honduras, Guatemala, and Colombia.

The new commerce with the PRC and Asia is also a driving factor for facilities not located on the Pacific coast, including "La Paloma," a new deepwater port in Uruguay that contemplates an associated rail link to Brazil to support agricultural exports and the container trade between the Atlantic-facing countries of the southern cone and the PRC.²² Another example is the possible construction of a major container port at Goat Island, Jamaica, to support the larger ships that will be coming through the Panama Canal from the Pacific once the canal widening project is complete.

Beyond their commercial significance, such new infrastructure also impacts the region in other ways. New corridors across the continent bring both licit and illicit commerce to previously isolated parts of the interior, in the process creating new opportunities for narcotraffickers, illegal loggers, miners, and smugglers, and fomenting conflict between the new settlers and previously isolated communities and indigenous groups.

The new transport infrastructure described in the previous paragraphs is also driving new poles of development, attracting people from the countryside and less vibrant urban areas to the new poles of trans-Pacific trade, in search of economic opportunity. In the process, the growing port cities will arguably become more important politically as generators of tax revenue and enablers of national and regional commerce, even as they also generate new requirements for port and urban security.

Orientation of Armed Forces in the Region

In a gradual, non-threatening, yet profoundly important way, regional militaries are diversifying their foreign relationships to include professional military education and tactical level training from the PLA, and in some cases, arms and equipment from Chinese vendors.

Chinese companies such as the China North Industries Corporation (NORINCO), China Electronics Technology Corporation (CETC), Aviation Industry Corporation of China (AVIC), and Poly Technologies have expanded arms sales to Latin America and the Caribbean, moving from gifts of non-lethal goods such as clothing, trucks, and busses, to fighter and transport aircraft and radar platforms, while also diversifying sales of major equipment from ALBA nations from Venezuela, to other ALBA nations, to the hemisphere more broadly.²³ Such companies have also displayed increased sophistication in marketing their products in the region, establishing a presence at military shows in the region such as LAAD (Brazil), SitDef (Peru), and Fidae (Chile),²⁴ legally contesting adverse bid decisions,²⁵ and using offsets to win work.²⁶

In the arena of professional military education and training, virtually every Latin American and Caribbean country that diplomatically recognizes the PRC

sends officers to the strategic-level “Defense Studies Institute” in Champing, while some also send officers to People’s Liberation Army (PLA) Army and Navy command schools near Nanjing and special forces training facilities in Shiji-azhuang, among other sites.²⁷ In recent years, the PLA has also brought military officers and other professionals from the region to the PRC for technical training in areas such as flight school, equipment maintenance, space operations, and electronic warfare,²⁸ while reciprocally sending PLA soldiers to Latin America for tactical training in at facilities such as Tolomaida Air Base in Colombia.²⁹ While the numbers of personnel involved in such interchanges is modest, their impact has arguably been heightened by the 2012–2013 crisis in the U.S. over the approval of the federal budget, which forced intermittent reductions in and suspension of U.S. defense engagement programs.

With respect to military presence in the region, the Chinese have begun to evolve from conducting limited deployments in a multilateral context (contributing military police to the MINUSTAH peacekeeping force in Haiti from 2004 through 2012), to bilateral humanitarian engagements such as the November 2010 Angel de Paz medical exercise in Peru and the December 2011 trip by the Chinese medical ship “Peace Ark” to the Caribbean, to more combat-oriented engagements, such as the joint training activities conducted with Chilean and Brazilian naval forces during the visit by a PLA naval flotilla to the Southern Cone in November 2013.³⁰

U.S. Leverage in Areas such as Trade, Democracy, and Human Rights

U.S. efforts to advance free trade, democracy, and human rights in Latin America and the Caribbean³¹ has historically been aided by the position of the U.S. as the principal export market for the region, and Western companies and institutions as the principal source of its foreign loans and investments. The dramatic expansion of PRC trade with, loans to, and investment in the region in the past decade has changed that, and in the process, has arguably decreased the leverage of the U.S. government in advancing its policy agenda. Although the \$814.5 billion in U.S. trade recorded with Latin America and the Caribbean in 2012 is still more than three times the region’s \$270.8 billion trade with China,³² the PRC has surpassed the U.S. in many individual countries in terms of bilateral trade volume, including Brazil, Chile, Peru, Uruguay, and Panama, and is the second or third largest partner for most of the rest. In finance, from 2005–2012 alone, China lent \$87 billion to the region, more than the Inter-American Development Bank, World Bank, and U.S. Export-Import Bank combined.³³

Indications of diminishing U.S. influence can be seen the reduced role of U.S.-led institutions such as the Organization of American States in resolving important regional issues such as political succession in Honduras and Paraguay, the weakened ability of Washington to advance its position in key regional forums such as the Summit of the Americas,³⁴ and the proliferation of new sub-regional institutions with explicitly exclude the U.S. such as UNASUR and CELAC.

While U.S. influence also depends on people in Latin America and the Caribbean who agree with the goals of U.S. initiatives and the values behind them,

the “example” of Chinese economic success has undercut U.S. arguments that Western-style democracy and free markets are the best routes to development and prosperity.

The Economic Viability of Political Blocs Hostile to the U.S.

The majority of Chinese loans and a significant portion of PRC investments in Latin America and the Caribbean have gone to the countries of ALBA, making it financially easier for those governments to pursue courses of action independent from the U.S., western companies, and financial institutions including the International Monetary Fund and the Inter-American Development Bank.

In Venezuela, the PRC has provided \$40 billion in loans, plus more than \$40 billion in investment commitments.³⁵ Making the link between Chinese financing and the survival of the Venezuelan “socialist” regime even stronger, a portion of the loans were used to purchase large numbers of home appliances that were sold at discounted prices to the poor (the government’s core support base) during the run-up to 2012 national elections.³⁶

Like Venezuela, Ecuador has received more than \$9 billion in loan commitments from the PRC, supporting hydroelectric and petroleum projects and funding fiscal deficits,³⁷ while China National Petroleum Corporation (CNPC) has played a key role in funding the \$10 billion “Refinery of the Pacific.”³⁸ With respect to the political impact of such commitments, the PRC disbursed \$1.4 billion in loans to the country in February 2013, the month of its national presidential election.³⁹

In Bolivia, the Chinese are building and financing almost \$2 billion in infrastructure projects, including the \$1.4 billion Multiple Rositas hydroelectric facility,⁴⁰ several hundred million dollars in railroad and highway work,⁴¹ and smaller projects such as paper plants,⁴² plus have offered to loan up to \$15 billion to help the country exploit the El Mutún iron deposit previously worked by the Indian company Jindal.⁴³

In Nicaragua, despite the absence of diplomatic relations with the PRC, Chinese banks are the most likely candidates to finance a new \$40–\$80 billion canal being proposed by the Hong Kong–based billionaire Wang Jing.⁴⁴

Orientation of Latin American and Caribbean States toward Each Other

The growing importance of trade with the PRC and other Asian countries to the economy of the region is impacting the relationship of states with their neighbors. In the decade from 2003 until 2012, for example, the portion of Latin America and Caribbean trade going to the PRC quadrupled from 3 percent to 12 percent.⁴⁵

For states on the Atlantic side of South America, including Brazil, Uruguay, and Argentina, the increase in trade shipped across the Pacific has made infrastructure projects beyond their borders matters of national interest, including the expansion of the Panama Canal, and Uruguay’s planned construction of the new deepwater port “La Paloma.”⁴⁶ Similarly, the growing trans-Pacific trade has increased the value of Pacific Coast ports such as Iquique, Ilo, and Callao (and the quality of their governance), to Atlantic-facing neighbors and landlocked states such as Bolivia and Paraguay.

At the “top” of South America, contemplated pipeline and rail links to the Pacific coast of Colombia arguably give Venezuela’s government an interest in both improved relations with its neighbor, as well as a solution to Colombia’s guerilla problem (factors which, to date, have prevented collaboration between the two nations on infrastructure projects.)

In a similar fashion, growing trade between the PRC and Central America has increased the stakes of the long-standing dispute between Honduras, El Salvador, and Nicaragua over the maritime border between the three countries in the Gulf of Fonseca. For the government of Honduras, a contemplated port on Tigre Island would be the nation’s only direct access to the Pacific, and would be the Pacific hub for a road and rail connection across Central America that it has discussed with Chinese companies.⁴⁷

In the Caribbean, the new commerce with Asia has contributed to competing initiatives to build the new deepwater ports that will serve as the distribution hubs for the commerce passing through the newly widened Panama Canal. As of January 2014, one project was going forward to develop the port of Mariel in Cuba, while another was being discussed for Goat Island, Jamaica.⁴⁸ With respect to the impact on regional relations, the potential value of Mariel as a hub serving the east coast of the United States is an incentive for normalized U.S.-Cuban relations, not only for the Cuban government, but also for Brazil, which is financing and building the port.⁴⁹

Beyond considerations arising from trade, growing commerce with the PRC has even impacted the relationship between Guyana and Suriname. A portion of the Chinese immigrants arriving in Suriname in recent years have subsequently migrated to Guyana where they are causing political tension in the country by displacing the traditionally dominant indo-Guyanese merchants in Georgetown.⁵⁰

Ideological Cleavages in the Region

As a byproduct of the previously mentioned commercial activities, engagement with the PRC is fueling thus far friendly, but important ideological divisions in the region. The question of how to do business with China and other nations of Asia has become one of the most important differences among governments in the Americas, with a group of countries including the ALBA bloc relating to the PRC principally through a state-to-state framework, with others, including members of and candidates for the “Pacific Alliance” (Mexico, Colombia, Peru, Chile, Panama, and Costa Rica), focusing a private sector–led model that emphasizes free and competitive markets, efficient institutions, transparent rules and transactions, and a strong framework of law protecting contracts and intellectual property.⁵¹ While the difference is more about economics than politics, it is likely to play an important role in shaping the emerging regime governing the participation of Latin America and the Caribbean in the economy of the Pacific.

Trans-Pacific Organized Crime

With the expansion of trans-Pacific commerce, criminal activity between the PRC

and Latin America and the Caribbean is also growing.⁵² Although there are no reliable statistics on the amount of Chinese-made products that enter Latin America and the Caribbean as contraband goods, a comparison between China's reported exports to the region and the region's reported imports from China suggests the extent of the problem. In 2012, the PRC reported sending \$33 billion more in goods to Latin America and the Caribbean than its countries collectively reported receiving—22 percent of total PRC-Latin America trade for that year.⁵³

Trans-Pacific criminal ties are also appearing in the informal mining sector in areas such as Michoacán (Mexico) and Madre de Dios (Peru), with all parts of the process from extraction of ore and its sale to local buyers to the consolidation of cargoes and their dispatch from Pacific Coast ports to Chinese buyers taxed—if not managed by—criminal groups.⁵⁴

With the expanding flows of goods, a trans-Pacific narcotics trade is also emerging, with Chinese and Indian companies becoming important suppliers of precursor chemicals to illegal synthetic drug laboratories in Mexico and Central America.⁵⁵ Conversely, states such as Colombia, Bolivia, and Peru are shipping cocaine and possibly other narcotics to the emerging Chinese market through ports such as Hong Kong.⁵⁶

Human trafficking from the PRC through Latin America and the Caribbean is also growing. Key routes are believed to involve Mexican ports such as Puerto Vallarta in Jalisco, Manzanillo in Colima, and Coyacan in Mazatlán, as well as the entry of Chinese migrants in South American countries such as Colombia, Ecuador, and Peru (who then transit overland through Central America and Mexico, where their passage may require the Chinese groups that smuggle them, such as Red Dragon,⁵⁷ to collaborate with or pay Latin American criminal groups through which they must pass.)⁵⁸ The trafficking of Chinese also involves the Caribbean, with the widely perceived but unexplained growth of Chinese communities in the principal cities of Guyana, Suriname, the Dominican Republic, and Trinidad and Tobago in recent years.⁵⁹ Increased commerce, including the importation of Chinese workers for construction projects in countries of the Caribbean is believed to facilitate such movements.

Finally, with the increased flow of goods and expanded banking ties between the PRC the region, opportunities for money laundering involving Chinese companies and institutions have also multiplied.

