

Chapter 1:

The Legal Framework



What do Constitutions define?

Argentina (1853. Last reform 1994)

Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Commander-in-Chief of the Armed Forces (Sec.99, sub. 12). Declare war with the approval of Congress (Sec. 99, sub. 15) and the state of siege in case of external attacks, for a limited period of time, with the approval of the Senate (Sec. 99, sub. 16). Appoint senior officers with the approval of the Senate (Sec. 99, sub. 13). Arrange, organize and deploy the Armed Forces (Sec. 99, sub. 14).</p> <p>Powers of Congress: Approve the declaration of war (Sec. 75, sub. 25) and the declaration of state of siege in case of external attacks (Sec. 61). Authorize the president to make peace (Sec. 75, sub. 25). Authorize the entry of foreign troops to the national territory and allow the deployment of national troops outside the country (Sec. 75, sub. 28). Establish the Armed Forces (Sec. 75, sub. 27). The Chamber of Deputies has the lawmaking initiative on raising revenues and the recruitment of troops (Sec. 52). Organize and govern the Armed Forces (Sec. 75, sub. 27). Levy direct taxes for a certain amount of time, in all the territory of the Nation, as long as the defence, common security and State general welfare policies so require (Sec. 75, sub. 2). Approve or dismiss treaties entered into with other nations and with international organizations, as well as the concordats with the Holy See (Sec. 75, sub. 22).</p>	No reference.	<p>The Federal Government acts within the territory of the provinces to repel foreign invasions (Sec. 6). Citizen participation: every Argentine citizen is bound to bear arms in defence of the Nation and its Constitution (Sec. 21). Every citizen has the right of resistance from those who perform acts of force against the institutional order and democratic system. (Sec. 36). The Argentine Nation ratifies its legitimate and imprescriptible sovereignty over the Malvinas Islands, Southern Georgias and Southern Sandwich and the corresponding maritime and insular areas, as an integral part of national territory. The recovery of these territories and the full exercise of sovereignty over them, respecting the way of life of their inhabitants, in accordance with the principles of International Law, constitute a permanent and unwavering claim of the Argentine people (First Temporary Provision). International treaties and concordats entered into with the Holy See have a higher hierarchy than national laws (Sec. 75, sub. 22 y 24).</p>

Bolivia (2008)

Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Provide the security and defence of the Nation (Sec. 172, sub. 16). Appoint and dismiss the Commander-in-Chief of the Armed Forces and the Chiefs of the Army, the Air Force and Navy. (Sec. 172, sub. 17). Recommend to the Plurinational Legislative Assembly the promotions to Army General, Air Force General, Major General and Brigadier General; Admiral, Vice-Admiral and Rear-Admiral (Sec. 172, sub. 19). Exercise the powers as Capitán General (Commander) of the Armed Forces and make use of them for the defence of the State, its independence and territorial integrity (Sec. 172, sub. 25). The Executive shall have direct access to information on budgeted and executed expenses of the Armed Forces through the appropriate Ministry (Sec. 321, sub. 5).</p> <p>Powers of the Plurinational Legislative Assembly¹: Approve the entry of foreign troops to the national territory and the deployment of national troops outside the country (Sec. 158, sub. 1, 21 and 22). Approve in each legislature the military strength to be maintained in times of peace (Sec. 159, sub.10). Ratify promotions proposed by the Executive to Army General, Air Force General, Major General and Brigadier General; Admiral, Vice-Admiral, Rear-Admiral and Bolivian Police General (Sec. 160, sub. 8).</p> <p>Supreme Defence Council of the Plurinational State²: Makeup, organization and powers established by law, presided over by the Capitán General of the Armed Forces (Sec. 248).</p>	<p>The Armed Forces: They are composed of the Command-in-Chief, the Bolivian Army, Air Force and Navy (Sec. 243). Mission: defend and maintain national independence, security and stability of the State and the national honour and sovereignty; secure the rule of the Political Constitution, guarantee the stability of the legally-established Government and participate in the overall development of the country (Sec.244). Organization: Relying on hierarchy and discipline principles. The Armed Forces are to be obedient, non deliberating, and subject to the laws and military regulations. As an institutional body, the Armed Forces shall not carry out any political action; individually, the members of the Armed Forces are entitled to exercise their citizen rights under the terms established by Law (Sec. 245). Active members of the Armed Forces shall not be eligible for public office at elections, unless they have previously resigned at least three months before the election day (Sec. 238, sub. 4). The Armed Forces report to the President of the Nation and follow his/her orders on administrative matters, through the Minister of Defence and, on technical matters, through the Commander-in-chief of the Armed Forces (Sec. 246, sub. 1). In case of war, operations shall be headed by the Commander-in-chief of the Armed Forces. (Sec. 246, sub. 2). No foreign citizen shall be appointed to any command or administrative position in the Armed Forces without prior authorization by the Capitán General of the Armed Forces (Sec. 247, sub. 1). Promotions in the Armed Forces shall be determined by law (Sec. 250). In case of international war, the Bolivian Police Force shall report to the Command-in-chief of the Armed Forces for the duration of the conflict (Sec. 254). The Armed Forces' fundamental duty is to secure the defence, security and control of the border security areas. The Armed Forces shall participate in overall sustainable development policies for these areas and shall ensure their permanent physical presence there (Sec. 263).</p>	<p>Bolivia is a peaceful State that promotes a culture of peace and the right to peace (Sec. 10, sub. 1). It rejects all forms of aggression used to settle disputes and conflicts among States and reserves its right to legitimate defence in case of any aggression that may threaten the State's independence and integrity (Sec. 10, sub. 2). It is prohibited to establish foreign military bases in Bolivian territory (Sec. 10, sub. 3). Defence is the responsibility of the State (Sec. 12, sub. 2). It is the duty of Bolivian citizens to defend, promote and contribute to the right to peace and to promote a peaceful culture (Sec. 108, sub. 4), and it is the duty of Bolivian men to comply with the mandatory military service (Sec. 108, sub. 12). Compliance with military duties shall be a requisite to hold public office (Sec. 234, sub. 3). The negotiation, signing and ratification of international treaties shall be governed by the principles of independence and equality among States, non-intervention in internal affairs and peaceful resolution of disputes (Sec. 255, sub. II, 1). The Bolivian State declares its indisputable and imprescriptible right over the territory giving access to the Pacific Ocean and its maritime space. An effective settlement of the maritime dispute through peaceful means and full exercise of sovereignty over that territory are permanent and unrenounceable claims of the Bolivian State (Sec. 267, sub. 1 and 2). It is prohibited to manufacture and use chemical, biological and nuclear weapons, as well as to enter, transport and store nuclear and toxic waste in Bolivian territory (Sec. 344, sub. 1).</p>

