

Chapter 4:

Congressional Powers



Constitutional Powers

Related to War and Peace

Country	Can it declare war?	Is a congressional authorization required to declare war?	Can it make peace?	Is a congressional authorization necessary to make peace?	Is a congressional authorization necessary for the entry of foreign troops?	Is a congressional authorization necessary for the deployment of national troops outside the country?
Argentina	No	Yes	No	Yes	Yes	Yes
Bolivia	No	Yes	No	Yes	Yes	Yes
Brazil	No	Yes	No	Yes	Yes	N/R
Chile	No	Yes	No	Yes	Yes	Yes
Colombia	No	Yes ^(1,2)	No	Yes	Yes ⁽¹⁾	N/R
Dominican Republic	No	Yes ⁽³⁾	No	Yes	Yes ⁽⁴⁾	Yes ⁽⁴⁾
Ecuador	No	Yes ⁽⁵⁾	No	Yes	N/R	N/R
El Salvador	Yes	Yes ⁽⁴⁾	No	Yes	Yes	N/R
Guatemala	Yes	Yes ⁽⁴⁾	No	Yes	Yes	N/R
Honduras	Yes	Yes ⁽⁴⁾	Yes	Yes ⁽⁴⁾	Yes	Yes
Mexico	Yes	Yes	No	Yes ⁽¹⁾	Yes ⁽¹⁾	Yes ⁽¹⁾
Nicaragua	No	Yes ⁽⁶⁾	No	Yes	Yes	Yes
Paraguay	No	Yes	No	Yes	Yes	Yes
Peru	No	Yes	No	Yes	Yes	N/R
Uruguay	Yes	Yes	No	Yes	Yes	Yes
Venezuela	No	Yes ⁽⁷⁾	No	Yes	Yes	Yes

N/R: No reference.

(1) Corresponds to the Senate.

(2) Does not require authorization to repel foreign attacks.

(3) The Congress can declare the national state of emergency in case the national sovereignty is exposed to a grave and imminent danger.

(4) It is the Legislative Power itself which has the referred power.

(5) The President declares the state of emergency in case of external aggression and international war informing the Congress, which has the authority to revoke the decree.

(6) The Assembly can approve, modify or extend the state of emergency due to national security reasons.

(7) The President can declare the state of external commotion in cases of extreme conflict. Its extension requires the consent of the National Assembly.

Source: Compilation based on the Constitution of each country.

Related to Control

Country	Is its approval required to appoint senior officers of the Armed Forces?	Can it accuse officers of the Armed Forces?	Can it try officers?	Does it participate in the election of officials for institutions of external control?	Can it modify the national budget?
Argentina	Yes ⁽¹⁾	No	Yes ⁽¹⁾	Yes	Yes
Bolivia	Yes ⁽¹⁾	No	Yes ⁽¹⁾	Yes	Yes
Brazil	No	No	Yes	Yes	Yes
Chile	No	Yes ⁽²⁾	Yes ⁽¹⁾	Yes	Yes
Colombia	Yes ⁽¹⁾	No	Yes ⁽¹⁾	Yes	Yes
Dominican Republic	No	No	Yes	Yes	Yes
Ecuador	No	No	Yes	Yes	Yes
El Salvador	No	Yes ⁽³⁾	Yes	Yes	Yes
Guatemala	No	No	N/R	Yes	Yes
Honduras	Yes	No	Yes	Yes	Yes
Mexico	Yes ⁽¹⁾	No	Yes ⁽⁴⁾	Yes	Yes ⁽⁴⁾
Nicaragua	N/R	No	Yes	Yes	Yes
Paraguay	Yes ⁽¹⁾	No	Yes	Yes	Yes
Peru	No	No	Yes	Yes	Yes
Uruguay	Yes ⁽¹⁾	No	Yes ⁽⁴⁾	Yes	Yes
Venezuela	No	No	No	N/R	Yes

* N/R: No reference.

(1) Corresponds to the Senate.

(2) Generals and Admirals

(3) The resolution shall be binding when it refers to the Chiefs of Public Security or Intelligence of the State in cases of serious violations to human rights.

(4) Corresponds to the Chamber of Deputies.

Source: Compilation based on the Constitution of each country.