Authorities in Latin America and the Caribbean are arguably poorly equipped to combat emerging trans-Pacific criminal ties, with few persons who can interrogate suspects and witnesses in Mandarin Chinese, let alone in Cantonese or Hakka. They also have few agents of an ethnic composition appropriate for penetrating Chinese communities, and lack technical contacts in the PRC to pursue leads regarding the persons, groups, and companies with whom they are dealing.

Impacts on the United States and the U.S. Response

Chinese engagement with Latin America and the Caribbean adversely impacts the U.S. strategic position in the region in multiple (albeit indirect, and probably unintentional) ways.

First, as argued previously, the “example” of China as a country that apparently has prospered with limited political freedom and a state-led, predatory orientation toward capitalism, undercuts U.S. attempts to advance Western-style democracy and free market capitalism in the region. U.S. leverage in pursuing its policy objectives in the region is further undercut by the availability of the PRC as an alternative export market, source of loans, and investment undercuts.

Second, U.S. security is arguably affected by Chinese financing, investment in, and trade with regimes seeking independence from Western systems of criminal and contractual accountability, such as has occurred, to varying degrees, with the ALBA countries. To the extent that such regimes, sustained by Chinese money, become havens for organized crime and terrorist groups, the ability of the U.S. to combat threats from its southern approaches is undercut.

Third, Chinese commercial activities in the region, however benign currently, expand options for PRC planners to use against the U.S. should hostilities emerge between the two nations in the future. Latin American dependence on commodity sales to the PRC, credit from Chinese banks, and the increasing importance of Chinese companies as employers and sources of tax income for the region’s governments, are each sources of leverage through which the PRC could persuade the dependent countries to deny the U.S. access to bases, resources, intelligence, or political support. In a time of war, the PRC could induce Chinese owners of facilities in Latin America to allow their use to collect intelligence, serve as a base for Chinese agents, or even to shut down or otherwise operate in a way that would disrupt the U.S. economy or its ability to project and support forces being sent to Asia. As an example, Chinese-built telecommunications infrastructures, telephones, and data devices could be used for data collection and against commercial and government targets in the region, while port facilities operated by Chinese companies in countries such as Panama and Mexico could be shut down, and in a later stage of the conflict, made available to the PLA Navy.

While the dynamics and possibilities presented in this section may concern U.S. policymakers, attempts to limit engagements by the governments of Latin America and the Caribbean with the PRC would arguably be both ineffective and counterproductive, offending regional partners by seeming to impinge upon their sovereignty.⁶⁰

Even prior to the declaration by Secretary of State John Kerry, the U.S. response to expanding Chinese activities in the hemisphere has been relatively restrained. Both the Democratic administration of Barak Obama and his Republican predecessor George Bush avoided characterizing those activities as a threat.⁶¹ In recent years, the tone has become increasingly positive, including a discussion by then Assistant Secretary of State for the Western Hemisphere Arturo Valenzuela on the possibility for cooperation between the PRC and the U.S. in Latin America,⁶² and characterization of Chinese engagement in the region by his successor, Roberta Jacobson as “absolutely and definitely a good thing.”⁶³

Conclusions and Theoretical Implications

This article’s analysis of Chinese activities in Latin America and the Caribbean

provides a number of new insights into traditional theories of Latin American studies, international relations and international political economy.

The evolution of the physical infrastructure and sociopolitical dynamics of the region in response to the PRC suggests that patterns of human, political and social interaction in the region are subject to change as a function of extra-Hemispheric factors. Indeed, the emerging split among Latin American countries regarding how to engage with China suggests that the primacy of the United States as the region's principal point of reference may be diminishing.⁶⁴

The impact of China on the region's decision makers, businessmen, and publics noted in this article also suggests that "soft power" is not always determined by shared culture, political values, or the moral authority of a country's policies,⁶⁵ but may also stem from expectations of a country's future importance, as well as hopes for loans, investment, and access to a country's markets.⁶⁶

With respect to theories of political economy, Chinese economic engagement with Latin America suggests that a "resource export—finished products import" trade pattern is not unique to the relationship between developing and developed states.⁶⁷ It also suggests that trade between two developing nations can advance the development of one of the parties much more than the other.

With respect to international relations, the relatively benign U.S. response to Chinese activities in the region highlights a nuance in power transition theory,⁶⁸ suggesting that the dominant state's desire to maintain a good relationship with other states, in the context of international norms such as sovereignty, may prevent it from challenging the expanding power of an emerging competitor. On the other hand, the efforts of the Obama Administration to prevent Chinese inroads in Latin America from degenerating into hostility with the U.S. are a contemporary test of theories of realism⁶⁹ in the context of globalization. It remains to be seen whether it is possible to speak of "appeasement" where the advances of a rival do not principally involve military power, and whether associated concepts such as the balance-of-power apply in the context of complex interdependence.

Notes

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1. Data reported from Western Hemisphere countries was used, rather than that reported by the PRC. Data for 2012 was taken from *Direction of Trade Statistics Quarterly*, Washington DC: International Monetary Fund, 2013, 23. Data for 2002 was taken from *Direction of Trade Statistics Yearbook 2009*, Washington DC: International Monetary Fund, 2009, 28.

2. China–Latin America Cross-Council Task Force, Chinese Foreign Direct Investment in Latin America and the Caribbean, Working Document, United Nations Economic Commission on Latin America and the Caribbean (ECLAC), November 2013, available at

<http://www.eclac.org/cgi-bin/getProd.asp?xml=%20/publicaciones/xml/1/51551/P51551.xml&xsl=/tpl-i/p9f.xsl%20&base=/tpl-i/top-bottom.xslt>

3. A good overview of the major projects is found in Ben Laidler, Qu Hongbin, Todd Duvivant, Simon Francis, Thomas Hilboldt, and Andre Loes, *South-South Special*, HSBC, November 2013.

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5. Chinese companies that have established manufacturing operations in the region include Chery, Haier, Gree, Jialing, Jincheng, XCMG, and Sany, among others.

6. See, for example, Kerry Dumbaugh and Mark P. Sullivan, "China's Growing Interest in Latin America, Congressional Research Service," Library of Congress, RS22119, 2005. See also Florencia Jubany and Daniel Poon, "Recent Chinese Engagement in Latin America," Canadian Foundation for the Americas, 2006. See also R. Evan Ellis, *China and Latin America: The Whats and Wherefores* (Boulder, CO: Lynne Rienner Publishers, 2009).

7. See Jorge Blázquez-Lidoy, Javier Rodríguez, and Javier Santiso, *Angel or Devil? Chinese Trade Impacts on Latin America*, Paris: OECD Development Center, 2006. See also Robert Devlin, Antoni Estevadeordal, and Andrés Rodríguez-Clare, *The Emergence of China: Opportunities and Challenges for Latin America and the Caribbean* (Cambridge, MA: Harvard University Press, 2006). See also *China and Latin America: Economic Relations in the 21st Century*, Rhys Jenkins and Enrique Dussel Peters, eds. (Bonn, Germany: German Development Institute, 2009). See also Kevin Gallagher and Roberto Porzecanski, "China Matters: China's Economic Impact in Latin America," *Latin American Research Review*, 43, no. 1, 2008, 185-200. See also Kevin Gallagher and Roberto Porzecanski, *The Dragon in the Room* (Stanford: Stanford University Press, 2010). See also Gastón Fornés and Alan Butt Philip, *The China-Latin America Axis: Emerging Markets and the Future of Globalisation* (London: Palgrave Macmillan, 2012).

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9. See R. Evan Ellis, *China in Latin America: The Whats and Wherefores* (Boulder, CO: Lynne Rienner Publishers, 2009).

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15. See Joseph S. Nye Jr., *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, 1990). See also Joseph S. Nye Jr., *Soft Power: The Means to Success in World Politics* (New York: Public Affairs, 2004).
16. See R. Evan Ellis, "The United States and China in Latin America: Cooperation and Competition," *Security and Defense Studies Review*, vol. 12, no. 1 & 2, Fall–Winter 2011, 37–44. See also R. Evan Ellis, *The Strategic Dimension of China's Engagement with Latin America*, (Washington, DC: William J. Perry Center for Hemispheric Defense Studies, October 2013).
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57. There is some dispute whether “Red Dragon” is actually the name of a single group, or an umbrella reference for multiple Chinese groups smuggling persons.

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59. Based on conversations by the author with security and defense officials in these countries.

60. Indeed, U.S. Secretary of State John Kerry appeared to rule out such an approach when, in a November 2013 speech to the Organization of American States, he declared that the administration was officially abandoning the “Monroe Doctrine,” implying that it would no longer seek to act as a guardian against the activities of foreign powers in the Hemisphere. See John Kerry, “Remarks on U.S. Policy in the Western Hemisphere,” Organization of American States, Washington DC, November 18, 2013.

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65. Joseph S. Nye Jr., "What China and Russia Don't Get About Soft Power," *Foreign Policy*. April 29, 2013. See also Nye, *Bound to Lead: The Changing Nature of American Power*. See also Nye, *Soft Power: The Means to Success in World Politics*.

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NORTHCOM and SOUTHCOM Posture Statements to the U.S. Congress

As part of the commands' annual posture statements to Congress, General John Kelly of SOUTHCOM and General Charles Jacoby, Jr. of NORTHCOM presented their goals and concerns in testimony before the House and Senate Armed Service Committees on February 26, 2014 and March 13, 2014, respectively. The Perry Center, as one of the Hemisphere's premier venues for security and defense education and outreach, plays a pivotal role in carrying out both NORTHCOM and SOUTHCOM's priorities throughout the year. The following summaries of Gen. Kelly's and Gen. Jacoby's 2014 posture statements provide insight into the key concerns and objectives for the Western Hemisphere regional commands over the course of the year.

Posture Statement of General John F. Kelly, USMC, SOUTHCOM Commander

Distinguished Members of the [House Armed Services] Committee: I appreciate the opportunity to appear before you today to discuss U.S. Southern Command's efforts in Central America, South America, and the Caribbean. Even our significantly reduced engagement continues to yield dividends in a region of increasing importance to our national interests. While other global concerns dominate the headlines, we should not lose sight of either the challenges or opportunities closer to home. In terms of geographic proximity, trade, culture, immigration, and the environment, no other part of the world has greater impact on daily life in our country than Latin America and the Caribbean.

During my first year in command, I established four priorities for U.S. Southern Command—continuing humane and dignified detention operations at Joint Task Force Guantanamo, countering transnational organized crime, building partner capacity, and planning for contingencies. I thank the Congress for recognizing U.S. Southern Command's vital role in defending our southern approaches and building enduring partnerships with the Americas. I remain concerned, however, by the impact of budget cuts on our ability to support national security interests and contribute to regional security.

Over the next ten years, the Services are reducing deployments of personnel, ships, and aircraft in the context of tightening fiscal constraints. As an economy of force Combatant Command, these reductions have a disproportionately large impact on our operations, exercises, and engagement activities. Insufficient maritime surface vessels and intelligence, surveillance, and reconnaissance platforms impair our primary mission to detect threats and defend the southern approaches to the U.S. homeland. Similarly, reductions in force allocation severely limit our security cooperation activities, the primary way we engage with and influence the

region. Sequestration only exacerbated these challenges, and while its near-term effects may have been mitigated, this reprieve is temporary. As the lowest priority Geographic Combatant Command, U.S. Southern Command will likely receive little, if any, “trickle down” of restored funding. Ultimately, the cumulative impact of our reduced engagement will be measured in terms of U.S. influence, leadership, and relationships in the Western Hemisphere. Severe budget constraints have serious implications for all three, at a time in which regional security issues warrant greater attention.

Overview of Regional Security Issues

Transnational Organized Crime. Transnational organized crime is a national security concern for three primary reasons. First, the spread of criminal networks is having a corrosive effect on the integrity of democratic institutions and the stability of several of our partner nations. Transnational criminal organizations threaten citizen security, undermine basic human rights, cripple rule of law through corruption, erode good governance, and hinder economic development.¹ Second, illicit trafficking poses a direct threat to our nation’s public health, safety, and border security. Criminal elements make use of the multitude of illicit pathways in our hemisphere to smuggle drugs, contraband, and even humans directly into the United States. Illegal drugs are an epidemic in our country, wasting lives and fueling violence between rival gangs in most of our nation’s cities. The third concern is a potential one, and highlights the vulnerability to our homeland rather than an imminent threat: that terrorist organizations could seek to leverage those same smuggling routes to move operatives with intent to cause grave harm to our citizens or even quite easily bring weapons of mass destruction into the United States. I would like to briefly talk about each concern in greater detail to underscore the magnitude of the threat posed by transnational organized crime.

