State of emergency and power networks: a brief analysis of the paradox of “democracy” in Peru during the Fujimori’s government (1990-1995)

Yasmin A. Calmet Ipince¹
yasmincalmet@gmail.com

Rodrigo Valdivia Zamora²
rodrigo_valdiviaz@hotmail.com

¹ Master student in Political Sociology at Universidade Federal de Santa Catarina - UFSC, Brazil. Researcher at the Observatorio de Políticas Públicas - NIPP.
² Bachelor’s (degree) in Political Science by the Universidad Nacional Mayor de San Marcos, Peru.
“State of emergency and power networks: a brief analysis of the paradox of "democracy" in Peru during the Fujimori government (1990-1995)"

Introduction

In early 1990’s, the Peruvian state was weakened by a major economic crisis and the terrorist activities of subversive groups. Both economical and social crisis reverberated in the presidential election results, creating conditions for the victory of an unknown candidate. Fujimori was elected with a speech that promised economic growth and peace against terrorism. However, Fujimori decided to formulate a political strategy based on strengthening the armed forces and the creation of the SIN (National Intelligence Service), whose goal would be to restore order, peace and political stability. Nonetheless, the alliance with the SIN being the main institution in charge of defense mechanisms and neutralization of political problems, revealed in the organization of a network of power that allowed Fujimori to establish a state of emergency, the legitimation of authoritarian regime and his political power hegemony. Considering the highlight above, this article seeks to identify the main elements in Peruvian politics during the period 1992-1995 that were used by Fujimori, through the SIN to the legitimacy of its policies and perpetuation in power.

Peru facing of Fujimori.

Peruvian democracy experienced unfortunate events and situations in the last years of the twentieth century. First, because abject poverty lively by the majority of the population and second by the economic, social and political disorganization. These problems revealed in the disorganization of state institutions and the collapse of public services, as well as distrust of public officials. This situation was to worsen due to increasing inability and inefficiency of fighting the subversive groups. This very briefly set the context in which, in 1990, Alberto Fujimori stepped into the government of Peru.

In the preceding decade (1980) the "popular government", as they met the government of Acción Popular and APRA were not able to solve the country's social problems, neither approach to the people as proclaimed in its speeches against the traditional parties. Greater still was the discontent of the electorate

---

3 This discourse permeates society due to the discredit of the political class that was conducting cutting oligarchic regime and found its brake on the Velasco military government.
when in the end of the decade the country was immersed into the worst economic crisis of its history and being heavily hit by armed conflict, initiated by Sendero Luminoso (Shining Path). Thus, in 1990, Fujimori, a character until then unknown in politics, stepped into, with the slogan "honesty, technology and labor", as President of a country economically and politically weakened. This unexpected outcome of the elections of 1990 showed that the country was not willing to continue being governed by weak governments on the issue of public safety. This is why Fujimori choose to reformulate the counterinsurgency strategy and the interventionist economic model by the State, which until that moment had been developped ineffectively by previous governments and led the country into crisis. From the perspective of Fujimori the only way to end the problems was taken immediate containment measures, as a way to prevent the country to go deep more in the crisis. For this reason at the end of 1990, Fujimori announced the introduction of measures aimed to strengthen politically and economically the country. The strategy planned by his government aimed to develop two proposals: a politics of aid and social wellarfism; and the strengthening the Armed Forces.

In his attempt to restore order and security to reinstale social peace, the President declared a state of emergency and the strengthening of the armed forces to fight terrorism. However, this state of emergency did not guarantee social security, freedom or respect for civil rights, in contrast it generated, through the action of the National Intelligence Service (SIN) and the political management, the construction of an organized network system that guaranteed that the government concentrated power and maintained it.

**Fujimori facing of Peru.**

The policies applied by the government (which did not conform to the electoral promise of "no shock") for the economic recovery would be guided by the Fujishock, as it was based on economic openness, flexibility of labor relations and privatization of state enterprises (CALMET, 2009:47). These actions had a goal to remove the country from the old economic model and put it into the industrial model to rejoin the international financial system, unfortunately this industrial model had no success.