States of Exception

Country	Name	Cause	Participation of the Legislative Power
Argentina	State of siege	Internal commotion	Declared by the Congress and by the President if the latter were not in session (with a subsequent report).
		Foreign attack	Requires the approval of the Senate.
Bolivia	State of siege	Internal commotion International war	Requires the approval of the Congress ⁽¹⁾ .
Brazil	State of defence	Grave or imminent institutional instability Natural calamities of great proportions. Grave commotion of national impact	Requires the approval of the Congress.
	State of siege	Situations which prove the inefficiency of the state of defence Declaration of the state of war Response to an armed foreign attack	
Chile	State of assembly	External war	Requires the approval of the Congress.
	State of siege	Internal war Grave internal commotion	
	State of catastrophe	Public calamity	The President shall inform the Congress of the measures adopted. Requires the approval of the Congress in case they are extended for more than a year.
	State of emergency	Grave disturbance of the public order Grave damage to national security	The President shall inform the Congress of the measures adopted. Requires the approval of the Congress in case they are extended for more than fifteen days.
Colombia	State of external war	External war	Requires the approval of the Senate except when it is necessary to repel aggression. The declaration of a third consecutive period requires the approval of the Senate.
	State of internal commotion	Grave disturbance of the public order	
	State of emergency	Situations which disturb or seriously threat to imminently disturb the economic, social and ecological order or which constitute public calamity.	The Congress shall examine the causes and measures which determined it and those adopted, and shall expressly rule on the convenience and timeliness of such measures.
Dominican Republic	State of siege	Disturbance of the peace Public calamity	Declared by the Congress and by the President if the latter were not in session (with a subsequent report).
	State of national emergency	Grave danger or imminent to national sovereignty	
Ecuador	State of emergency	Imminent foreign attack International war Grave internal commotion Natural catastrophes	The Congress can revoke the state of emergency decree.
El Salvador	Exception regime	War Invasion of the territory Rebellion Sedition Catastrophe Epidemics or general calamity Grave disturbances of the public order	It is decreed by the Legislative or the Executive Power. In case of the suspension of certain guarantees, the approval of the Legislative Power is required.
Guatemala	State of prevention State of alarm State of public calamity State of siege State of war	Invasion of the territory Grave disturbance of the peace. Activities against the security of the State Public calamity	The Congress can ratify, modify or dismiss it.
Honduras	State of siege	Invasion of the national territory Grave disturbance of the peace. Epidemics or any general calamity	The Congress can ratify, modify or dismiss the decree sent by the President within thirty days.
Mexico	Suspension, in all the country or in a specific place, of the guarantees which could constitute an obstacle to cope with the situation in a quick and easy manner	Invasion Grave disturbance of the public peace Any other issue which could put the society in grave danger Conflict	Requires the approval of the Congress.
Nicaragua	State of emergency	When required by: National security Economic conditions National catastrophes	The Assembly can approve, modify or dismiss it.
Paraguay	State of exception	Armed conflict Grave internal commotion which puts the Constitution or the bodies established in it in imminent danger	It can be declared by the Executive Power or the Congress. If it is declared by the Executive Power it requires the approval of the Congress.
	State of defence	External aggression	Requires the approval of the Congress.
Peru	State of emergency	Disturbance of the peace or internal order Catastrophe or grave circumstances which affect the life of the Nation	Decreed by the President with the consent of the Council of Ministers. The Congress must be informed about it.
	State of siege	Invasion External war Civil war Imminent danger of the above mentioned situations	Decreed by the President with the consent of the Council of Ministers. The Congress must be informed about it. The extension beyond forty five days requires the consent of the Congress.
Uruguay	Quick security measure	Foreign attack Internal commotion	Requires a resolution from the General Assembly.
Venezuela	State of alarm	Catastrophes and public calamities which seriously endanger the security of the Nation, or its citizens	The extension requires the approval of the National Assembly.
	State of economic emergency	Extraordinary economic circumstances which seriously affect the economic situation of the Nation	
	State of internal or external commotion	Internal or external conflict which seriously endangers the security of the Nation, its citizens or institutions	

(1) Corresponds to the Chamber of Deputies to consider the report on the state of siege presented by the Executive, if it were declared during legislative recess.

Source: Compilation based on the Constitution of each country.