Destabilizing Effects in the Region. The unprecedented expansion of criminal networks and violent gangs is impacting citizen security and stability in the region. Skyrocketing criminal violence exacerbates existing challenges like weak governance; as a United Nations report recently noted, despite improvements, Latin America remains the most unequal and insecure region in the world.² In some countries, homicides are approaching crisis levels. High levels of violence are driving Central American citizens to seek refuge in other countries, including the United States. Driven by economic pressures and rising criminal violence, the number of Hondurans, Guatemalans, and Salvadorans attempting to cross the U.S. Southwest border increased 60 percent in 2013.³

This challenge, however, extends far beyond a threat to public safety; some areas of Central America are under the direct influence of drug trafficking organizations. These groups use their illegally gained wealth to buy off border agents, judges, police officers, and even entire villages. This criminal power and the enormous flow of crime-generated profits are serious threats to the stability of democratic institutions, rule of law, and the international financial system. Corruption also poses an indirect threat to U.S. national security interests, as corrupt

government officials in the region can be bribed to procure official documents such as visas or citizenship papers and facilitate travel of special interest aliens. In my view, this vulnerability could be exploited by any number of actors seeking to do us harm.

Illicit Trafficking to the United States. The U.S. Southern Command area of responsibility is the distribution hub for drug trafficking destined for the United States. The majority of heroin sold in the United States comes from either Colombia or Mexico, and we are seeing a significant increase in heroin-related overdoses and deaths in our country.⁴ Additionally, opium poppy production now appears to be increasing in Guatemala. Thousands of tons of precursor chemicals are trafficked into our hemisphere from China, aiding Mexican-based drug cartels that are extending production of U.S.-bound methamphetamine into Guatemala, Nicaragua, and potentially other Central American countries. With an estimated \$84 billion in annual global sales,⁵ cocaine trafficking remains the most profitable activity for criminal networks operating in the region, as the Andean Ridge is the source of every single ounce of cocaine consumed on the planet. Upon landfall in Central America, bulk cocaine is broken down into multiple smaller shipments for transit into Mexico and the United States, making large interdictions at the U.S. border extremely difficult, despite the heroic efforts of local law enforcement, U.S. Customs and Border Protection, and Immigrations and Customs Enforcement. If bulk shipments are not interdicted before making landfall, there is almost no stopping the majority of this cocaine as it moves through Central America and Mexico and eventually lands on street corners across America, placing significant strain on our nation's health care and criminal justice systems and costing American taxpayers an estimated \$193 billion in 2007 alone, the most recent year for which data is available.⁶

Cocaine trafficking remains the predominant security challenge throughout the entire region, and I am growing increasingly concerned by the situation in the Caribbean. Due in part to counterdrug asset reductions, some old routes appear to be reviving, including ones that lead directly into Florida. According to U.S. Customs and Border Protection, there was a 483% increase in cocaine washing up on Florida's shores in 2013 compared to 2012. In 2013, U.S.-bound cocaine flow through the Caribbean corridor increased to 14% of the overall estimated flow; this number is likely higher and will continue to grow, but we lack a clear picture of cocaine flow due to asset shortfalls. The discovery of cocaine processing lab equipment in the Dominican Republic suggests criminal organizations may be seeking to broaden production in the Caribbean. This may be an indication of an emerging trend, similar to what we saw in Central America in 2012. Additionally, the Caribbean is particularly vulnerable to the violence and insecurity that often comes with illicit trafficking and organized crime. As trafficking from the Dominican Republic into Puerto Rico has increased, so too have violence, crime, and corruption. Once cocaine successfully reaches Puerto Rico, it has reached the U.S. homeland; most of the cocaine arriving in Puerto Rico is successfully transported into the continental United States. According to the DEA, traffickers

are also transporting Colombian heroin, often via Venezuela, to Puerto Rico for onward shipment to Miami, New York, and Houston.

Gone are the days of the “cocaine cowboys.” Instead, we and our partners are confronted with cocaine corporations that have franchises all over the world, including 1,200 American cities,⁷ as well as criminal enterprises like the violent transnational gang Mara Salvatrucha, or MS-13, that specialize in extortion and human trafficking. The FBI has warned that MS-13 has a significant presence in California, North Carolina, New York, and northern Virginia, and is expanding into new areas of the United States, including Indian reservations in South Dakota.

Additionally, migrant smuggling organizations are increasingly active in the Caribbean, as new laws in Cuba and erroneous perceptions in Haiti of changes in U.S. immigration policy have led to increased migration flows. Smuggling networks are expanding in the Eastern Caribbean, as Cubans and Haitians attempt to reach the United States via Puerto Rico or the U.S. Virgin Islands. These networks are opportunistic and easily expand into other illicit activities, such as the drug trade, special interest alien smuggling, and human trafficking, including exploiting vulnerable migrants by subjecting them to forced labor, a form of modern-day slavery. In 2012, the International Labor Organization estimated that 20.9 million people are victims of forced labor worldwide.⁸ Foreign nationals are trafficked for sex and labor, as well as for commercial sex acts, into the United States from many countries around the world, including Central America, South America, and the Caribbean.⁹

It has been many years since U.S. Southern Command supported a response to a mass migration event, but I am concerned by the trends we are seeing, especially in Haiti, where we have witnessed a 44-fold increase in Haitian migrants in the Mona Passage. As of February 2013, more than 2,000 Haitians had been documented trying to use this narrow passage as a migration vector, compared to less than 200 in the past eight years combined. Smuggling operations have a high human toll; rough seas endanger the lives of rescuers and migrants and have resulted in the death of more than 50 Haitians to date. Thankfully, the Dominican Republic is an important partner in stemming migration flows, and they are working hard to reach a solution on the issue of the roughly 200,000 Haitians residing in the Dominican Republic. However, additional increases in migration would place additional burdens on already over-stretched U.S. Coast Guard and Dominican Republic assets. Absent resource adjustments, stemming these smuggling operations and preventing future loss-of-life will pose major challenges to the United States and our Caribbean partners.

Crime-Terror Convergence. Clearly, criminal networks can move just about anything on these smuggling pipelines. My concern, Mr. Chairman, is that many of these pipelines lead directly into the United States, representing a potential vulnerability that could be exploited by terrorist groups seeking to do us harm. Supporters and sympathizers of Lebanese Hezbollah are involved in both licit and illicit activities in the region, including drug trafficking. Additionally, money, like drugs and people, has become mobile; it is easier to move than ever before, and

the vast global illicit economy benefits both criminal and terrorist networks alike. Clan-based, Lebanese Hezbollah-associated criminal networks exploit free trade zones and permissive areas in places like Venezuela, and the Argentina, Brazil, and Paraguay Tri-Border to engage in money laundering and other illegal endeavors, as well as recruitment and radicalization efforts. The exact amount of profits generated by these illicit activities in the region is unclear, but it is likely—and at least—in the tens of millions of dollars.

External Actors: Iran and Islamic Extremist Groups. Lebanese Hezbollah has long considered the region a potential attack venue against Israeli and other Western targets, and I remain concerned that the group maintains an operational presence there. Lebanese Hezbollah's partner and sponsor, Iran, has sought closer ties with regional governments, largely to circumvent sanctions and counter U.S. influence. As a state-sponsor of terrorism, Iran's involvement in the Western Hemisphere is a matter for concern. Additionally, members, supporters, and adherents of Islamic extremist groups are present in Latin America. Islamic extremists visit the region to proselytize, recruit, establish business venues to generate funds, and expand their radical networks. Some Muslim communities in the Caribbean and South America are exhibiting increasingly extremist ideology and activities, mostly as a result from ideologues' activities and external influence from the Middle East, Africa, and South Asia. Mr. Chairman, we take all these activities seriously, and we and our partners remain vigilant against an evolution in capability of any group with the intent to attack the United States, our interests, or our allies. I remain concerned, however, that U.S. Southern Command's limited intelligence assets may prevent full awareness of the activities of Iranian and terrorist support networks in the region.

Other External Actors. Mr. Chairman, there has been a great deal of attention on the increased regional influence of so-called "external actors" such as China and Russia. Ultimately, we should remember that engagement is not a zero-sum game. Russia and China's expanding relationships are not necessarily at our expense. However, if we want to maintain our partnerships in this hemisphere and maintain even minimal influence, we must remain engaged with this hemisphere. Budget cuts are having a direct and detrimental effect on our security cooperation activities, the principal way we engage and promote defense cooperation in the region. The cumulative effect of our reduced engagement is a relative but accelerated decline of trust in our reliability and commitment to the region. Our relationships, our leadership, and our influence in the Western Hemisphere are paying the price.

Russia continues to build on its existing strategic partnerships in Latin America, pursuing an increased regional presence through arm sales, counterdrug cooperation, and bilateral trade agreements. Last year marked a noticeable uptick in Russian power projection and security force personnel in the region. It has been over three decades since we last saw this type of high-profile Russian military presence: a visit by a Russian Navy Interfleet Surface Action Group to Cuba, Nicaragua, and Venezuela, and the deployment of two Russian long-range strategic

bombers to Venezuela and Nicaragua as part of a training exercise.

As part of its long-term strategy for the region, China is also expanding relationships in Latin America, especially in the Caribbean. In contrast to the Russians, Chinese engagement is focused primarily on economics, but it uses all elements of national power to achieve its goals. Major investments include potentially \$40 billion to construct an alternative to the Panama Canal in Nicaragua and \$3 billion to Costa Rica and Caribbean nations for myriad infrastructure and social development projects. China is the single biggest source of financing to Venezuela and Ecuador, due to China's thirst for natural resources and contracts for Chinese state-owned companies. Chinese companies hold notable investments in at least five major ports and are major vendors of telecommunications services to 18 nations in the region. In the defense realm, Chinese technology companies are partnering with Venezuela, Brazil, and Bolivia to launch imagery and communications satellites, and China is gradually increasing its military outreach, offering educational exchanges with many regional militaries. In 2013, the Chinese Navy conducted a goodwill visit in Brazil, Chile, and Argentina and conducted its first-ever naval exercise with the Argentine Navy.

I am often asked if I view engagement by these “external actors” as a direct threat to the United States. Generally speaking, I see potential for greater partnership with China in areas such as humanitarian assistance and disaster response. However, I would like to see the Chinese place greater emphasis on respecting human rights—like we do—as part of their overall engagement efforts in the region. The U.S. government continues to encourage China to address shared security challenges in a positive way, such as taking concrete steps to address the massive illicit trafficking of counterfeit pharmaceuticals and precursor chemicals used for methamphetamine and heroin production in Central America and Mexico. While Russian counterdrug cooperation could potentially contribute to regional security, the sudden increase in its military outreach merits closer attention, as Russia's motives are unclear. Given its history, the region is sensitive to any appearance of increased militarization, which is why it is important that Russia and China promote their defense cooperation in a responsible, transparent manner that helps maintain hemispheric stability and hard-won democratic gains.

Command Priorities

The U.S. military plays an integral role in a whole-of-government approach to address many of these regional security issues. To advance the President's vision and the Department of Defense's policy for the Americas in a resource-constrained environment, U.S. Southern Command focuses our efforts on four priorities. We can accomplish quite a lot with relatively modest investment, but continued budget limitations imperil our ability to build on this progress.

Priority: Detention Operations. I want to speak for a moment about the most important people at Guantanamo: the outstanding men and women that are part of the Joint Task Force at Guantanamo Bay. First, I want to make clear—we who wear the uniform are responsible for one thing at Joint Task Force Guantanamo:

detention operations, a mission of enormous complexity and sensitivity. We do not make policy; we follow the orders of the President and Secretary of Defense with the utmost professionalism and integrity.

I have never been prouder of any troops under my command than I am of the young military professionals who stand duty day and night at Guantanamo, serving under a microscope of public scrutiny in one of the toughest and most unforgiving military missions on the planet. These young men and women are charged with caring for detainees that can often be defiant and violent. Our guard and medical forces endure constant insults, taunts, physical assaults, and splashing of bodily fluids by detainees intent on eliciting a reaction.