These policies were influenced by the adoption of the recommendations set forth in the Washington Consensus, which were combined with the renegotiation of the foreign debt that the International Monetary Fund (IMF) had with the government to reintegrate the country into the international financial community and to reduce the hyperinflation and the fiscal deficit. Among the main actions are: the currency exchange – the present New Sol –, privatization of some state enterprises, removal of the old protectionist policy (prices subsidies), control of exchange rate (eliminating the exchange rate differential), restricting the issuance of the new currency and trade liberalization to attract foreign capital, among others neoliberal polices.
In the political sphere, the strategy began with the formation of parliamentary alliances aimed at the adoption of provisional measures that would allow winning the war on terrorism and at the same time prevented the formation of a strong opposition bloc. Therefore, alongside with the development of economic policy, the Executive elaborated a strategy to neutralize the subversive actions through the legality of illegal decrees to restore internal order. However, this decrees should be approved by Parliament before entering into effect and despite its willingness to cooperate with the executive, many of the decrees that were presented to the Parliament containing plans of peace, promotion of private investment and employment, were considered unconstitutional because its application went against freedoms and civil rights and gave full power to the SIN. The continual rejection of Legislative initiatives by the Executive motivated to open confrontation between the branches of government which in turn led to development of a campaign, from the Executive against the Legislative and the Judiciary. The presidential speech pretended desmoralize the Congress face society. Fujimori made serious allegations of corruption and claimed that the country’s destiny could not be in hands of a political class weak, corrupt and inefficient, making it impossible to produce economic development and peace.

According to Fujimori, parliamentary corruption did not allow the creation of new laws that give guarantees to national reconstruction of the Peruvian state. And given the crisis of legitimacy of the parties and their representatives⁴ this speech soon began to be part of the public. Another standard measurement used by the government to enlist the support of the company to its action was persuasion used in advertising as part of "psychological warfare" (ARENDT, 2007) with what Fujimori managed to manipulate the views and fears of the population.

In April 1992, Fujimori in alliance with the Armed Forces applied a measure, which would be known as the "coup", which consisted in the closure of the Parliament and the establishment of a "government of national emergency and reconstruction," which sought to concentrate powers in the person of the President for an effective fight against terrorism. This is explained in Rossiter's words

⁴ This theme was taken as one of the pillars of political debate among scholars in Peru. Among the studies mentioned the collapse of the party system as the main cause of the rise in Peruvian politics separate. The lack of political success of populist forces (AP and PAP) and left who were involved in a confrontation dynamics – negotiation will lead them to a discredit against the population that identifies partisan behaviors as forms of satisfying personal interests away and commitment to society and therefore the failure of the social – role representation of political parties. Is also important to highlight Lynch's thesis, which states that the two main characteristics of the crisis of parties in the 1980's were the elitist form of politics and the eccentricity of its activity, mainly representative and channeling demands-the mere field of electoral competition. This must be adhered to the discomfort generated in the society late universal suffrage, which was not initiative of popular parties, but the military regime, which has been described by some as the greatest failure of the parties joined the inability to face the solution of crucial questions about the economic crisis and political violence, which led to its depletion as an alternative for change. For this, see Lynch 1999.
“...in times of crisis, the government should be altered by any measure necessary to neutralize the threat and restore the normal situation. This inevitably involves change, a stronger government, or whether the government will have more power and citizens fewer rights”. (ROSSITER apud AGAMBEN, 2004:21).

This measure, protected with the support of the Armed Forces, gave the President extensive powers allowing him to impose the exoneration of members of the Judiciary and the Diplomatic body, and to impose the presence of the military in the universities – which were considered bastions ideological subversive groups.

Alongside that, the pressure from the United States and the OAS demands for the reestablishment of democracy in Peru forced the government to hold elections, which led to the formation of a new Constituent Assembly where Fujimori would have the majority needed for approval of the decrees before rejected and the creation of the new Constitution of 1993.

This new system established by Fujimori would have as main basis the Decrees of Public Safety - particularly the 743, 746 and 749 - as well as the creation of the Ministry of the Presidency and the National Intelligence Service (SIN), which the main tasks were: to maintain cohesion, to increase the coercive capacity of the State neutralizing opponents and political enemies through surveillance, defamation, blackmail and corruption of politicians, soldiers, judges, journalists and officials, and mount the counterinsurgency strategy that they claimed would enable to preserve security and internal order. For its part, the Ministry of the Presidency was designed to override the regional governments, avoiding any formation of a potentially dangerous opposition to the state. Another action taken by the government, for that purpose, was to strengthen the Armed Forces, Police and paramilitary groups (self-defense committees) of peasant origin, whose function was to preserve order in the Andean cities in which State action was still weak (CALMET 2009).