Scope of the Defence Committee

Security	Defence	External Relations
	Argentina	
	Bolivia (Deputies)	
Bolivia (Senate)		
	Brazil	
	Chile	
	Colombia	
Dominican Republic		
	Ecuador (in recess) ⁽¹⁾	
	El Salvador	
	Guatemala	
	Honduras	
	México	
Nicaragua		
Paraguay		
Perú		
	Uruguay	
Venezuela		

Source: Compilation based on the information supplied by the web pages of the Legislative Powers of each country.

The graphic shows the range of issues considered by the committees which address defence issues. The countries with bicameral legislative powers have counterpart commissions in both chambers, except in the specified countries.

Argentina	National Defence Committee (Deputies/Senators)
Bolivia	Deputies, Defence and Armed Forces Committee. Senators, Committee on Government, Defence, National Police and Fight Against Illegal Drug Trafficking
Brazil	Foreign Affairs and National Defence Committee (Deputies/Senators)
Chile	National Defence Committee (Deputies/Senators)
Colombia	Second Committee (Representatives/Senators)
Dominican Republic	Deputies, Security and National Defence Committee. Senators, Defence and National Security Committee
Ecuador	In recess ⁽¹⁾
El Salvador	Defence Committee (Unicameral)
Guatemala	National Defence Committee (Unicameral)
Honduras	National Defence Committee (Unicameral)
Mexico	National Defence Committee (Deputies/Senators)
Nicaragua	Committee on Peace, Defence, Government and Human Rights (Unicameral)
Paraguay	Deputies, Committee on National Defence, Security and Internal Order. Senators, Committee on Constitutional Affairs, National Defence and Public Force.
Peru	Committee on National Defence, Internal Order, Intelligence, Alternative Development and Fight Against Illegal Drug Trafficking (Unicameral)
Uruguay	National Defence Committee (Representatives/Senators)
Venezuela	Defence and Security Committee (Unicameral)

Source: Compilation based on the information supplied by the web pages and Internal Regulations of the Legislative Powers of each country.

(1) For further information see Ecuador chapter in section "The Countries".

Analysis:

Political Parties and Defence in Latin-America

Luis Tibiletti*

■ Several years ago, when we proposed to RESDAL that we should work on the issue of Parliament and Defence, we knew after so many years of experience as parliamentary advisors, that we were facing an even greater debate, as the role of political parties in Latin America is in these matters.

From a historical point of view, it is evident that the relevance of Congress in our region does not bear similarities with others. Our political tradition, as from the independence wars, has been much more focused in the different forms of expression of the Executive Branch than in parliamentary concerns. Nevertheless, it can be traced, along the different stages of the construction of the Modern State back in the late 19th and even the early 20th century, times when Parliaments – bearing an even more strictly legitimating function as to the initiatives of the Executive than that of formulating proposals – had certain participation in matters of security and defence almost in every country. .

This role was much less during the decades of the second half of the 20th century. This can be understood if we consider that in most countries the government remained in the hands of the military institutions, and in other cases fulfilled definite arbitration functions in political life. It was precisely the proximity of transition processes towards democracy – in the mid eighties – when the necessary conditions emerged for the parliamentary representatives to start having a more significant role, always considering the different ways and paces every country had.

Certainly, the undertaking of these faculties was not an easy process, as a

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* President, *SER en el 2000*.



series of limitations had to be surmounted. The first of them involved the process known as transference of prerogatives between military and political institutions during transition times.

When this obstacle started in some way to be surpassed due to the reinforcement of the Rule of Law, a second difficulty arose: the extremely poor preparation of politicians to understand the issues concerning security and defence. This difficulty, common to all the regional countries, permits various types of analysis. Some people think it has a direct connection with the insufficient political leaders training processes, what in turn, responds to the particularities of each political background. Some others consider that it is a natural consequence of the lack of concern seen in societies about defence issues, as they do not pressure their representatives to take a stance on the issue. We will focus on the question of political leaders.

When analyzing the institutional background of our countries, the first arising fact that comes to us, is the strong interweave that has always existed between the political parties (even before their modern structure towards the late 19th century) and the military.

Getting back to the issue of the independence wars, clearly they had an ideological component (if we do not want to call the *Logia Lautaro* a party) that nurtured the patriots throughout the length and breadth of Latin-America. That made no difference between the scarce professional military men that participated in them (like General San Martín) and the self-made “generals”, in the haste of battles, like Bolívar, Sucre, Sandino and so many other national heroes. From this initial symbiosis between men at arms and political, social and even religious leaders, a new political-military conception was derived and arrived at our modern State structure, which no doubt is still present in the region nowadays, in cases like those of the “Commanders” Castro, Chávez or Ortega, or the Colonels Gutierrez or Humala.