¹ Asamblea Legislativa Plurinacional. ² Consejo Supremo de Defensa del Estado Plurinacional.

Brazil (1988. Last reform 2010)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Initiate laws, on its own, to establish or modify the number of regular military members, rule over members of the military, their justice system, promotions, stability, assignment of positions, remuneration, reform, and transfer to the reserve (Sec. 61, sub. 1). Order the state of defence and state of siege (Sec. 84, sub. 9). Supreme Commander of the Armed Forces (Sec. 84, sub. 13). Appoint the Chiefs of the Armed Forces, and promote general officers (Sec. 84, sub. 13). Convene and preside over meetings of the Council of the Republic and the National Defence Council (Sec. 84, sub. 18). Declare war with the approval of the Congress, in the event of a foreign aggression (Sec. 84, sub. 19). Make peace, with the approval of the Congress (Sec. 84, sub. 20). Allow the entry of foreign troops (Sec. 84, sub. 22).</p> <p>Powers of the Congress: Determine and modify the strength of the Armed Forces (Sec. 48, sub. 3). Authorize the President to declare war, make peace and approve the deployment of troops (Sec. 49, sub. 2).</p> <p>Council of the Republic³: It is the President's higher consultation body (Sec. 90). Expresses position on federal intervention, state of war and state of siege (Sec. 90, sub. 1).</p> <p>National Defence Council⁴: It is the President's consultation body on issues related to national sovereignty and the defence of the democratic State (Sec. 91). Expresses its position on war declaration and peace settlement (Sec. 91, sub. 1); declaration of the state of defence, state of siege and federal intervention (Sec. 91, sub. 2). Proposes the criteria and conditions for the use of areas which are key to the security of the national territory, and expresses opinion on its effective use, especially on border zones and those associated with the preservation and exploitation of natural resources of any kind (Sec. 91, sub. 3).</p>	<p>The Armed Forces: The Armed Forces are a national permanent, regular and non-political institution, organized on the bases of hierarchy and discipline. They are composed of the Navy, the Army and the Air Force (Sec. 142). Mission: defend the Motherland and guarantee constitutional powers as well as, on the latter initiative, law and order (Sec. 142). Service member incorporation, age limits, rights, obligations, remuneration, prerogatives and other special situations of military members, given the nature of their activities, including duties under international commitments and war shall all be determined by law (Sec. 142). The members of the military on active duty are not entitled to join labour unions or go on strike; neither can they join a political party (Sec. 142, sub. 4); they shall not be candidates at elections (Sec. 14, sub. 8), habeas corpus does not apply to military disciplinary punishment (Sec. 142, sub. 2). Military service is compulsory in accordance with the law (Sec. 143). Military justice: it shall be incumbent upon the Military Courts to try and judge military crimes defined by law. Military justice organization, operation and competence shall be determined by law (Sec. 124).</p>	<p>Brazil's international relations are governed, among other principles, by the defence of peace and peaceful resolution of disputes (Sec. 4, sub. 6 and 7). The action of armed groups, either civil or military, against the constitutional order and the democratic State is a crime not subject to limitation (Sec. 5, sub. 44). The Union must ensure national defence and celebrate peace, as well as allow foreign forces to transit or remain temporarily in national territory, under the circumstances specified by supplementary laws. Declare the state of siege, the state of defence and federal intervention. Authorize and oversee the production and sale of warfare material (Sec. 21). All nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress (Sec. 21, sub. 23, a). The Union is responsible for legislating on civil and military requisition, in case of imminent danger and during war times (Sec. 22, sub. 3), general regulations, organization, troops, warfare material, warranties, call-up and deployment of the military police and fire brigades (Sec. 22, sub. 21).</p>
Chile (1980. Last reform 2010)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Maintain external security (Sec. 24). Appoint and remove the Commanders-in-Chief of the Army, the Navy and the Air Force (Sec. 32, sub. 16; Sec. 105). Appoint, promote and remove officers (Sec. 32, sub. 16). Arrange, organize and deploy the Armed Forces depending on national security needs (Sec. 32, sub. 17). Supreme Chief of the Armed Forces in times of war (Sec. 32, sub. 18). Declare war once the pertinent law has been adopted, and after hearing the National Defence Council (Sec. 32, sub. 19). Order payments not authorized by law to meet the pressing needs derived from external aggressions, internal conflict and serious harm or danger to national security (Sec. 32, sub. 20). Declare the state of assembly in case of external war, with the approval of the National Congress (Sec. 40). The President has the law initiative to establish the air, land and sea forces, and the ones for the entry and deployment of troops (Sec. 65; Sec. 63, sub. 13).</p> <p>Powers of Congress: Indict (only Representatives) and judge (only Senators) Generals and Admirals (Sec. 52, sub. 2, d; Sec. 53, sub. 1). Approve or dismiss international treaties introduced by the President in order to be ratified (Sec. 54, sub. 1). The Chamber of Deputies (Lower House) has the lawmaking initiative regarding recruitment matters (Sec. 65).</p> <p>National Security Council⁵: Advise the President on national security (Sec. 106).</p>	<p>The Armed Forces: Composed of the Army, the Navy and the Air Force (Sec. 101). Mission: defend the Motherland (Sec. 101); safeguard the public order during elections (Sec. 18). The members of the military on active duty cannot be elected Deputies or Senators unless they resign and retire during the year preceding the election (Sec. 57, sub. 10). Depend on the National Ministry of Defence, they are essential to the national security, they are obedient, non deliberant, professional and disciplined, and follow a hierarchical order (Sec. 101). Incorporation to the Armed Forces is performed through their own schools, except in the case of professional scales and civilian personnel (Sec. 102). Obligatory military service (Sec. 22). Appointments, promotions, retirement of officers, ranks, incorporation, social security, seniority, command succession and budget are determined by constitutional organic law (Sec. 105). The right to a legal defence, in the administrative and disciplinary spheres, shall be governed by the relevant regulations of the respective bylaws (Sec. 19, inc. 3).</p>	<p>It is the duty of the State to safeguard the nation's security (Sec. 1). The Chilean nationality shall be lost by virtue of supreme decree, in case of service provision to the enemy or its allies during external war (Sec. 11, sub. 2). Freedom of teaching has no other limitations but those imposed by moral, good customs, public order and national security (Sec. 19, sub. 11). Associations which are contrary to moral, the public order and the security of the State are prohibited (Sec. 19, sub. 15). No government or city official, employee of corporations or companies providing public utility services or any worker whose stoppage might cause serious harm to national security shall be entitled to go on strike (Sec. 19, sub. 16). The law may allow certain taxes to be allocated to national defence (Sec. 19, sub. 20). Citizen participation: all Chileans have the fundamental duty to honour their Motherland, to defend its sovereignty and to contribute to preserve national security (Sec. 22). The exercise of rights and guarantees established in the Constitution can only be modified by the following exceptional circumstances: external or internal war, internal disorder, emergency and public catastrophe, seriously affecting the normal operation of State institutions (Sec. 39).</p>