And in response, each and every military member at Guantanamo exhibits professionalism, patience, and restraint. This is the story that never gets written: that our service members treat every detainee—even the most disruptive and violent among them—with respect, humanity, and dignity, in accordance with all applicable international and U.S. law. Our troops take very seriously their responsibility to provide for the detainees' safe and humane care. In my opinion, this story is worth telling, because our country needs to understand that the young Americans sent by the President and the Congress to do this mission are exceptional; they live and work by an unbreakable code of honor and courage and are among the best one percent of their generation.

I am responsible not just for the welfare of my troops, but also for the welfare of every detainee under my care at Joint Task Force Guantanamo. Over the past year, we implemented improvements to enhance the well-being of the detainees. To adequately address the complex medical issues of the aging detainee population, we expanded and emphasized detailed reporting within our comprehensive system to monitor the health, nutrition, and wellness of every detainee. Last year, some detainees went on self-proclaimed "hunger strikes," although many of these detainees continued to consume meals—maintaining or even gaining weight throughout the "strike"—and were at no medical risk. As you know, we have transitioned away from publicly releasing tallies of such hunger strike claims, which in our experience had served to encourage detainee non-compliance and had left the public with a very distorted picture of the overall health of the detainee population.

We continue to support ongoing military commissions, habeas corpus proceedings, periodic review boards, and visits by Congressional and foreign government delegations and non-governmental organizations like the International Committee of the Red Cross. We have taken steps to reduce costs and expenses wherever possible, while continuing to maintain the level of humane care that makes Joint Task Force Guantanamo a model for detention operations worldwide. We reduced the cost of the program supporting the detainee library by 45 percent, and reduced contract requirements and expenses in the Intelligence and Security Program, saving an estimated \$6.1 million per year. We also worked with the International Committee of the Red Cross to provide expanded Skype capability to improve detainees' regular communication with family members, at no cost to U.S. taxpayers.

Concerns. Although detention operations have not been adversely affected by budget cuts, I remain concerned by two issues at Guantanamo: advanced medical care and deteriorating infrastructure. Although Naval Station Guantanamo and detainee hospitals are capable of providing adequate care for most detainee conditions, we lack certain specialty medical capabilities necessary to treat potentially complex emergencies and various chronic diseases. In the event a detainee is in need of emergency medical treatment that exceeds on-island capacity, I cannot evacuate him to the United States, as I would a service member.

As a former commander once remarked, we have not been doing detention operations at Guantanamo for twelve years, we have been doing them for one year, twelve times. The expeditionary infrastructure put in place was intended to be temporary, and numerous facilities are showing signs of deterioration and require frequent repair. First and most urgently, some facilities are critical to ensuring the safety and welfare of our troops stationed at Joint Task Force Guantanamo and for the continued humane treatment and health of the detainees. For example, the mess hall—a temporary structure built in the 1990s to support mass migration operations—is at significant risk of structural failure and is corroding after eleven years of continuous use, with holes in the roof and structural support beams. This facility must provide food services to all detainees and over 2,000 assigned personnel on a daily basis. As another example, the High Value Detention Facility is increasingly unsustainable due to drainage and foundation issues. Additionally, I am concerned over inadequate housing for our troops. This housing has other long-term requirements even after detention operations at Guantanamo end; it will be utilized by Naval Station Guantanamo to support a full range of Title 10 missions and nationally-directed contingency requirements for disaster response or mass migration. I am working within the Office of the Secretary of Defense to find solutions to these ongoing facility issues.

Priority: Countering Transnational Organized Crime (CTOC). In response to the challenges posed by the spread of transnational organized crime, U.S. Southern Command is working with our interagency partners to counter the threats posed by criminal networks and illicit trafficking, focusing on those networks that threaten citizen safety in the region and the security of the United States. Mr. Chairman, our contribution to this effort is relatively small but important, and comes with real sacrifice. In 2013, the crash of a counternarcotics flight in Colombia led to the tragic death of Air Force Master Sergeant Martin Gonzales, two other dedicated American contractors, and a Panamanian officer, and the serious injury of the two pilots, highlighting the true human cost of this fight. The individuals who died will be remembered for their service and their commitment to fighting drug trafficking and criminal networks whose products are killing so many of our countrymen and women every year.

Support to CTOC Efforts in Central America. Last year, we redirected our focus to Central American security institutions involved in appropriate defense missions like border and maritime security. This refinement capitalizes on minimal Department of Defense resources, while also being sensitive to perceptions

of militarization of the region. We are prioritizing our support to interagency counter-threat finance efforts and expanding our focus on converging threats, including illicit trafficking via commercial shipping containers, which could be exploited to move weapons of mass destruction into the United States. By supporting the targeting of key illicit financial nodes and commercial linkages, we aim to help degrade the capacities of both criminal and terrorist groups.

Now entering its third year, Operation Martillo continues to demonstrate commitment by the United States, our partner nations and European allies to counter the spread of transnational criminal organizations and protect citizens in Central America from the violence, harm, and exploitation wrought by criminal networks. However, force allocation cuts by the services are taking their toll on operational results; in 2013, Operation Martillo disrupted 132 metric tons of cocaine, compared with 152 metric tons of cocaine in 2012, due to limited assets.

On a positive note, the operation has led to improved interoperability and increased partner nation contributions. Our partners helped prevent 66 metric tons of cocaine from reaching the United States last year; 50 percent of Joint Interagency Task Force South's successes would not have occurred without the participation of partner nations. Limited and declining Department of Defense assets will influence the next phase of the operation, as Operation Martillo's original objectives may no longer be achievable. In the year ahead, we will seek to employ non-traditional solutions, within our current authorities, to partially mitigate detection and monitoring shortfalls. However, lack of assets will continue to constrain the operation's full effectiveness, and has the potential to be perceived as lack of political will on the part of the U.S. government to continue this fight.

Interagency Partnerships. Our CTOC efforts focus on providing support to our law enforcement partners. U.S. Southern Command has 34 representatives from 15 different federal agencies assigned and embedded in our headquarters staff. These partnerships ensure a whole of government approach to both operations and capacity building efforts. To mitigate asset shortfalls, we rely heavily on the U.S. Coast Guard and Customs and Border Protection, which now provide the bulk of the ships and aircraft available to disrupt drugs bound for the United States. The heroic men and women of DEA's Foreign Deployed Advisory and Support Team (FAST) provide critical support to partner nation interdiction operations, and we are fortunate to have nine DEA Special Investigative Units working to improve regional law enforcement capacity. In my view, DEA is a known, essential partner, and their focus on building the investigative and intelligence capacities of vetted law enforcement units complements our own efforts to professionalize regional defense and security forces.

In late 2013, U.S. Southern Command and the Treasury Department created a Counter-Threat Finance Branch, an analytical unit that will map illicit networks, combat the financial underpinnings of national security threats in the region, and support the development of targeted financial measures and U.S. law enforcement actions. As one example, we provided analytic support to the Treasury Department's financial sanctions against Los Cachiros in Honduras. We also work with

Immigration and Customs Enforcement to aggressively target criminal networks that traffic in special interest aliens and contraband throughout the region. Additionally, U.S. Southern Command and the FBI expanded their analytic partnership to include the FBI's International Operations and Criminal Investigative Divisions. This enhanced partnership helps both agencies further develop partner nation capacity in countering transnational organized crime. We also partnered with the Department of Homeland Security to provide network analysis in support of Operation CITADEL, which targeted the movements of illicit proceeds in Central America. In Colombia, we are working with the Joint Improvised Explosive Device Defeat Organization to assist our Colombian partners in countering the threat of improvised explosive devices (IEDs) used by terrorist groups like the FARC. Finally, we are also coordinating with the Department of State's Bureaus of International Narcotics and Law Enforcement and Western Hemisphere Affairs to explore the possibility of providing logistical support to regional law enforcement operations.

Impact of Budget Cuts—CTOC. Severe budget constraints are significantly degrading our ability defend the southern approaches to the United States. Sequestration merely compounds the ongoing challenge of limited and declining U.S. government maritime and air assets required for detection, monitoring, and “end-game” interdiction missions. Irrespective of sequestration cuts, we face a sharp downturn in availability of large surface assets such as U.S. Navy frigates and U.S. Coast Guard High Endurance Cutters, which face decommissioning or are approaching the end of their expected lifespan. The eighth and final U.S. Coast Guard National Security Cutter, which will be delivered in the next few years, will be a critical asset to U.S. government efforts to protect our southern approaches.

The impact of diminishing asset allocation will continue to impede our mission even if sequestration is reversed; our operational effectiveness is directly proportional to the number of assets we can put against detection, monitoring, and interdiction operations. In 2013, Joint Interagency Task Force South was unable to take action on 74% of actionable illicit trafficking events due to lack of assets. When better resourced several years ago, we were able to disrupt a significant amount—more than 240 metric tons—of cocaine heading towards the United States. Last year, 20 more metric tons of cocaine reached the United States due to reduced asset availability, a number that will increase inversely as the availability of U.S. government assets decreases.

Other Issues. Additionally, I remain concerned over the planned construction of wind farm sites in North Carolina that will interfere with our Relocatable Over-The-Horizon Radar (ROTHR) radar system in Virginia. I am also concerned over wind projects in Texas that will impact ROTHR systems in that state. These wind farms could and likely will adversely impact our ROTHR systems, the only persistent wide-area surveillance radars capable of tracking illicit aircraft in Latin America and the Caribbean. We are working within the Department of Defense and with developers and stakeholders to develop potential mitigation solutions, but I have little confidence we will succeed.

Priority: Building Partner Capacity. Having strong partners is the cornerstone of U.S. Southern Command's engagement strategy and is essential for our national security. Capable and effective partners respect human rights, share in the costs and responsibilities of ensuring regional security, and help us detect, deter, and interdict threats before they reach the U.S. homeland. Our persistent human rights engagement also helps encourage defense cooperation, trust, and confidence, which cannot be surged when a crisis hits, and cannot be achieved through episodic deployments or chance contacts. Trust must be built, nurtured, and sustained through regular contact.

Engagement with Colombia. Our partner Colombia has paid the ultimate price in terms of their blood and national treasure to bring the FARC—who have been serial human rights violators for decades—to the negotiating table. The Colombians have fought heroically for a peaceful, democratic Colombia, which will be a powerful symbol of hope and prosperity, but it is far too soon to declare victory. It is absolutely imperative we remain engaged as one of our strongest allies works to consolidate its hard-won success. To that end, U.S. Southern Command is providing advice and assistance to the Colombian military's transformation efforts, as it works to improve interoperability and transition to an appropriate role in post-conflict Colombia. With Colombia increasingly taking on the role of security exporter, we are facilitating the deployment of Colombian-led training teams and subject matter experts and attendance of Central American personnel to law enforcement and military academies in Colombia as part of the U.S.-Colombia Action Plan on Regional Security Cooperation. This is a clear example of a sizeable return on our relatively modest investment and sustained engagement.

Engagement in South America. In Peru, U.S. Southern Command and the DEA are working together to support Peru's ongoing efforts against the Shining Path, which are beginning to yield significant operational successes. An investment of 6 U.S. personnel, who trained combat medical instructors from Peru and El Salvador, resulted in the training of over 2,000 members of the Peruvian and Salvadoran military, including Salvadoran soldiers destined for stability operations in Afghanistan, Lebanon, and Haiti. We are working with Chile on capacity-building efforts in Central America and exploring possible future engagements in the Pacific. In Brazil, broader bilateral challenges have affected our defense relations. Our military-to-military cooperation at the operational and tactical levels, however, remains strong, and we are committed to supporting the United States' growing global partnership with Brazil. We continue to engage with Brazilian security forces in the run-up to the 2014 World Cup and 2016 Olympics. Brazil participated in several of our multinational exercises last year, including playing a leading role in PANAMAX, which focuses on the defense of the Panama Canal.

Engagement in Central America. In 2013, U.S. Southern Command provided critical infrastructure and operational support to the new Guatemalan Interagency

Task Force, which has contributed to significant disruption of illicit trafficking along the Guatemalan-Mexican border and is now viewed by the Government of Guatemala as a model for future units. In collaboration with U.S. Northern Command, we are planning initiatives in Guatemala and Belize to support Mexico's new southern border strategy. I recently visited Guatemala and was struck by the government's strong commitment to work with human rights groups and strengthen its democratic institutions, while also doing its part to stem the massive flow of illicit trafficking heading to our country. Unfortunately, current legislative restrictions on provisions such as Foreign Military Financing and International Military Education and Training, found in the FY14 Consolidated Appropriations Act, limit the United States' ability to fully engage with the Guatemalan military and security forces. In another example of successful interagency partnerships, Joint Task Force Bravo supported the Belizean Defense Force and DEA in the eradication of 100,446 marijuana plants and the seizure of 330 pounds of marijuana.