We note that the above decrees serve as legal instruments to establish the new organizational structure that sought the support of power in a networked system. As Luhmann points out:

"The mechanisms used in organic systems allow to achieve a nonspecific effect on the highest level of the formation of meaning" (LUHMANN, 2005:89).

In the case of Peru, these nonspecific effects will constitute specific insofar as it was increasingly strengthening the system of national repression and coercion. Decree 743 - Law of National Defense System - was intended to restructure the National Defense System by establishing of the Unified Command and Operational Command. Both with the mission of bringing the logistical, strategic and operational system that can implement measures to eradicate subversion. That is, its purpose was to convert the National Defense
System in an efficient organ, dynamic and able to cope successfully with the tasks of peace.

This system would be structured as follows: National Defense System (Table 1), Unified Command Pacification (Table 2), the National Defense Council (Table 3) and the National Intelligence System for which there was a specific law. All these organs were structured in a net, so that the action of one would involve another and vice versa.
Table 1: NATIONAL DEFENSE SYSTEM STRUCTURE

President

Unified Command of Pacification

National Defense Council

National Intelligence System

Defense Department

National System of Civil Defense

Civil Defense Secretariat

Departments, public organisms, and their offices of Civil Defense

Data: Decree-law 743
Draw: Yasmin Calmet
Table 2: UNIFIED COMMAND OF PACIFICATION STRUCTURE

Data: Decree-law 743
Draw: Yasmin Calmet

Table 3: COUNCIL OF NATIONAL DEFENSE STRUCTURE

Data: Decree-law 743
Draw: Yasmin Calmet
As shown in the pictures, the whole structure of the reformed National Defence System was headed by President Fujimori, who enjoyed full power to appoint the presidents of each organ and decide whether it was necessary to summon representatives of other sectors. Although Decree 743 stipulated that representatives – with the exception of the head of the INS and the head of the Department of National Defence – were entitled to vote, in practice who always dictated the game were Fujimori and his adviser Vladimiro Montesinos.

Montesinos was a character of utmost importance for the hegemony of Fujimori. As presidential advisor and Minister of State, he advised the President to issue a law that would create and fortify the intelligence system, which would allow to acquire all the information needed to eliminate all risks that the state might eventually suffer. To achieve this aim (and looking to neutralize the opposition) the Executive promulgated the Decree-law 746 (National Intelligence System). That organ was part of the National Defense System, but unlike the other organs created by such system; this had the ability to create their own laws and regulations, which gave it a status of an autonomous organization. Its main objective was to develop intelligence activities that contributed to national security. Thus, in July 1992, through Law 25 635, DS Regulation No. 065-SE-DE was promulgated creating the National Intelligence Service (SIN), which would be the same paramount chief presidential advisor Vladimiro Montesinos.

SIN quickly started a scheme of restoration and improvement of the secretariats of the Country's police forces (Table 4), structuring a networked system that would allow access to all information of Armed Forces of the country. Similarly, SIN structured intelligence agencies that would be linked to this organism (Table 5), which would help it execute counter intelligence activities at all levels of sociopolitical country.
Table 4: NATIONAL INTELLIGENCE SYSTEM STRUCTURE

Source: Journal Caretas.
Legend: EP (Peruvian Army), FAP (Peruvian Air Force), PNP (National Police of Peru).
Table 5: SUBORDINATE ORGANS TO SIN

As you can observe, the structure allowed the SIN to have access to all public sectors of the country. At the same time, its autonomy permitted to define and consolidate an intelligence strategy as well as plan, direct and supervise training programs, research and development of intelligence and counterintelligence agencies of all members of the system.

To ensure the efficient operation of the networks, the SIN - covered by the Decree 746 - was defined as a organ of: a) Top management, b) Controlling Organ c) Advisory Organ; d) Organ line e) Support Organ and; f) Organ of instruction and training. This allowed it to monopolize and monitor all areas of intelligence agencies and in turn, offered it the legitimate authority to criminally responsible those who did not cooperate with the proper functioning of the service.