3 Consejo da República. 4 Consejo de Defensa Nacional. 5 Consejo de Seguridad Nacional.



Colombia (1991. Last reform 2009)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Supreme Commander of the Armed Forces (Sec. 189, sub. 3). Conducts operations when deemed necessary (Sec. 189, sub. 5). Provide to external security (Sec. 189, sub. 6). Declare war with the approval of the Senate, except in case of foreign aggression and accord peace, informing Congress (Sec. 189, sub. 6). Allow, when the Senate is in recess, with the approval of the State Council, the transit of foreign troops through the territory of the Republic (Sec. 189, sub. 7).</p> <p>Powers of Congress: Dictate general rules with objectives and criteria to establish wage levels and social benefits for the military (Sec. 150, sub. 19, e). Approve the appointment of senior officers (Sec. 173, sub. 2). Approve the entry of foreign troops (Sec. 173, sub. 4). Approve the declaration of war (Sec. 173, sub. 5).</p> <p>State Council⁶: Act as the supreme advisory body of the Government in administration matters. In case of foreign troops transit through the national territory, and of stay or transit of foreign warships or combat aircraft in national waters or airspace, the government shall first take the advice of the State Council (Sec. 237, sub. 3).</p>	<p>The Military Forces⁷: The Military Forces comprise the Army, the Navy and the Air Force (Sec. 217). Mission: defend the sovereignty, independence, integrity of the nation's territory and constitutional order (Sec. 217). The members of the military on active duty are not entitled to join labour unions (Sec. 39), vote, make petitions except on issues related to their service, or to participate in political activities and debates (Sec. 219). They cannot be elected as Congress members unless they have resigned and retired at least twelve months before the election (Sec. 179, sub. 2). The Commanders of the Military Forces cannot be elected President before one year following their previous position (Sec. 197). In case of a manifest violation of a constitutional rule to the disadvantage of any person, the responsibility shall fall exclusively on the superior who has issued the order (Sec. 91). Professional, cultural and social promotion systems for members of the public force shall be determined by law. The fundamentals of democracy and human rights shall be taught during the professional training phase (Sec. 222). Military justice for military crimes (Sec. 221, Sec. 250), civilians may not be tried by the Martial Law (Sec. 213).</p>	<p>The State is essentially aimed at defending independence and maintaining territorial integrity (Sec. 2). The State's foreign relations are based on national sovereignty, the respect for the self-determination of peoples, and the recognition of the principles of international law endorsed by Colombia. The foreign policy of Colombia shall be oriented to the integration of Latin America and the Caribbean (Sec. 9). Peace is a compulsory right and duty (Sec. 22). Colombian citizens shall be educated in the respect for human rights, peace and democracy (Sec. 67). It is prohibited to manufacture, import, possess and use chemical, biological and nuclear weapons, as well as to enter nuclear and toxic waste into national territory (Sec. 81). All Colombians are obliged to bear arms when public need requires the defence of the nation's independence and public institutions (Sec. 216). The Government is exclusively entitled to introduce and manufacture weapons, ammunitions and explosives. No person shall be entitled to own or carry weapons and the like without prior authorization of the relevant authority. (Sec. 223). The State shall promote economic, social and political integration with other nations, especially with Latin America and the Caribbean, through the execution of treaties which, based on equity, equality and reciprocity, create supranational bodies that may even lead to the creation of a Latin American community of nations (Sec. 227).</p>
Cuba (1976. Last reform 1992)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the National Assembly of People's Power⁸: Approve the general foreign and domestic policy guidelines (Sec. 75, sub. h). Declare the state of war in case of military aggression and approve peace treaties (Sec. 75, sub. i).</p> <p>Powers of the State Council⁹: Decree general mobilization when required for the defence of the country and assume the powers assigned to the National Assembly by the Constitution to declare war in case of aggression or make peace, when this Assembly is in recess or cannot be summoned with the necessary celerity and security conditions. (Sec. 90, sub. f).</p> <p>Powers of the President of the State Council and Head of State: Preside over the National Defence Council (Sec. 93, sub. h).</p> <p>Powers of the Council of Ministers¹⁰: Provide for national defence, maintenance of internal order and security, and the protection of human life and assets in case of natural disasters. (Sec. 98, sub. ch).</p> <p>National Defence Council¹¹: Convened and prepared in times of peace to lead the country under state-of-war conditions, during war, general mobilization or state of emergency. (Sec. 101).</p> <p>Local Bodies of the People's Power¹²: The Province and Municipal Assemblies of the People's Power are responsible for reinforcing the defensive capacity of the country (Sec. 105 and Sec. 106, sub. m). The Defence Councils of the Provinces, Municipalities and Defence Zones are created and prepared in times of peace to lead their respective territories in a state of war, during the war, general mobilization or state of emergency, based on a general defence plan and the role and responsibilities of the army's military councils (Sec. 119).</p>	<p>Revolutionary Armed Forces¹³: The members of the Revolutionary Armed Forces and other armed organizations have the right to vote and be elected as any Cuban citizen (Sec. 134).</p>	<p>All citizens have the right to fight with all means, including armed resources, when no other means are left, against anyone attempting to disrupt the political, social or economic order established by the Constitution (Sec. 3). The State sustains and defends the integrity and sovereignty of the Motherland (Sec. 9). The economic, diplomatic and political relations with other States shall never be negotiated under aggression, threat or coercion of a foreign power (Sec. 11). The Cuban Republic ratifies its desire that all States, whether big or small, weak or powerful, can enjoy a decent, actual and valid peace, based on the respect for independence and sovereignty of the people and the right to self-determination; it bases its international relations on the peaceful settlement of disputes on equal footing with other States, on the basis of respect and adherence to other principles established in the UN Charter; it reaffirms its willingness to promote integration and collaboration among countries in Latin America and the Caribbean; it condemns imperialism, promoter and supporter of all fascist, colonialist, neo-colonialist and racist manifestations, as the main force of war and aggression and the worst enemy of the peoples; it condemns the direct and indirect intervention on the internal or external affairs of any State, including armed aggressions, economic blockades and any other form of economic or political blockade; it views wars of aggression and conquest wars as international crimes and recognizes the legitimacy of struggles for national liberation, as well as of armed resistance to aggression, and considers its duty to support victims of aggression and people fighting for their liberation and self-determination (Sec. 12, sub. a, b, c, d, e and g). The State guarantees the right achieved by the Revolution by which all citizens, without distinction, can be promoted to all hierarchies of the Revolutionary Armed Forces, security and law-enforcement, according to their skills and merits (Sec. 43). The defence of the socialist nation is the greatest honour and supreme duty of every Cuban citizen. The military service is regulated by law (Sec. 65).</p>

6 Consejo de Estado. 7 Denomination used in the constitutional text. 8 Asamblea Nacional del Poder Popular. 9 Consejo de Estado. 10 Consejo de Ministros. 11 Consejo de Defensa Nacional. 12 Órganos locales del Poder Popular. 13 Fuerzas Armadas Revolucionarias.