The arrival –since the second half of last century- of the military who incarnated the social inclusion of the excluded masses era (such as Peron in Argentina or Vargas in Brazil, via the civic-military movement and later, the massive legitimization through the ballot boxes; the subsequent military reform in Peru and Ecuador and its load of popular expectations; the case of General Liber Seregni, founder of the currently ruling *Frente Amplio* (Wide Spectrum) in Uruguay, or the historical union between the *Colorados* (Reds) and the military in Paraguay, reinforced this symbiosis, now adding a new component: the modern political parties, created through the management of a military chief.

Hence, almost every political party in Latin America tried always to have a military wing, that is to say, active and retired military personnel that were “*propia tropa*” (insiders), using the same military jargon to define them. Naturally, the military institutions fulfilled a political role all through the XX century. Any version is valid when trying to explain that role, be the very European conception of political balance as Alain Rouquié posed it, or the instrumental function within the North American imperialism, as our leftist movements have always maintained. It is evident that, if military institutions were at least capa-

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ble of regulating the access and exit of the State power, the political parties had to make sure of having a “military branch” in order to possibly aspire to exercise it.

In this same logic, when we talk about managing, we refer to the limited meaning of “how can we avoid being ousted again”. This is a distinctive symptom of, for instance, the *Unión Cívica Radical* (Civic Radical Union) in Argentina, frequently subjected to military coups (and an active participant when these coups were meant to strike others). The very odd chances of armed conflicts between States (but not within States, which is certainly a more usual scenario) did not generate amidst society any demands as to what to do about national defence. The treatment of the issue was a debate itself among the military experts, who most of the time used the argument of defencelessness only as a political trick. In fact, when in many countries the military “institutionally” took power, without using the action of a political-military national hero, better defence conditions were not created either. On the contrary, in a case like Argentina’s, the last military dictatorship was the worst example of “defencelessness”, after embarking the country on conflicts with all the neighbours, to finally lose an insane war against NATO.

That is to say – returning to more theoretical positions –, parties were only concerned about the “military politics” in a narrow sense (how to avoid being ousted, what can we do to entertain them, what missions can we assign them with). Or, in a broader and newer sense, they were concerned about “the military subordination to the rule of law”, in the way of civil-military relations, the paramount issue in the last regional democratizing wave started in the last two decades of the last century.

Therefore, there is little room left for the defence issues, if we bear in mind that they are not part of the subordination, but something much more complex, such as the political leadership of the military is; the military seen not as political actors, but as a part of the State power (as they hold the monopoly of the force and the foreign relations). Obviously, that implies a level of knowledge similar to that required to formulate any other public policies such as economy, education or health. Economists, teachers or physicians swarm from young age to the political arena, but, where should all those who elaborate the partisan doctrinal conceptions of defence matters be trained?

Now, one of the major flaws in our Hispanic and Luso-American world replicates what occurs even today in the old metropolises. The validity of an obsessed anti-militarism of 19th century origin - worsened by the political roles of institutions throughout history- determines, unlike the rest of the world, the absence of current superior studies for national defence regarding issues. Let us think that, for instance, around three hundred graduate and post-graduate studies can be found in France, in relation to both political and technological issues connected to national defence. Not to mention the fact that it is hard to imagine a graduate from the renowned *École Nationale d’Administration* (ENA, where the leading State officials come from) who can not debate in equal terms with a French General on Raymond Aron’s thesis on war and peace.

■ The political management of the area implies a level of knowledge similar to that required to formulate any other public policies.



■ It is paramount that state universities assume the commitment of creating studies that are linked to the international security and defence issues.

That is why the necessity to promote military and civil joint studies in “real” academic spheres instead of in mere military schools which try to co-opt civilians for their subsequent political-military adventure, or to, in turn, have their own politicians as *propia tropa* (insiders) within their “military party”. It is paramount that state universities assume the commitment of creating studies that are linked to the international security and defence issues, where the prospective political leadership acquire along with the young military officers, if possible, the necessary knowledge conduct the defence policy matters.