Once established the foundation it was necessary to develop control mechanisms for public safety. Based on the principle of power and control, the intelligence service was a way to legitimize the use of illegal means to control and efficient repression in the sociopolitical realm, paralyzing any action against the opposition and subtracting subversive strategies and actions from Sendero
Luminoso. These principles encompassed security code strength characteristics of power, in which

“intentionally physical violence against people have a connection with the action-oriented power ... violence is set as the start of the system leading to the selection of rules whose function makes rationality and legitimacy independent of initial conditions for action” (LUHMANN, 2005:93).

The form of "legal" repression against the opposition was so subtle that it came to be interpreted, in the eyes of the population, as a means of political coercion. SIN was responsible for maintaining the legality of the state of emergency, its principal function, as we mentioned, was to maintain cohesion through surveillance, blackmail and corruption. This sought to increase the coercive capacity of the state that can be measured in two dimensions: scope and cohesion, both linked directly to the State. While the first benefits from effective coercive power of the state, the second is more related to internal compliance levels, its means, organs and institutions.

Viewed this way, we can say that, as Levitsky & Way (2006) point out, effective coercion is associated to compliance with the orders given by the high command, in which a high level of cohesion guarantees compliance of orders, which are classified as illegal or controversial (such as opening fire on a crowd of protesters, killing leaders of opposition or electoral fraud), by officials, bureaucrats and soldiers.

Thus, to give full powers to SIN, Fujimori gave it all the elements needed to strengthen enforcement and increase the efficiency of the state. As expected, the power of the security forces – including self-defense committees – would become extremely coercive to make use of legal means to fight the enemies of the nation. On the other hand, the creation of death squads (known as the Colina group) as a control way revealed that the rationalization of violence came to be a basic principle of action of SIN.

Fujimori in his “swing”

This analysis seeks to identify, analyze and understand what were the factors leading to undermine the autonomy of the branches and agencies of State and therefore increasingly influence in the development of concentration of power in the hands of political control. That is, to describe the relationship we identify between the intervening variables of Public Institutions, the concentration of power and strengthening the armed forces and police.
To do so, it is indispensable that we explain what we mean by concentration of power. We understand concentration of power like the centralization capacity, direction or influence, directly or indirectly, by an agent or group of state administration – in this case are the President in alliance with the armed forces and the SIN – all the other branches and agencies. Especially those related to legislative and judicial work, violating their autonomy.

From what we indicated above, it is necessary to explain the variables and indicators that we considered relevant to our analysis. From our point of view, concentration of power occurred in a context of struggle against subversion and which it has been placing greater emphasis on participation and the role played by the police and Armed Forces, which is why we believe that the strengthening of such institutions is an intervening variable in the process. However, we believe it is the involvement of various state institutions, and we took the “coup” as a principal inflection point. The “coup” had a big influence on the development of the phenomenon of power concentration; this allowed Fujimori had full control of the political system.

The intervention

Since the “coup”, Fujimori began the state of emergency whose basis was extraordinary decrees promulgated by the president. For 9 months, Fujimori managed to legitimize innumerable decrees that were tearing apart the entire democratic system. Thus, removal of judges gave Decree-law No. 25446 which dismissed by the magistrates to 133 between members, prosecutors and judges. Similarly, the DL No. 25422 dismissed all the members of the Constitutional Court with what was left an open ground for the action of the armed forces and police against terrorist groups, as mentioned later, were extended functions for this purpose.

The next step was the creation of transitional organism that were the Evaluation Commission of the Judiciary and the Evaluation Commission of the Public Ministry by Legislative Decree N° 25446 and 25530, respectively. These committees have the duty to investigate and punish the conduct of magistrates, judges, prosecutors, lawyers and administrative staff of the institution, as the case. This, show us the intervention of political power in the arena legal is the suspension of duties was systematically, as were the DL No. 25735 which declared the Public Prosecutor in the process of organizational restructuring and reorganization, the Law 26546 suspends temporarily the functions of management and governance of the Judiciary and the Law 26623 to suspend the enforcement of the Organic Law of Judicial Power. These measures were made with the aim of weakening the institution while strengthening the activity of the evaluation committees. Therefore, the country’s political life is marked by a remarkable influence of the executive on the judiciary and supported by the military.
The Armed forces and Police

The support that these institutions gave Fujimori regime was crucial to achieve the tasks of pacification and "governance" that the regime sought to perpetuate. The strengthened military support the expansion of presidential duties, at the operational level as the search for justice and impunity for the actions performed in the fight against terrorism.