Dominican Republic (2010)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Direct foreign and domestic policies and conduct civilian and military administration. Supreme authority of the Armed Forces (Sec. 128). Appoint or dismiss members of the military jurisdiction (Sec. 128, sub. 1, c). Enter into and sign international treaties or conventions and submit them for approval to the National Congress (Sec. 128, sub. 1, d). Decide on all issues related to the Armed Forces; lead the Armed forces directly or through the relevant ministry, always maintaining the supreme command thereof. Establish their strength and make use of the Armed forces to perform public service duties (Sec. 128, sub. 1, e). Take the necessary measures to provide and ensure the legitimate defence of the Nation, while informing the National Congress of any rules adopted (Sec. 128, sub. 1, f). Declare the states of exception if the National Congress were not in session (Sec. 128, sub. 1, g). Decide on anything related to the military zones (Sec. 128, sub. 1, i).</p> <p>Powers of the Congress: Authorize (Senate) the presence of foreign troops to perform military exercises in the territory of the Republic, under the request of the President of the Republic, provided there is no previous agreement (Sec. 80, sub. 6), and approve and disapprove the deployment of national troops outside the country in peace missions authorized by international organizations (Sec. 80, sub. 7). Declare the state of national defence (Sec. 93, sub. 1, f). Determine, under the request of the President of the Republic, the creation of permanent public security or defence corps composed of members of the Armed Forces and the National Police, subordinated to the ministry or institution of the sphere of their respective competences in accordance with the law (Sec. 261).</p> <p>National Security and Defence Council¹⁴: Advise the President of the Republic on the design of national security and defence policies and strategies and on any other matter requested by the President. The Executive shall regulate its make-up and operation (Sec. 258).</p>	<p>The Armed Forces: The Armed Forces are responsible for the Nation's defence (Sec. 252). Their mission is to defend the independence and sovereignty of the Nation, the integrity of its geographical spaces, the Constitution and the institutions of the Republic (Sec. 252, sub. 1). Their nature shall be essentially defensive (Sec. 259). They shall intervene, as ordered by the President of the Republic, in programs intended to promote the social and economic development of the country, mitigate disasters or public catastrophe situations, and provide assistance to the National Police to maintain or restore public order in exceptional cases (Sec. 252, sub. 2). They are essentially obedient to the civil power, are not affiliated to any political party and are not entitled to deliberate under any circumstance (Sec. 252, sub. 3). The members of the military on active duty cannot run for President or Vice-President unless they have retired at least three years before the election (Sec. 123, sub. 4). The Armed Forces shall be responsible for the custody, supervision and control of all weapons, ammunitions and other military supplies, as well as war material and equipment, entering the country or produced by the national industry, subject to the restrictions established by law (Sec. 252). No discrimination shall be exerted in the admission, appointment, promotion and retirement of Armed Forces members, in accordance with their organic law and other complementary laws (Sec. 253). The military jurisdiction shall only have competence to try military infractions determined by the relevant laws. The Armed Forces shall have a military discipline regime applicable to those offences that do not constitute an infraction under the military criminal justice system (Sec. 254).</p>	<p>The sovereignty of the Dominican Republic, a State free and independent from any foreign power, is inviolable. The non-intervention principle constitutes an unchanging rule of Dominican foreign policy (Sec. 3). Border security is declared of supreme and permanent national interest (Sec. 10). The Dominican Republic accepts an international legal order that guarantees peace. It commits itself to perform actions in line with national interests, the peaceful coexistence among peoples and solidarity responsibilities towards all nations at an international, regional and national level (Sec. 26, sub. 4). The Dominican Republic shall promote and favour the integration with American nations in order to reinforce a community of nations that may defend their regional interests. The State shall sign international treaties to promote the common development of nations and ensure the welfare of their people and collective security of their inhabitants (Sec. 26, sub. 5). The introduction, development, production, possession, sale, transport, storage