Along Panama's Pacific Coast, we constructed three key maritime facilities and are providing counternarcotics training to Panamanian coast guard and maritime security forces. Mr. Chairman, I applaud the Government of Panama in their handling of last year's smuggling incident involving Cuban military equipment aboard a North Korean vessel. We are fortunate to have partners like Panama that are committed to ensuring international security. Finally, I am particularly proud of our support to the third deployment of members of the El Salvador Armed Forces to Afghanistan. Augmented by the New Hampshire National Guard, the Salvadoran unit returned this past December from serving as a Police Advisory Team that provided training to Afghan security forces. Like Panama, El Salvador is just one example of the outstanding partners we have in this part of the world—partners that are doing their part to ensure peace and security within and beyond their borders.

Engagement in the Caribbean. Throughout Central America and the Caribbean, U.S. Southern Command has constructed or improved partner nation naval and coast guard operating bases and facilities and delivered more than \$3 million in counternarcotics training and non-lethal equipment, including a total of 42 high-speed interceptor boats provided since 2008 that have supported Joint Inter-Agency Task Force (JIATF) South interdiction operations. In support of the Caribbean Basin Security Initiative (CBSI), we are working to improve maritime patrol and intercept capabilities of our Caribbean partners. Through CBSI, a maritime Technical Assistance Field Team—comprised of joint Coast Guard and Department of Defense personnel—provides hands-on technical assistance, in-country mentoring, and training to 13 CBSI partner nations, with the goal of helping these countries develop accountable and sustainable engineering, maintenance, and logistics and procurement systems. The TAFT program is a collaborative interagency effort funded by the U.S. Department of State, using Foreign Military Financing and INCLE funding. In Haiti, the government is committed to improving its disaster response capabilities. Haiti continues to make gradual social and economic progress after 2010's devastating earthquake, and the Government of Haiti

is committed to improving its disaster response capabilities. Led by Brazil and comprised of a multinational force that includes personnel from Uruguay, Chile, and Guatemala, the United Nations Stabilization Mission in Haiti (MINUSTAH) has played a critical role in Haiti's efforts to rebuild, working with the Haitian National Police to ensure security. As MINUSTAH draws down, I see a continued need for international engagement in Haiti to guarantee lasting stability.

Cooperation on Counterterrorism. We also work with the interagency, U.S. Embassy Country Teams, and our partner nations to counter the encroachment of both Sunni and Shi'a Islamic extremism, recruitment, and radicalization efforts that support terrorism activities. We conduct multiple engagement efforts—including Joint Combined Exchange Training, subject matter expert and intelligence exchanges, counterterrorism-focused exercises, and key leader engagements—here in the United States and in countries throughout the region. Sustained engagement helps build relationships, an essential tool in the fight against terrorism. Through intelligence and counterterrorism cooperation, our partners are better able to mitigate terrorist threats before they can cause mass destruction, destabilize a country, or reach the U.S. homeland.

Human Rights and Defense Professionalization. Everything we do at U.S. Southern Command begins and ends with human rights. Mr. Chairman, a lot of people talk about human rights, but the U.S. military does human rights. We live it. We teach it. We enforce it. U.S. Southern Command's Human Rights Initiative continued to break new ground in 2013, promoting dialogue and cooperation between regional military forces and human rights groups and strengthening institutional capacity in Guatemala and Honduras. Since its inception, our Human Rights Initiative has helped promote reform throughout the region, and the results speak for themselves. Military forces serving democratic governments in the region understand, and take seriously, their responsibility to respect and protect human rights. Ten partner nations have formally committed to implementing the Human Rights Initiative, building an institutional culture of respect for human rights within their militaries.

U.S. Southern Command also promotes human rights through law of armed conflict programs led by the Defense Institute of Legal Studies and through academic institutions like the Perry Center for Hemispheric Defense Studies, the Western Hemisphere Institute for Security Cooperation, and the Inter-American Air Forces Academy. Additionally, the entire premise of the International Military Education and Training (IMET) program promotes an environment conducive to students learning and sharing U.S. values and democracy, with human rights portions embedded in nearly every course. Mr. Chairman, IMET is one of our most valuable engagement tools; professional military education improves how our partners work with us in a joint, interoperable world. Participants not only better understand our culture; they share our perspective, and want to work with us to advance U.S. and regional interests.

Cyber Security and Information Operations. In the region, U.S. Southern Command works to ensure the continued security of Department of Defense networks and communication infrastructure. We are also slowly making progress in strengthening regional cyber defense and information operations capabilities. In 2013, U.S. Southern Command, working with the Perry Center, brought together strategy and policy officers from the region to share information on current cyber security threats. Colombia, Chile, and Brazil have each expressed interest in sharing “lessons learned” on building effective cyber security institutions. Through Operation SOUTHERN VOICE, 50 information operation practitioners from 11 Western Hemisphere countries shared capabilities and best practices. In the year ahead, we are partnering with Colombia to build information-related capabilities in Guatemala and Panama, and with U.S. Northern Command to do the same in Mexico.

Multinational Exercises and Humanitarian Assistance. U.S. Southern Command’s multinational exercise and humanitarian and civic assistance programs encourage collective action and demonstrate our values and commitment to the region. Last year’s UNITAS and TRADEWINDS exercises helped improve interoperability among our hemisphere’s maritime forces. In 2013, we executed 140 minimal cost projects and worked with local populations and non-governmental organizations (NGOs) to construct and supply schools, community shelters, clinics, and hospitals. During our annual humanitarian and civic assistance exercises NEW HORIZONS and BEYOND THE HORIZONS, U.S. forces improved their readiness and provided medical care to 34,677 patients in El Salvador, Panama, and Belize. These humanitarian missions are one of the most effective tools in our national security toolkit, and one that I believe warrants greater employment. In any given year, we are able to send around 700 medical professionals to the region; Cuba, in contrast, sends around 30,000, mostly to Venezuela. In 2013, our collaboration with the private sector and non-governmental organizations resulted in contributions of \$4.3 million in gifts-in-kind and services to our humanitarian activities. I cannot overstate the importance of these types of activities by the U.S. military, especially in terms of influence and access. As Secretary Hagel noted, our humanitarian engagement offers the next generation of global citizens direct experience with the positive impact of American values and ideals.

Perceptions of “Militarization.” I want to close this section by responding to the perception by some that our engagement is “militarizing” the region. In my view, these concerns reflect a misunderstanding of the actual role the U.S. military plays in this part of the world. As an example, our Special Operations Forces are among the most qualified, culturally sensitive, and linguistically capable trainers in the U.S. military, and above all, they excel at building trust and forging personal relationships that are essential to supporting our national interests. Whether it’s a small team at the tactical level or an official engagement at my level, all our efforts are focused on professionalizing military and security forces, to help our partners become more accountable to civilian authority, more capable, and

to above all respect the human rights of the citizens they are charged to protect. Our efforts are part of a whole-of-government approach—involving DEA, Department of Justice, Department of Homeland Security, Department of State, and many others—to strengthen governance and foster accountable, transparent, and effective institutions throughout the Western Hemisphere.

Engagement by the U.S. military can make a real and lasting difference, especially in terms of promoting respect for human rights. Ultimately, if we want regional militaries to honor, respect, and accept civilian control and demonstrate an institutional culture of respect for human rights, that message must come from a military that lives by that code. For the U.S. military, our own training begins and ends with human rights; it is at the center of everything we do and an integral part of every interaction with partner nations. I regularly meet with human rights groups in Washington and throughout the region, and human rights is a major theme in every engagement with my counterparts in regional militaries.

Throughout the world, the U.S. military has a unique network of alliances and partnerships, and our regional approach can provide a framework for engagement by the broader U.S. interagency. Thanks in part to our efforts, Colombia is now a beacon of hope and stability with one of the most highly professionalized militaries in the region; Central America is now the focus for numerous interagency initiatives; the Caribbean now routinely shares information in support of international counterdrug operations; and perhaps most importantly, today the hemisphere is characterized by militaries under civilian control that recognize their fundamental responsibility to respect human rights. In my mind, there is no more valuable return on engagement than that.

Impact of Budget Cuts—BPC. In FY 13, we began seeing the initial effects of sequestration, which resulted in drastic force allocation cuts by all the services. In turn, reduced availability of forces adversely impacted our execution of plans and engagement activities. Severe budget constraints are affecting our established military-to-military relationships that took decades to establish, limiting our ability to build on the progress I just described. Let me be frank: reduced engagement risks the deterioration of U.S. leadership and influence in Central America, South America, and the Caribbean.

In FY 13, budget uncertainty caused the cancellation of four major exercises, including FUERZAS COMANDO—one of only two exercises focused on counterterrorism—and 225 engagement activities that are critical to building capable and effective defense and security forces in the region. The Navy’s cancelled deployment of CONTINUING PROMISE was felt throughout the region; it is our single most impactful humanitarian mission, demonstrating U.S. values and creating goodwill and positive views towards our country. We rely heavily on the National Guard’s State Partnership Program to conduct our activities, and the cancellation of 69 events was detrimental to our efforts to maintain long-term security relationships. Reductions in force allocation also created significant gaps in persistent Civil Affairs coverage. The cancellation of Civil Affairs deployments has created a loss of credibility with our partner nations and our partners in U.S.

Embassies in the region, who have questioned U.S. Southern Command's ability to fulfill our commitments. Finally, the Perry Center, which helps build capacity at the ministerial level, is facing a severe 50 percent cut in funding over the several upcoming fiscal years.

Priority: Planning for Contingencies. Lastly, planning and preparing for possible contingencies is one of U.S. Southern Command's core missions. Every year, we regularly exercise our rapid response capabilities in a variety of scenarios, including responding to a natural disaster, mass migration event, an attack on the Panama Canal, or evacuating American citizens. In 2013, we conducted our INTEGRATED ADVANCE exercise, which focuses on improving coordination with interagency partners in response to a mass migration event in the Caribbean. On this issue, we are fortunate to have an excellent exercise, operational, and planning relationship with Homeland Security Task Force Southeast, and together we work to defend the southern approaches to the United States. That mission, however, continues to be significantly impacted by force allocation cuts.

Impact of Budget Cuts—Contingency Response. Our ability to respond to regional contingencies such as a mass migration event or natural disaster was impaired in 2013, a trend that could continue in 2014. U.S. Southern Command has minimal assigned and allocated forces, and we rely on the services—especially the Navy—to “surge” forces and assets when a crisis hits. As the services absorb large reductions to their budgets, this will affect U.S. Southern Command's ability to immediately respond to crises and disasters, which could lead to preventable human suffering and loss-of-life. As I mentioned earlier, I am deeply concerned by the uptick in Haitian migration in the Mona Passage and the continued scarcity of U.S. government assets in the Caribbean. As currently resourced, U.S. Southern Command faces considerable challenges to rapidly support a mass migration response.

Conclusion

In closing I would like to offer a personal observation from my first year in command. This region does not ask for much. Most nations in this part of the world *want* our partnership, our friendship, and our support. They *want* to work with us, because they recognize that we share many of the same values and interests, many of the same challenges and concerns. Some of my counterparts perceive that the United States is disengaging from the region and from the world in general. We should remember that our friends and allies are not the only ones watching our actions closely. Reduced engagement could itself become a national security problem, with long-term, detrimental effects on U.S. leadership, access, and interests in a part of the world where our engagement has made a real and lasting difference. And in the meantime, drug traffickers, criminal networks, and other actors, unburdened by budget cuts, cancelled activities, and employee furloughs, will have the opportunity to exploit the partnership vacuum left by reduced U.S. military engagement. Thank you.

Posture Statement of General Charles H. Jacoby Jr., USA, NORTHCOM Commander

Thank you for the opportunity to report on the posture and future direction of United States Northern Command (USNORTHCOM) and North American Aerospace Defense Command (NORAD). Our integrated staffs carry on a legacy of over 55 years of continental defense under NORAD, and USNORTHCOM's 11 years of safeguarding the homeland through innovative programs, robust partnerships, and continual improvement. The nation is well served by the Commands' professionals who are focused on deterring, preventing, and if necessary, defeating threats to our security.