Among the measures taken by government decree-laws were: extended police control on the penitentiaries, extended support to the peasant patrols, allowing the intervention of the armed forces in the universities and intensified combing operations, which consisted of the registration of urban populations by the police or the armed forces and the promulgation of Law 25475 which recognized the leading role that the police had been carrying and empowered to undertake the investigation of crimes of terrorism nationally – function should meet the Public Ministry – as well as having the absolute isolation of detainees (CVR. Final Report, 2003: 85, 275).

Another important function loaned to the armed forces was given by DL No. 25659, which established that the crime of treason, the preliminary investigation and prosecution would be in charge of the Military Court. It is important to observe the weaving that given to empower the police to investigate crimes of terrorism, which was treason, and the military courts to try them. This allowed making themselves many unwarranted arrests and lack of evidence, which were directly derived from police to military courts, coupled with the constant suppression of guarantees because decreed by the state of emergency; thus refusing access to due process and violating the principle of legality.

This must be adhered to so-called "Amnesty Law" (Law 26479), which granted a general amnesty to military, police or functional was reported, investigated, charged, indicted or convicted of crimes or military jurisdiction common or military, provided that such complaints, investigations and / or processes relating to the facts derived or originated on the occasion, or as a result, the fight against terrorism (Idem, 2003:278). This measure, legitimzied impunity for counterinsurgency action was taken in the early morning hours with a large majority.

The power networks

As we have mentioned throughout the article, Fujimori's government sought to legitimize an authoritarian regime based on the strengthening of the armed forces and police as well as the privileged position of SIN by the advisor
Vladimiro Montesinos, while preparing the ground in the legislative and judicial arena to concentrate power in executive decisions.

Once discussed the facts that we consider as trigger points of the new organization (involvement of state institutions), which would allow access or direct or indirect influence on other state powers. We will review the measures taken to concentrate power from the Executive in an interweave that crossing the new parliament constituent (with government majority) and subjecting the judiciary to political control.

In the legislative arena, the closure of the Parliament and the subsequent configuration of the Constitutional Congress gave the government the possibility of forming a new majority (see data table), lead by name as the political organization that grouped the ruling. This new configuration enabled the hegemony and legitimacy of government policies, especially economic policies and internal security.

### Data Table: Composition of the Peruvian Congress 1993-1995

<table>
<thead>
<tr>
<th>Parties</th>
<th>votes obtained (%)</th>
<th>Seat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nueva Mayoria-Cambio 90</td>
<td>3.075.422 (49,3%)</td>
<td>44</td>
</tr>
<tr>
<td>Partido Popula Cristiano</td>
<td>606.651 (9,7%)</td>
<td>8</td>
</tr>
<tr>
<td>Frente Independiente Moralizador</td>
<td>486.984 (7,8%)</td>
<td>7</td>
</tr>
<tr>
<td>Movimiento Independiente Renovación</td>
<td>440.314 (7,1%)</td>
<td>6</td>
</tr>
<tr>
<td>Movimiento Democrático de Izquierda</td>
<td>341.646 (5,5%)</td>
<td>4</td>
</tr>
<tr>
<td>Coordinadora Democrática</td>
<td>238.153 (3,8%)</td>
<td>4</td>
</tr>
<tr>
<td>Frente Nacional de Trabajadores y Campesinos</td>
<td>237.977 (3,8%)</td>
<td>3</td>
</tr>
<tr>
<td>Frente Popular Agricola</td>
<td>172.923 (2,8%)</td>
<td>2</td>
</tr>
<tr>
<td>Solidaridad y Democracia</td>
<td>126.822 (2,0%)</td>
<td>1</td>
</tr>
<tr>
<td>Movimiento Independiente Agrario</td>
<td>107.453 (1,7%)</td>
<td>1</td>
</tr>
<tr>
<td>Anothers</td>
<td>313.247 (5,0%)</td>
<td>3</td>
</tr>
<tr>
<td>valid votes</td>
<td>6.237.682</td>
<td></td>
</tr>
</tbody>
</table>
invalid votes  1,620,887
blank votes  333,277
votes cast  8,191,846
abstentions  3,147,910
Total of voters  11,339,756