and use of chemical, biological and nuclear weapons shall be prohibited (Sec. 67, sub. 2). All acts performed by usurped power, actions or decisions made by public powers, institutions or any person disrupting or subverting the constitutional order, as well as any decision made upon request of the armed force shall be considered null and void (Art. 73). Citizens shall have the fundamental duties of rendering civil and military service as required by the Nation for its defence and preservation (Sec. 75, sub. 3) and shall refrain from doing any act detrimental to the stability, independence or sovereignty of the Dominican Republic (Sec. 75, sub. 5). Security and defence shall be regulated by the appropriate organic laws (Sec. 112).</p>
Ecuador (2008)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Exercise the highest authority of the Armed Forces and appoint the military senior staff (Sec. 147, sub. 16). Assume the political direction of the national defence (Sec. 147, sub. 17). Decree the state of exception in all or part of the national territory in case of aggression, international or internal armed conflict, grave internal unrest, public catastrophe or natural disaster (Sec. 164). Once the state of exception is declared, the President shall be entitled to make use of the Armed Forces and the National Police and summon the whole or part of the reserved forces, as well as personnel of other institutions, for active service (Sec. 165, sub. 6).</p> <p>Powers of the National Assembly¹⁵: Approve or reject international treaties when appropriate (Sec. 120, sub. 8). The ratification or rejection of international treaties shall require prior approval of the National Assembly if: 1. They are related to territorial or border matters. 2. They establish any political or military alliance (Sec. 419).</p>	<p>Armed Forces: Mission: defence of territorial sovereignty and integrity (Sec. 158). The Armed Forces and the National Police are institutions designed to protect citizens' human rights, liberties and guarantees. The members of the Armed Forces shall be trained in accordance with the fundamental principles of democracy and human rights, and shall respect the dignity and rights of the people (Sec. 158). They shall be obedient and non-deliberating and shall comply with their mission under strict observance of the civilian control and the Constitution. The Armed Forces senior leadership shall be responsible for their orders. Obedience to orders issued by senior officers of the Armed Forces shall not relieve subordinates from their responsibility (Art. 159). Voting shall not be compulsory for members of the Armed Forces (Sec. 62, inc. 2). Members of the force on active duty cannot be candidates for elections subject to popular vote nor ministers of State (Sec. 113, sub. 8 and Sec. 152, sub. 3). The recruitment of candidates to the armed forces shall not be based on discrimination. The members of the Armed Forces shall be subject to the specific laws regulating their rights and obligations, as well as their system of promotions based on merit and gender equality criteria. Their stability and professionalization shall be guaranteed (Sec. 160). Civil and military service is voluntary and shall be carried out under the respect of citizens' rights and diversity. All</p>	<p>Guarantee and defend national sovereignty is a fundamental duty of the State (Sec. 3, sub. 2). The central State shall have exclusive competence over national defence (Sec. 261, sub. 1). Ecuador is a territory of peace. No foreign military bases or foreign facilities with military purposes shall be established. The assignment of national military bases to foreign security forces or Armed Forces shall be forbidden (Sec. 5). The limitation of military activities in the territories of municipalities, communities, towns and indigenous peoples' territory is recognized and guaranteed in accordance with the law (Sec. 57, sub. 20). Every person has the right to refuse to use violence and to participate in the military service (Sec. 66). Legal actions and sentences for genocide, crimes against humanity, war crimes, the forced disappearance of persons or crimes of aggression against a State shall not be subject to limitation. None of these cases shall be eligible for amnesty. If these offences were committed by a subordinate, this shall not relieve the superior who gave the order nor the subordinate executing such order of criminal liability (Sec. 80). Ecuadoreans shall be responsible for defending Ecuador's territorial integrity and natural resources, and for collaborating with the maintenance of peace and security (Sec. 83, sub. 3 and 4). Both individuals and collective actors shall have the right to resist against actions or omissions of the public authority, non-state individuals or legal persons that infringe or might infringe their constitutional</p>