Introduction

This is a time of dynamic unpredictability for the Department of Defense (DOD). As the world grows increasingly volatile and complex, threats to our national security are becoming more diffuse and less attributable. This evolution demands continuous innovation and transformation within the armed forces and the national security architecture. Meanwhile, fiscal constraints have further compelled us to rethink our strategies, reorient the force, rebalance risk across competing missions, and take uncommon actions to achieve spending reductions. Particularly troubling, in dealing with sequestration last year, we broke faith with our civilian workforce. Implementing furloughs as a cost-cutting measure compromised morale, unsettled families, and understandably caused many DOD civilians to reevaluate their commitment to civil service by undermining one of the most significant competitive advantages the DOD offers its civilian workforce, stability.

While we must deal realistically with limited budgets, the homeland must be appropriately resourced to protect our sovereignty, secure critical infrastructure, offer sanctuary to our citizens, and provide a secure base from which we project our national power.

As a desired target of our adversaries, the homeland is increasingly vulnerable to an array of evolving threats. Thus, we should not give ground when it comes to defense of the nation and the protection of North America. USNORTHCOM and NORAD are priority investments in national security that should not be compromised as a consequence of the budget environment. When Canada was confronted with similar fiscal pressures to those encountered here, they fully resourced NORAD. Holding up our end of shared defense through NORAD honors Canada's commitment, and is a key element of our nation's competitive advantage across an uncertain global landscape.

Homeland defense depends on readiness and preparedness. The dedicated professionals from the intelligence community, including the National Security Agency (NSA) and other organizations, provide vital indications and warnings enabling the continued security and defense of our nation. The recent and potential future compromises of intelligence information, including the capabilities of the NSA, an agency with which NORAD/USNORTHCOM relies on with an effective operational partnership, profoundly disrupts and impacts how we deter

terrorists and defend the homeland. Further, although I am encouraged by the short-term stability obtained by recent passage of the Bipartisan Budget Act of 2013, the shadow of sequestration still looms over key strategic decisions concerning how we defend the nation over the next two decades. Should sequestration return in 2016, it would lead to a situation where combat readiness and modernization could not fully support current and projected requirements to defend the homeland. Underinvestment in capabilities which sustain readiness increases our vulnerability and risk. The nation deserves better than a hollow force lacking the capability or capacity to confront threats.

Distinct from other geographic combatant commands, we must observe and comply with domestic legal and policy requirements as a condition of operating in the homeland. Under the direction of the President and Secretary of Defense, USNORTHCOM and NORAD deliver effective, timely DOD support to a wide variety of tasks in the homeland and ultimately defend our citizens and property from attack. Our commands work in an environment governed by domestic laws, and guided by the policies, traditions, and customs our country has developed over centuries in the use and roles of armed forces at home. We also hold the obligation of serving citizens with deservedly high expectations for decisive action from the military in times of need. In this environment, it is imperative we retain the ability to outpace threats and maintain all-domain situational awareness to allow greater decision space for strategic leaders. The commands' approach is to defend the homeland "forward" and in-depth through trusted partnerships with fellow combatant commands, our hemispheric neighbors, and the interagency community. We carry out our primary missions of homeland defense, security cooperation, and civil support with a focus on preparation, partnerships, and vigilance.

Homeland Defense

USNORTHCOM and NORAD are part of a layered defense of the homeland designed to respond to threats before they reach our shores. Our national security architecture must be capable of deterring and defeating traditional and asymmetric threats including aircraft, ballistic missiles, terrorism, and cyber-attacks on economic systems and critical infrastructure. In the maritime domain, advances in submarine-launched cruise missiles and submarine technologies challenge our homeland defense efforts, as does our aging undersea surveillance infrastructure. Additionally, we recognize the Arctic as an approach to the homeland and must account for emerging concerns and opportunities related to greater accessibility and human activity in the region. We support the federal response to many threats facing the nation which are primarily security or law enforcement related, while ultimate responsibility for defending against and defeating direct attacks by state and non-state actors rests with DOD.

Aerospace Warning and Control

In the performance of our aerospace missions, including Operation NOBLE EAGLE, NORAD defends North American airspace and safeguards key national

terrain by employing a combination of armed fighters, aerial refueling, Airborne Warning and Control System (AWACS) surveillance platforms, the National Capital Region Integrated Air Defense System, and ground-based Air Defense Sector surveillance detection capabilities. We regularly exercise our three NORAD Regions and USNORTHCOM Components through Exercise VIGILANT SHIELD.

Over the past year, we launched fighters, AWACS, and tankers from the Alaskan and Canadian NORAD Regions in response to Russian long-range aviation. These sorties, as in the past, were not identified on international flight plans and penetrated the North American Air Defense Identification Zone. Detect and intercept operations demonstrated our ability and intent to defend the northern reaches of our homelands and contribute to our strategic deterrence of aerospace threats to the homeland.

NORAD regions are an integral part of our homeland defense mission. Their capability to provide mission-ready aircraft and pilots across all platforms plays a critical role in our common defense with Canada. The ability of NORAD to execute our primary mission is placed at significant risk given the degradation of U.S. Combat Air Force readiness, which hovers at 50 percent. The lack of ready forces is directly attributable to the fiscal pressure placed on readiness accounts and the subsequent challenges our Air Force service provider faces to execute modernization and recapitalization programs.

We are partnering with the Air Force to take decisive steps to restructure forces and regain readiness by innovatively making every training sortie count. However, I am concerned about our mid- and long-term capability to deliver the deterrent effects required of NORAD. If the Budget Control Act persists beyond fiscal year 2015, the extraordinary measures being undertaken by the Air Force to preserve readiness may not be enough to assure that combat forces can satisfy NORAD requirements. Reversing current negative readiness trends will require considerable time and expense to return squadrons to mission-ready status. For example, one of only two annual Air Force Weapons Instructor Courses, and two RED FLAG exercises, were cancelled this past year which will have an enduring impact on the readiness, training, and preparedness of our Air Force. Now more than ever, the Air Force's efforts to seek an appropriate balance between readiness today and tomorrow will have a key impact on NORAD's current and future success.

Missile Defense

We remain vigilant to nations developing the capability to threaten our homeland with ballistic missiles. While tensions have subsided for the time being, North Korea continues to ignore United Nations resolutions and seeks international recognition as a nuclear-armed state, which we oppose. North Korea again showcased its new road-mobile Intercontinental Ballistic Missile (ICBM) during a military parade this past July. Similarly, while Iran does not yet possess a nuclear weapon and professes not to seek one, it is developing advanced missile capabilities faster than previously assessed. Iran has successfully orbited satellites, demonstrating technologies directly relevant to the development of an ICBM. Tangible evidence of North Korean and Iranian ambitions reinforces our understanding of how the

ballistic missile threat to the homeland has matured from a theoretical to a practical consideration. Moreover, we are concerned about the potential for these lethal technologies to proliferate to other actors. I remain confident in our current ability to defend the United States against ballistic missile threats from North Korea or Iran. However, advancing missile technologies demand improvement to the Ballistic Missile Defense System architecture in order to maintain our strategic advantage. We are working with the Missile Defense Agency (MDA) on a holistic approach to programmatically invest in tailored solutions. A steady-testing schedule and continued investment are needed to increase reliability and resilience across the missile defense enterprise. We are pursuing a more robust sensor architecture capable of providing kill assessment information and more reliable Ground-based Interceptors (GBIs). Additionally, we are deliberately assessing improvements to the nation's intelligence collection and surveillance capability in order to improve our understanding of adversary capability and intent. Finally, we recognize the proliferation of threats that will challenge BMD inventories. Over time, missile defense must become an integral part of new deterrence strategies towards rogue states that balance offensive as well as defensive capabilities.

In March 2013, the Secretary of Defense announced plans to strengthen homeland ballistic missile defense by increasing the number of GBIs from 30 to 44, and deploying a second TPY-2 radar to Japan. USNORTHCOM is actively working with our mission partners to see that these activities are completed as soon as possible. We are supporting MDA's study evaluating possible locations in the U.S., should we require an additional missile defense interceptor site. When required based upon maturity of the threat, a third site will enable greater weapons access, increased GBI inventory, and increased battlespace against threats, such as those from North Korea and Iran. Choosing a third site is dependent on numerous factors including battlespace geometry, sensors, command and control, and interceptor improvements. Finally, with the support of Congress, we are making plans for deployment of a new long-range discriminating radar and assessing options for future sensor architecture. Our ability to detect, track and engage airborne threats, including emerging cruise missile technology, was the principal focus of our recently completed Defense Design for the National Capital Region. Next winter we will begin a three-year Joint Land Attack Cruise Missile Defense Elevated Netted Sensor (JLENS) operational exercise at Aberdeen Proving Ground, establishing a new capability to detect and engage cruise missiles at range before they threaten the Washington D.C. area. NORAD will combine JLENS capabilities with the Stateside Affordable Radar System into the existing air defense structure. These capabilities can point to a next generation air surveillance capability for homeland cruise missile defense.

Maritime Defense

NORAD conducts its maritime warning mission on a global scale through an extensive network of information sharing on potential maritime threats to the U.S. and Canada. Our execution of this mission continues to mature—we issued 14 maritime warnings or advisories in 2013, six more than the previous year. Through

USNORTHCOM's cooperative maritime defense, we gain and maintain situational awareness to detect, warn of, deter, and defeat threats within the domain.

In 2013, to improve capability and enhance homeland command and control relationships in the maritime domain, U.S. Fleet Forces Command was designated U.S. Naval Forces North, providing USNORTHCOM with an assigned naval component on the East Coast. We are also working in parallel with U.S. Pacific Command to close seams for command and control on the West Coast. These initiatives support DOD's strategic pivot to the Asia-Pacific and account for the increased pace of Russian and Chinese maritime activity in our Area of Responsibility (AOR), including their forays into the Arctic.

NORAD Strategic Review

Consistent with my priority to advance and sustain the bi-national military command, at the direction of the Chairman of the Joint Chiefs of Staff and Canada's Chief of the Defense Staff, we recently initiated a NORAD Strategic Review. The Review intends to capitalize on existing synergies and identify opportunities to evolve NORAD into an agile, modernized command capable of outpacing the full spectrum of threats. The review identified promising opportunities to improve operational effectiveness, several of which can be implemented immediately. For example, we can realize benefits from aligning the U.S. and Canadian readiness reporting processes and by collaborating closely on continental threat assessment and capability development processes.

The Arctic

The Arctic, part of the NORAD area of operations and USNORTHCOM AOR, is historic key terrain for DOD in defense of North America. With decreasing seasonal ice, the Arctic is evolving into a true strategic approach to the homeland. Arctic and non-Arctic nations are updating their strategies and positions on the future of the region through a variety of international forums and observable activities. Russia, after decades of limited surface activity, significantly increased its naval operations in the high north. This activity included multi-ship exercises as well as an unprecedented amphibious landing and reestablishment of a long-closed airbase in the New Siberian Islands. Also, China recently achieved formal observer status on the Arctic Council; continues diplomatic, scientific, and trade initiatives with Nordic nations; and is making progress on a second polar icebreaker. While potential for friction exists, the opening of the Arctic presents an historic opportunity to solidify and expand strategic partnerships and cooperation.

We fulfill our responsibilities as the DOD's advocate for Arctic capabilities by working with stakeholders to develop military capabilities to protect U.S. economic interests, maritime safety, and freedom of maneuver. We prepare for attendant security and defense considerations should countries and commercial entities disagree over sea-transit routes and lucrative natural resources. Secretary Hagel's comments on this subject are pertinent, "Throughout human history, mankind has raced to discover the next frontier. And time after time, discovery was swiftly followed by conflict. We cannot erase this history. But we can assure that history

does not repeat itself in the Arctic.” To this end, we are pursuing advancements in communications, domain awareness, infrastructure, and presence to outpace the potential challenges that accompany increased human activity.

The Department’s desired end state for the Arctic is a secure and stable region where U.S. national interests are safeguarded, the U.S. homeland is protected, and nations work cooperatively. With Canada as our premier partner in the Arctic, NORAD and USNORTHCOM seek to improve our bi-national and bi-lateral abilities to provide for defense, safety, security, and cooperative partnerships in the Arctic. To enhance these endeavors, I continue to support accession to the Law of the Sea Convention, which would give the U.S. a legitimate voice within the Convention’s framework.