Source: Murakami, 2006:329

For its part, the legal arena also suffered structural changes that would affect their autonomy, as well as legal shield that the new parliament granted the government's authoritarian actions. The same Decree Law No. 25446 dismissed to 133 judges, judges and senior prosecutors replaces these by provisional judges and prosecutors, who did not enjoy the security of tenure of office which left them in a situation of insecurity and dependency (Ibid. 2003:265). It is worth noting that the already mentioned DL No. 25475 provided that the members leading the trial for terrorist offenses were secret identity, taking away the right of the accused and an independent and impartial judgment (Ibid. 2003:271).

After the creation of this transitional organism, because of the intervention by prosecutors and the judiciary, Law No. 26623 and 26546 to create an Executive Committee of the Public Ministry and the Judiciary. These organs assumed the functions of government and management that had been previously suppressed. The composition of these institutions joined an Executive Secretary who would control the commission and the budget statement and who charged with close relationship with political power. We added the insufficient allocation of financial resources and the omission to the 1993 Constitution on the budget forecast, which left both institutions available to Executive decisions underpinning the lack of independence (Ibid. 2003:268, 269.) Recalled that one of the strategies implemented since the SIN was the corruption of officials related to the supposed weakness of the above salaries.

Following the formation of networks of power over the judiciary and to shield again the government's actions, Act No. 25454 established the invalidity of the claims for relief that will directly or indirectly against the decisions on the separation of judges and other members of the judiciary and, of course, the Charter of 1993 established the Constitutional Court, in substitution of the Constitutional Court, which would also be manipulated from the legal framework for its creation, for in Law No. 26435 was establishes a requirement to declare the unconstitutionality of a norm, there is a qualified majority vote of six votes. This Court's majority vote would be blocked with the vote against two of the seven justices who made up this institution and were generally linked to the government (Ibid. 2003:272).

The facts presented here demonstrate the Government's intention to conduct a systematic deactivation of legal control channels, as well as provided
an ad hoc regulatory framework for the realization of policy objectives and maintaining absolute control of the system while minimizing the risks punishable. As you mentioned the Commission of Truth and Reconciliation Commission in its final report:

"With the SIN as a core of real power, the placement of loyal representatives or purchased by the regime and the legal and institutional changes introduced gradually, the division of powers and autonomy of these happened to be a fiction in the country. Although the regime has always tried to keep up appearances, especially to avoid possible international pressure, it is increasingly evident and hide less. With the Judiciary and the Public Ministry operated and controlled from SIN and run by a legislative majority that its provisions also attacked blindly, in the following years there followed a series of scandals that meant serious setbacks for the rule of law ... should be noted that they lacked basic freedoms guarantees in a state in which all organs were, in one way or another, controlled by the Executive and its political arm (the SIN)"
(CVR. Final Report, 2003:116)

**Final Comments**

As we have stated throughout the text, given the state of emergency by Fujimori had as main objective the perpetuation of power by the President. Given the conditions under which the country was, succeeded in establishing a highly complex system that would allow, through the networks of power, force and violence, to ensure his hegemony.

The "coup" of April 5, 1992 marked the beginning of a new regime in which the Fujimori seek to focus the power of both the legislative and judicial arena, reconfiguring the new parliament with a majority that would make a work of legalization initiatives, dismissing and appointing authorities replacement judges and prosecutors loyal to the Executive and supported by SIN and the Forces, who had armed broad functions in order to maintain absolute control of the state apparatus.

The network of power to which we refer is precisely this interwoven structural reconfigure Fujimori achieved entirely through the Executive, essentially in the structure of decision-making and distribution functions, the legislature in its posthumous intervention and official controls and Court System clearing institutions, creating transitional and special organisms, and above all, legislating at home.
References