¹⁴ Consejo de Seguridad y Defensa Nacional. ¹⁵ Asamblea Nacional.



	<p>kinds of forced recruitment are forbidden (161). The Armed Forces shall only be allowed to participate in economic activities related to the national defence and shall provide their resources to support national development in accordance with the law. Their reserves shall be organized based on the needs for the compliance of their duties. The State shall allocate the necessary resources for their equipment, training and education (Sec. 162). Military barracks are not places authorized for the custody of civil population (Sec. 203, sub. 1). The members of the Armed Forces shall make a sworn statement of their assets prior to any promotion or retirement (Sec. 231). The Armed Forces shall have a special social security regime in accordance with the law; their social security entities shall form part of the integral public health network and the social security system (Sec. 370). Disciplinary arrests of military members shall be conducted in accordance with the law (Sec. 77). The members of the Armed Forces shall be tried by the Judiciary Branch bodies; in the case of crimes committed while at a specific mission, they shall be tried by courts specialized in military matters, which form part of the same Judiciary Branch. Disciplinary offences shall be tried by the competent bodies established by law (Sec. 160). Under the principle of jurisdictional unit, Armed Force members shall be tried by the ordinary justice system (Sec. 188).</p>	<p>rights and demand the recognition of new rights (Sec. 98). Ecuador's relations with the international community shall respond to the interests of the Ecuadorean people. Thus, Ecuador proclaims the legal independence and equality of the States, the peaceful coexistence and self-determination of the peoples, and the spirit of cooperation, integration and solidarity among them; Ecuador supports the peaceful settlement of international conflicts and controversies, and rejects the threat or use of force as a means of settlement; it condemns State interference in other States' internal affairs as well as any kind of intervention, whether this be armed, aggression, occupation or an economic or military blockade; it promotes peace and universal disarmament; it condemns the development and use of weapons of mass destruction and the imposition of bases and facilities with military purposes by any State on other State's territory; it condemns all forms of imperialism, colonialism, neo-colonialism, and it recognizes the right of the peoples to resistance against, and liberation from, all forms of oppression; it recognizes international law as a norm of conduct and demands the democratization of all international bodies and equal participation of States within these bodies; it promotes political, cultural and economic integration of the Andean region, South America and Latin America above all (Sec. 416, sub. 1, 2, 3, 4, 8, 9 and 11). Integration, especially with Latin America and the Caribbean, shall be a strategic objective of the State. During all integration stages and processes, the Ecuadorean State shall be committed to promoting a common defence policy that will consolidate a strategic alliance to reinforce the sovereignty</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

El Salvador (1983, Last reform 2003)

Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: General Commander of the Armed Force (Sec. 157). Maintain intact the sovereignty and integrity of the territory (Sec. 168, sub. 2). Sign treaties and international concordats, subjecting them to the Legislative Assembly (Sec. 168, sub. 4). Report on what the Assembly requires, except in the case of secret military plans (Sec. 168, sub. 7). Organize, maintain and arrange the Armed Forces, confer military ranks in accordance with the law (Sec. 168, sub. 11). Summon the Armed Force for the defence of national sovereignty and exceptionally, if no other means rest for the maintenance of internal peace, for the public security and tranquility of the State (Sec. 168, sub. 12). Direct war and accord peace treaties with the approval of the Assembly (Sec. 168, sub. 13). Determine the number of active troops of the Armed Forces on an annual basis (Sec. 168, sub. 19).</p> <p>Powers of the Legislative Assembly¹⁶: In case of invasion, legally declared war or public calamity, the Assembly shall impose obligatory loans if ordinary public taxes are not enough to cover the costs (Sec. 131, sub. 6). Declare war and authorize the President to make peace (Sec. 131, sub. 25). Approve or dismiss the transit of foreign troops on the national territory, (Sec. 131, sub. 29).</p> <p>Executive Body on the Branch of Defence and Public Security¹⁷: Determine the number of troops annually according to the needs of the service (Sec. 213).</p>	<p>The Armed Force¹⁸: It is a permanent institution at the service of the Nation. It is obedient, professional, apolitical and non-deliberating (Sec. 211). Its mission is to defend the sovereignty of the State and the integrity of the territory. The main government branches, the Legislative, the Executive and the Judiciary, may use the Armed Forces to enforce any resolutions adopted within their respective jurisdictions, to ensure full compliance with the Constitution. The Armed Force shall cooperate with efforts of public benefit assigned by the Executive Power and shall help the people in case of a national disaster (Sec. 212). The Armed Force is obliged to cooperate with the special commissions of the Legislative Assembly (Sec. 132). It is part of the Executive branch and it is subordinated to the authority of the President as General Commander in chief. Its structure, legal system, doctrine, organization and operation are determined by law, rules and special regulations the President adopts (Sec. 213). The military professional career and promotions are strictly based on rank and in accordance with the law (Sec. 214). Military service is obligatory (Sec. 215). The members of the military on active duty cannot be part of any political party, or be candidates for elections. They can only be elected President three years after they retire (Sec. 82; Sec. 127; Sec. 152). Military justice jurisdiction: purely military crimes and offences (Sec. 216).</p>	<p>Armed political, religious or union groups are prohibited (Sec. 7). Death penalty shall only be imposed in the cases specified by the military laws during the state of international war (Sec. 27). El Salvador fosters and promotes human, economic, social and cultural integration with the American republics, especially with those in the Central American Isthmus (Sec. 89). The State shall be entitled to seize the properties of citizens from countries at war with El Salvador (Sec. 112). National defence and public security shall be assigned to different Ministries (Sec. 159). Citizen participation: all the citizens of El Salvador fit for military tasks shall be soldiers in case of need (Sec. 215). The manufacturing, import, export, sale, possession and carrying of weapons, ammunitions, explosives and similar items shall only be allowed with the authorization and under the direct supervision of the defence organization of the Executive Body. A specific law shall regulate this matter (Sec. 217). Civil public services shall only be militarized in case of national emergency (Sec. 221).</p>

Guatemala (1985, Last reform 1993)

Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: General Commander of the Army (Sec. 182, 183 and 246). Give orders via the general officer or colonel or his equivalent at the Navy, who serves as Minister of National Defence (Sec. 246). Provide for the defence and security of the Nation (Sec. 183, sub. b). Confer promotions, decorations, military honours and extraordinary pensions (Sec. 246, sub. b). Decree the mobilization and demobilization of troops (Sec. 246 sub. a).</p>	<p>The Army¹⁹: It is unique and indivisible, essentially professional, apolitical, obedient and non deliberant. It is composed of the land, air and maritime forces. Organization: hierarchy, based on the principles of discipline and obedience (Sec. 244). It is regulated by the Constitution, its Statutory Law and other military laws and regulations (Sec. 250). They are not obliged to carry out illegal orders or those which involve committing a crime (Sec. 156). Mission: maintain independence, sovereignty and</p>	<p>Citizen participation: to serve and defend the Nation and to provide social and military service are the rights and responsibilities of every citizen of Guatemala (Sec. 135). Guatemala shall regulate its relations with other States in accordance with international principles, rules and practices in order to contribute to peace-keeping and freedom, the respect and defence of human rights, the strengthening of democratic processes and international institutions which can guarantee the mutual and equal benefit among</p>

16 Asamblea Legislativa. 17 Órgano Ejecutivo en el Ramo de Defensa y Seguridad Pública. 18 Denomination used in the constitutional text. 19 Denomination used in the constitutional text.

Powers of the Congress:

Declare war and sign peace treaties (Sec. 171, sub. f). Approve the transit of foreign troops on the national territory and the sojourn of foreign military (Sec. 172, sub. a). Approve treaties which affect or may affect the security of the State or conclude a state of war (Sec. 172, sub. b). The Army depends on the Congress if the President continues in the position once the constitutional period has come to an end and is not recognised by the Congress (Sec. 165, sub. g). The ministers of State are not obliged to come forward to the Congress to answer questions related to diplomatic issues or pending military operations (Sec. 166).

the honour of Guatemala, the integrity of the territory and internal and external peace and security (Sec. 244); cooperate in emergency situations or public calamity (Sec. 249). To be an officer it is required to be a native Guatemalan citizen and not have adopted any foreign nationality at any time (Sec. 247). The members of the military on active duty cannot be elected Deputies (Sec. 164, sub. f) or President, only if they were discharged or retired five years before taking office (Sec. 186, sub. e), they are not entitled to vote or to make political or collective petitions (Sec. 248). The military courts shall acknowledge the crimes of faults committed by the members of the Guatemalan Army (Sec. 219).