Exercises/Lessons Learned

To ensure our readiness for homeland defense missions, we rely on a robust joint training and exercise program to develop and refine key capabilities. In the last two years, we incorporated other combatant command and multinational participation in our major exercises like VIGILANT SHIELD, which more closely approximates how we expect to respond to realworld contingencies or crises. An integrated approach also ensures we work in unison with our domestic and international partners to reinforce mutual response capabilities and sustain our ability to project power.

Additionally, USNORTHCOM and NORAD, while postured to respond to unwanted Russian aerospace activity, conducted a successful annual Air Control exercise with the armed forces of the Russian Federation. Known as VIGILANT EAGLE, this exercise simulated fighter aircraft from the U.S., Canada, and Russia working cooperatively to intercept a hijacked passenger aircraft traveling between the three nations. Once intercepted, we transferred control of the aircraft to Russia to escort the plane as it landed in their territory. This combined exercise expanded dialogue and cooperation, sustained defense contacts, and fostered understanding among our governments and militaries.

Security Cooperation

Defending the homeland in depth requires partnership with our neighbors—Canada, Mexico, and The Bahamas—to confront shared security concerns and guard the approaches to the continent and the region. The U.S.-Canada NORAD Agreement is the gold standard for cooperation between nations on common defense. Our security partnership with Canada has pushed out the protected perimeter of our homelands to the furthest extents of the continent. Their meaningful contributions to the defense of North America through NORAD, and globally through the North Atlantic Treaty Organization, make Canada an indispensable ally. Defending together is the principal competitive advantage we enjoy in defending our homelands.

In the rest of our AOR, theater security cooperation activities focus on being the defense partner of choice in working on common regional security issues. The proliferation and influence of Transnational Criminal Organizations (TCOs) pose

social, economic, and security challenges for the U.S., Canada, Mexico, and The Bahamas. A related threat is the potential for Middle Eastern and other terrorist organizations to exploit pathways into the U.S. by using their increased presence in Latin America and exploiting the destabilizing influence of organized crime networks. Our efforts to counter transnational organized crime focus on providing support to our U.S. law enforcement partners, other U.S. government agencies, and our military partners in the AOR. Theater security cooperation activities involve detailed and collaborative planning with our partners' militaries and federal agencies. Throughout the process, we remain respectful of our partners' national sovereignty and frame our initiatives with that in mind.

Canada

In addition to ongoing activities in NORAD, our security cooperation with Canada includes all-domain awareness; regional partner engagement; cross-border mitigation support of chemical, biological, radiological, and nuclear incidents; and combined training and exercises. Over the past year, we began discussing cooperative efforts in cyber and concluded an action plan for further cooperation in the Arctic.

Last June, the Chairman of the Joint Chiefs of Staff hosted Canada's Chief of the Defence Staff in a first-ever Defense Chiefs Strategic Dialogue. The Chairman and Chief agreed to pursue several initiatives over the next year, including the NORAD Strategic Review, ongoing USNORTHCOM and NORAD cooperative efforts on regional engagement, cyber, and combined training; our relationship has never been stronger.

Mexico

A strong security relationship with Mexico is a critical strategic imperative reflecting the power of our shared economic, demographic, geographic, and democratic interests. An enduring partnership with a secure and prosperous Mexico is a necessary precondition to the long-term security and prosperity of the U.S. and the Western Hemisphere. Our nations share responsibility for disabling and dismantling the illicit criminal networks that traffic narcotics and other contraband into the U.S., and illegal weapons and illicit revenues into Mexico. TCOs continue to establish support zones, distribute narcotics, and conduct a wide variety of illicit activities within the U.S., corrupting our institutions, threatening our economic system, and compromising our security. International and interagency pressure on these networks is essential to reduce the threat posed to our citizens and allow for the strengthening of rule of law institutions for hemispheric partners.

At the request of the Government of Mexico, while being mindful of Mexican sovereignty, we partner with the Mexican Army (SEDENA) and Navy (SEMAR) on security issues of mutual interest. USNORTHCOM provides focused engagements, professional exchanges, military equipment, and related support that advance common goals. Our engagements further mutual trust, enhance collaboration, and increase mutual capability to counter transnational threats and meet our many common security concerns. Recent successes include QUICKDRAW,

a tactical-level exercise that tested the capabilities of U.S., Canadian, and Mexican maritime forces in joint response to illicit activities; subject matter expert exchanges enabling participants to learn and refine best military practices; and bilateral and multilateral conferences achieving broader coordination on issues such as natural disasters, pandemics, and search and rescue.

USNORTHCOM continues to grow our relationship with SEDENA and SEMAR with their participation in exercises. Mexico is a partner in Exercise ARDENT SENTRY, our joint field exercise focused on civil support and disaster assistance. Additionally, Exercise AMALGAM EAGLE was conceived around a coordinated U.S.-Mexico response to a simulated hijacking situation—similar to exercise VIGILANT EAGLE mentioned earlier.

The Bahamas

The Royal Bahamas Defence Force is a trusted partner on our “third border” and our cooperative engagement with them continues to grow. The Bahamas provides a historic route for human smuggling and the smuggling of drugs and contraband into the U.S. due to its extensive size, small population, inadequate surveillance capability, and limited defense and police forces. This presents a pointed vulnerability to U.S. security and defense.

Our security cooperation efforts in The Bahamas are aimed specifically at better detection of human smuggling and the smuggling of drugs and contraband, improved communications interoperability, and increased disaster response capabilities. We recently completed air and maritime sensor deployments to the southern islands. These deployments confirmed the presence of illegal traffic flow through the Windward Passage. We secured funding for a permanent radar to assist with detection and tracking of suspect platforms in an effort to stem the flow of drugs, illegal migrants, and illicit materials. Our challenge is to prevent The Bahamas from returning to the TCO corridor it was in the 1980s and 1990s.

Due to the susceptibility of The Bahamas to natural disasters such as hurricanes and flooding, USNORTHCOM is collaborating with the National Emergency Management Agency of The Bahamas to enhance targeted disaster preparedness and response capacities. In December 2013, we completed construction and transferred possession of an Emergency Relief Warehouse to augment the warehouse previously donated by U.S. Southern Command. Additionally, we provided training and equipment to outfit the warehouses and enhance operational capacities. These facilities serve not only to assist our partner nation, but also to support the safety and security of the 35,000 American residents and more than five million U.S. tourists who visit The Bahamas annually.

Human Rights

USNORTHCOM is committed to promoting an institutional culture of respect throughout the command and the AOR. Human rights considerations are factored into all our policies, plans, and activities and are an important component in our strategic engagement with partner nations and interagency relationships. The USNORTHCOM human rights program is working with partner nations to develop

new programs of instruction on human rights, both in-country and at U.S.-based military education centers.

Cyber

Malicious cyber activity continues to be a serious and rapidly maturing threat to our national security. Over the past year, various actors targeted U.S. critical infrastructure, information systems, telecommunications systems, and financial institutions. As malicious cyber activities grow in sophistication and frequency, we believe an attack in the physical domain will be preceded by or coincident with cyber events. Of particular concern is the recent release of classified information.

The security breach of NSA intelligence not only created risk and enabled our adversaries in environments where forces are actively engaged in combat, it diverted attention to threat analysis and mitigation efforts which would otherwise be focused on protecting the homeland, which is ultimately the confluence and aim point of threat networks. This act informed our adversaries about risks and vulnerabilities in the U.S., and will almost certainly lead some of our most sophisticated and elusive adversaries to change their practices against us, minimizing our competitive advantage, and reducing the defense of not only the nation but also the approaches to the homeland. It also enabled the potential compromise of military capabilities and operations, further reducing the advantage held by our country. These breaches require us to acknowledge a potential vulnerability in the homeland, and question our operational security that underpins our planning and posture.

To integrate cyberspace operations for our commands and to foster an integrated operational cyberspace planning environment, we stood up a Joint Cyberspace Center. Within a year, we will begin receiving additional defensive capabilities to better protect our enterprise and missions. We are integrating defensive cyberspace operations into our concept plans, which will improve operational effectiveness and continue to increase the scope and scale of cyber play in our national-level exercises. We remain committed to strengthening our partnerships with key stakeholders—such as DHS, U.S. Strategic Command, U.S. Cyber Command, NSA, and the National Guard—demonstrated by our January 2014 Cyber TAG Conference.

Conclusion

Our nation depends on NORAD and USNORTHCOM to defend our homeland and cooperate with our partners to secure global interests. The security of our homeland is continually challenged by symmetric and asymmetric threats across all domains. Despite fiscal challenges, we must maintain our advantages and resiliency through enhancing international partnerships, providing Defense Support of Civil Authorities, and ensuring the defense of the nation and North America. The security of our citizens cannot be compromised. As the military reorganizes and reduces capacity and capability while confronting existing and emerging threats, I believe we must not “break” the things that give the military its competitive advantage: “jointness” to include training and exercises; the all-volunteer force;

our national industrial capability; our time-trusted concept of defending the nation forward; and lastly our critical alliances and partnerships.

Threats facing our homeland are more diverse and less attributable than ever. Crises that originate as regional considerations elsewhere in the world can rapidly manifest themselves here at home. No combatant command operates in isolation; events outside the homeland have cascading effects on the security of North America and its approaches. The men and women of USNORTHCOM and NORAD remain diligent and undeterred as we stand watch over North America and deliver an extraordinary return on investment to the taxpayer. I am honored to serve as their commander and thank the committee for your support of this necessary investment in our national security. I look forward to your questions.

Notes

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Perry Center Discusses Women in Peace and Security

Patricia Kehoe, Assistant Editor, Perry Center Publications

On March 12, 2014, the William J. Perry Center for Hemispheric Defense Studies hosted a Hemispheric Forum on U.S. engagement related to women in peace and security issues at Abraham Lincoln Hall Auditorium at the National Defense University on Ft. McNair.

The Forum was a collaborative effort between the Perry Center, USNORTHCOM, USSOUTHCOM, the National Defense University (NDU), and the NDU Foundation. The event focused on the theme of Defense, Diplomacy, Development & the Way Ahead, and highlighted the DOD implementation of the 2011 U.S. National Action Plan on Women, Peace, and Security. The event was scheduled to commemorate the observance of International Women's Day, which was March 8, 2014.

NDU President MG Gregg Martin kicked off the event affirming that there is no better venue than the University for an open dialogue on such an important and timely topic as the increasing roles women are playing in shaping national security strategy. SOUTHCOM Commander General John F. Kelly followed with remarks underscoring the importance of ensuring the security and empowerment of women in the pursuit of and respect for of human rights. Reflecting on his time in Afghanistan, he related examples of the positive impact of female Marine engagement teams under his command who connected with local women in way prohibited to male soldiers; these interactions vastly improved communication and trust between the local Afghans and the soldiers. He acknowledged that although major hurdles remain, there have been promising developments in recent years in promoting women in peace and security, thanks to an increased focus on those goals by the U.S. and other governments.

Prior to the panel discussion, the event featured a short video of former Secretary of State Hillary Clinton's acceptance speech at the 2013 NDU Foundation Patriot Award Gala, in which she called for more focus and initiatives promoting women in peace and security and stated there was no better place than NDU for dialogue and advancement on the important global issue of women in peace and security.

The prestigious panel of discussants was moderated by Perry Center Professor Celina Realuyo and included representatives of the diplomacy, defense, and development pillars of U.S. national security strategy. The panelists were U.S. Ambassador Wanda Nesbitt, NDU Senior Vice President; Dr. Rebecca Bill Chavez, Deputy Assistant Secretary of Defense for Western Hemisphere Affairs (DASD-WHA); Dr. Johanna Mendelson Forman, President of the Board of Visitors at the Western Hemisphere Institute for Security Cooperation; and Mr. Robert Kravinsky, Director of International Humanitarian Policy at the Office of the Secretary of Defense (OSD).

Ambassador Nesbitt, whose career in the U.S. Foreign Service has taken her all over the world, including 12 years of service in Africa, spoke about the power of diplomatic engagement for furthering women's rights around the world. She outlined several of the key components of the State Department's initiatives supporting women, many of which have been active foreign policy objectives for decades. In addition to USAID-funded maternal/child health education programs, which contribute significantly to the decline of global infant and maternal mortality rates, the State Department also promotes dialogues and initiatives targeting gender-based violence. The Ambassador also mentioned the Secretary of State International Women of Courage Award, established in 2007, which honors women around the globe who have exemplified exceptional courage and leadership in advocating for human rights, women's equality, and social progress, often at great personal risk. This is the only Department of State award that pays tribute to emerging women leaders worldwide.

One of this year's Women of Courage Award recipients is Judge Iris Yasmin Barrios Aguilar from Guatemala, who is recognized for her work as the president of one of Guatemala's two High Risk Court Tribunals. For more on her and the other winners, see <http://www.state.gov/s/gwi/programs/iwoc/2014/bio/index.htm>.

Ambassador Nesbitt informed the audience that State Department's initiatives were designed to support the four pillars of UN Security Council Resolution 1325: participation, protection, prevention, and relief and recovery. She stressed that one of the foundational principles of any female empowerment is education. Women who are confident in their knowledge and skills are more likely to advocate for their own rights and those of others, thus acting as agents of peace and change in even the most unstable environments.

Dr. Rebecca Bill Chavez, the newly appointed DASD-WHA, shared her views on U.S. Defense Department programs for women in peace and security and the opportunities for enhancing them in the future. Moved by the example of demobilization and reintegration experts in Colombia working with former female FARC insurgents, she expressed how surprising it is to still hear stories of women as agents rather than just victims. Dr. Chavez underscored the need for a paradigm shift with regard to the role of women in defense and security, from solely victims of insecurity or consumers of security to active contributors to peace. Promoting participation of women in local and national security institutions and focusing on getting women into leadership roles will ensure that their important perspectives and skills will become part of the security and defense conversation rather than one point in a meeting agenda. She offered statistics that are both promising and disheartening, overall showing a great deal of room for improvement: while 8 of the world's 29 standing female presidents are from Latin American countries and 25 percent of legislators in Latin America are women, they comprise only 4-7 percent of the military members in the region, and only 3 percent of the UN global forces dedicated to the MINUSTAH peacekeeping operation in Haiti.

Dr. Chavez drew attention to the programs of both NORTHCOM and SOUTHCOM that highlight the vital role of women and support integration of

women into the defense and security establishments in the region. Both Combatant Commands have instituted training modules for their service members and regional counterparts on the importance of protecting human rights and female empowerment, and they actively support the inclusion of women in defense. Despite these initiatives, Dr. Chavez still sees room for improvement in the Defense Department's approach to women in peace and security. The statistics on violence against women and female participation in defense and security decision making are still appalling around the world, including in the Western Hemisphere. Through a whole-of-government and whole-of-society approach that mandates the protection and integration of women, the U.S. can lead by example in championing women in peace and security.

Dr. Mendelson Forman, whose career in international affairs includes senior positions at the State Department and USAID, think tanks, and academic institutions, spoke on the important role development plays in bolstering women in peace and security and the positive correlation between development, female empowerment, and economic competitiveness. According to Dr. Mendelson Forman, data indicate that the best predictor of the level of stability and peacefulness in a country correlates directly with how that society treats its women. This suggests that gender equality is not only a women's issue but also a national economic and security issue. She also pointed to the fact that women are both consumers and producers of security in their environments. Programs like *Alianza Joven Regional* in Honduras provide resources for mothers and grandmothers struggling to protect their families from widespread violence and insecurity in that country. By giving women tools to prevent conflict, programs like these allow women to become more active agents for peace in their communities. Women are an important component of public security, and program models that champion gender inclusion lead to more information sharing, conflict prevention, and positive interaction between families and security institutions.

Dr. Mendelson Forman concluded by reaffirming the continued need for more programs focused on women and development assistance. By establishing knowledge-based communities of practice, developing approaches that leverage civil society in support of security goals, and continuing to educate policymakers on the importance of eradicating the gender gap in security and defense decision making, leaders in the region will see the results as a decrease in crime and insecurity, which affect all citizens.

Mr. Kravinsky, Director of International Humanitarian Policy at OSD, currently guides the Defense Department implementation of the National Action Plan (NAP) on Women, Peace, and Security and provided details on those initiatives. He outlined the five objectives of the NAP: national integration and institutionalization, participation in peace processes and decision making, protection from violence, conflict prevention, and access to relief and recovery.

Mr. Kravinsky shared examples of how the NAP has already been implemented, including the groundbreaking decision in 2013 to open combat positions to U.S. female service members. He explained the Department's desire to lead by example, building an inclusive and powerful fighting force that actively le-

verages the contributions and skills of all members of the military. The NAP is being implemented through education initiatives (at the regional centers including the Africa Center, the Asia-Pacific Center, and the Perry Center, and directly through military training programs), assisting partner nations in the integration of women into decision-making roles in defense issues and assisting in partner capacity building that reinforces gender equality as a foundation of sound defense institutions. He recounted the story of a woman from Afghanistan who had told him that the U.S. capacity-building programs in that country were especially helpful to women, who still face many challenges as the country searches for stability. Such examples point out how women have the most to lose when governments disintegrate. He affirmed that female empowerment and women's rights are not only important to women, but are a strategic necessity for establishing peace and security throughout the world.

The panel concluded with a robust question-and-answer session. Acting Director Ken LaPlante provided closing remarks and reiterated the Perry Center's support for the NAP, the initiatives of SOUTHCOM and NORTHCOM, and bolstering the role of women in peace and security. The panel was live streamed through the Perry Center website (<http://chds.dodlive.mil>) in both English and simultaneously translated Spanish to an international audience.

At the reception, NDU Foundation President Cathleen Pearl presented the newly established Women, Peace, and Security Writing Award to Ms. Charito Kruvant, President and CEO of Creative Associates International, Inc. The Award is part of NDU's implementation of the NAP and serves to highlight important research on various issues related to female empowerment and protection in the security and defense arena. Ms. Kruvant's organization is a minority, women-owned and managed professional and technical services firm based in Washington, DC, that works in partnership with networks of governments, organizations, and universities to further the development, economic, security, and humanitarian assistance goals of the United States. For example, Creative played an integral role in lowering insecurity and violence in Honduras through a community-based crime prevention plan that leveraged both local governments and organizations. Creative, with ongoing projects in more than 20 countries, is a force for female empowerment and security not only in the Western Hemisphere, but throughout the developing world.

Book Review

Narcoland: The Mexican Drug Lords and Their Godfathers

By Anabel Hernández (Translated by Iain Bruce)

Reviewed by Patricia Kehoe
Assistant Editor, Perry Center Publications

Narcoland is the English translation of Anabel Hernández's *Los Señores del Narco* (originally published in Spanish in March 2011), a history of Mexican drug cartels and government corruption told through the stories of many of the notorious individuals involved. Weighing in at 314 pages, with an additional 31 pages of notes and definitions, *Narcoland* is a dense, difficult read that is inundated with names, aliases, dates, places, and organizations. Nonetheless, it is well worth the effort for those seeking a view of the expansive and interconnected web of organized crime in Mexico, and the book at least includes an index for quick reference. Hernández's accusations against government officials and powerful businessmen are controversial and categorically denied by those individuals and her many powerful critics, but she backs up her assertions with serious and thorough research and interviews, drawing a very compelling portrait that is hard to contradict.

The most compelling figure in Hernández's book is Joaquín "El Chapo" Guzmán Loera, the charismatic and ruthless leader of the Sinaloa cartel and possibly the most powerful drug lord of all time with a net worth of roughly \$1 billion. One of the most captivating accounts in the book is that of El Chapo's 2001 escape from a Mexican federal maximum-security prison where he had been incarcerated since 1993. Hernández's version of events, which conflicts with previously accepted theories of his escape that included laundry baskets and secret tunnels, calls out the names of many individuals both inside and out of the government who were involved in El Chapo's escape. *Narcoland* is an especially relevant read today, in light of El Chapo's recent (February 22, 2014) recapture and re-imprisonment in Mexico. While the book was written before this milestone moment, it will be interesting to see how his imprisonment and trial unfolds given the depth of corruption that Hernández identifies in the Mexican justice system and law enforcement organizations.

The author, a journalist who continues to live and report in Mexico on organized crime, has faced violence and death threats since she began her crusade against criminal organizations and the corrupt officials who support them. As recently as December 2013, her home was invaded by an armed group associated with one of the cartels she named in this book. It has yet to be investigated by the Mexican police. She has achieved international acclaim for her reporting, in-

cluding the Golden Pen of Freedom Award in 2012, and personal tragedy is what spurred her interest in exposing criminals and corruption. In 2000 her father was kidnapped and murdered in Mexico City, and she alleges that the police refused to investigate unless she provided payment. Mexico remains one of the most dangerous countries in the world for journalists, with at least 100 media workers having been killed or disappeared since the war against cartels began in earnest in 2000, and most of those crimes remain unsolved or improperly investigated.

More about *Narcoland: The Mexican Drug Lords and their Godfathers*

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Book Review

Balancing Liberty and Security: An Ethical Study of U.S. Foreign Intelligence Surveillance: 2001–2009

By Michelle Louise Atkin

Reviewed by Kevin Newmeyer
Assistant Professor, Perry Center

In *Balancing Liberty and Security*, Dr. Michelle Louise Atkin presents her dissertation research in book form in an interesting discussion of the challenge of balancing the need for security in the wake of the September 11, 2001, terrorist attacks with the enduring rights to liberty articulated in the U.S. Constitution. Dr. Atkin approaches the research as a study in information ethics. Using a case study approach, she examines three elements of the Bush Administration's response to 9/11 and the policies that were implemented. Finally, Dr. Atkin presents a new test for governments to apply to balance the need for security when it impacts on individual liberty that is based on the approach Canada employs for evaluating similar issues involving its Charter.

Acknowledging the unprecedented nature of the 9/11 attacks and the impact they had on both the U.S. government and its citizens, Dr. Atkin examines the USA PATRIOT Act, the warrantless surveillance program, and the modernization of the Foreign Intelligence Surveillance Act (FISA) as case studies in applied ethics. She includes a brief but useful examination of the various philosophical approaches to information ethics she defines as the "application of normative ethical theories to issues regarding information and its use." She is most concerned with the ethics underlying the development and implementation of public policy, and this is where the study is most useful.

Dr. Atkin frames the ethical choice in terms of the classical ethical schools of utilitarianism versus contractarianism. Utilitarianism draws from the writings of Jeremy Bentham and John Stuart Mill and in its simplest form may be expressed as "the ends justify the means." The theory is focused on achieving a desirable end without regard to moral principles. Contractarianism, however, focuses on the idea of a social contract between citizens and their government. Drawing from the ideas of John Rawls and John Locke, the ideals of contractarianism can be seen in the U.S. Constitution and its Bill of Rights. The three cases examined in the book focus on the struggle between the utilitarian desire of the administration to pursue the "good" of preventing another terrorist attack on U.S. citizens and interests with the potential violation of the social contract of the Constitution's fourth amendment prohibiting unreasonable search and seizure in the 21st century world

of a globalized internet and instant electronic communications.

The book concludes with Dr. Atkin's recommendation on a test that policy makers could use in evaluating the balance between security and liberty. Based on the Canadian Charter case *R. v Oakes*, which is used to evaluate the lawfulness of an infringement of constitutional rights, Atkin's test requires the government to demonstrate that the purpose of the law must be to enable a response to a pressing and significant enough threat that a reduction of constitutional protections for warrants and probable cause is reduced to a reasonable suspicion standard. For the lowered standard to be considered justified, the process must be (1) rational and nonarbitrary, (2) the right minimally impaired, and (3) the good achieved must outweigh the damage to the constitutional right against unreasonable search. The book concludes with an application of the author's test to three additional cases: enhanced image screening at airports, behavioral profiling at airports, and inspection of internet traffic for malware.

In conclusion, the book presents a well-reasoned application of ethical theory to a pressing problem of policymaking. It is increasingly difficult to balance security and privacy as technology outstrips policy. A useful follow-up study would apply Atkin's work to more recent revelations arising from the disclosures by Edward Snowden regarding the National Security Agency.

Note

1. *R. v. Oakes* [1986] 1. S.C.R. 103, 1986 SCC 7.

More about *Balancing Liberty and Security: An Ethical Study of U.S. Foreign Intelligence Surveillance: 2001–2009*

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