States (Sec. 149). Administrative actions are public, except those related to military or diplomatic matters of national security (Sec. 30). They are not obliged to carry out illegal orders or those which involve committing a crime (Sec. 156). The whip or commanders of a coup d'état, armed revolution or the like who altered the constitutional order shall not be eligible as President or Vice president (Sec. 186). The organization and operation of armed groups not regulated by the laws of the Republic and its regulations constitute a punishable action (Sec. 245). The Executive has the power to enter into negotiations to settle the situation regarding Guatemala's rights with respect to Belize, in accordance with national interests. (Temporary and final provisions, Sec. 19).

Honduras (1982, Last reform 2005)**Leading Political Procedures****Powers of the President:**

General Commander of the Armed Forces, exercises the Command-in-Chief (Sec. 245, sub. 16; Sec. 277). Maintain the peace and external security; repel external attacks or aggression (Sec. 245, sub. 4), adopt measures for the defence of the Republic (Sec. 245, sub. 16). Declare war and make peace if the Congress is in recess (Sec. 245, sub. 17). Sign international treaties and agreements of a military nature, regarding the territory and sovereignty with the consent of the Congress (Sec. 245, sub. 13). Allow the transit of foreign troops on the national territory and the deployment of national troops outside the country with the approval of the Congress (Sec. 245, sub. 43 and 44). Confer military ranks (second lieutenant to captain) suggested by the Secretary of National Defence (Sec. 245, sub. 36; Sec. 290). Ensure that the Armed Forces are apolitical, essentially professional, obedient and non deliberant (Sec. 245, sub. 37).

Powers of the Congress:

Declare war and make peace (Sec. 205, sub. 28). Confer military ranks (from major to general) suggested by the Executive Power (Sec. 205, sub. 24; Sec. 290). Approve the entry of foreign troops to the national territory and the deployment of national troops outside the country (Sec. 205, sub. 26 and 27). Determine the number of permanent troops (Sec. 205, sub. 25). Authorize reception of foreign military missions of assistance or technical cooperation in Honduras (Sec. 205, sub. 29).

Secretary of State in the National Defence Dispatch²⁰:

The Secretary shall be appointed and removed freely by the President of the Republic (Sec. 280).

National Defence and Security Council²¹:

Creation (Sec. 287). Organization and operation determined by law (Sec. 287).

Board of Commanders of the Armed Forces²²:

It is the consulting body for all the matters related to the Armed Forces. It rules over issues of its competence and acts as a Superior tribunal of the Armed Forces on matters which shall be subject to its knowledge. The Statutory Law of the Armed Forces and its Regulations rule over its operation (Sec. 285). It is composed of the Chairman of the Joint Chief of Staff, the General Inspector and the Commanders of each Force (Sec. 286).

Joint Chief of Staff of the Armed Forces²³:

The Chairman of the Joint Chief of Staff is selected and removed freely by the President among the members of the Board of Commanders (Sec. 280). The Joint Chiefs of Staff is the superior technical body of consultation, planning, coordination and supervision, which depends on the Secretary of National Defence; its tasks are assigned by the Statutory Law of the Armed Forces (Sec. 283). It shall issue a statement previous to conferring the promotions to the officers (Sec. 290).

Military Instrument**The Armed Forces:**

They are permanent, apolitical, essentially professional, obedient and non deliberant (Sec. 272). They are composed of the High Command, the Army, the Air Force, the Navy, the Public Security Force and other organizations determined by the Statutory Law (Sec. 273). Their operation is regulated by the Statutory Law, laws and regulations (Sec. 274). The orders given by the President of the Republic shall be abided by and executed respecting the Constitution of the Republic and the principles of lawfulness, discipline and military professionalism (Sec. 278). The members of the military are not obliged to carry out illegal orders or those which involve committing a crime (Sec. 323). They have been established to defend territorial integrity and the sovereignty of the Republic, keep the peace, public order and the respect of the Constitution, the principles of free vote, rotation of the Presidents of the Republic (Sec. 272), cooperate with the National Police in the keeping of the public order (Sec. 272); and with the Secretaries if required so in tasks of literacy, education, agriculture, protection of the environment, road systems, communication, health and agricultural reform. Participate in international peace missions; in the fight against drug trafficking; cooperate with means and personnel to face natural disaster and emergency situations; as well as protection and conservation programs for the ecosystem, for the academic and technical training of their members, and others of national interest. Cooperate with the public security institutions at the request of the Secretary of Security, to fight terrorism, arms trafficking and organized crime, as well as protection of the powers of the State and Elections Tribunal, operating at its request (Sec. 274). Promotions strictly determined by law (Sec. 290). Appointments and removal of the members of the military, related with the administrative order, shall be granted in accordance with the Law of Public Administration. In the operative area, appointments and removals shall be conferred by the Chairman of the Joint Chief of Staff, in accordance with the organic structure of the Armed Forces, the Statutory Law, and other legal regulations, including the personnel of troops and auxiliaries (Sec. 282). Voluntary military service (Sec. 276 and 288). The members of the military on active duty are not entitled to vote (Sec. 37), and they shall be eligible in the cases not prohibited by the law (Sec. 37). They cannot be elected Deputies prior to six months after they retire (Sec. 199, sub. 4 and 6) or twelve months in case they are running for President (Sec. 240, sub. 2, 3 and 4). National Defence College: it is the highest house of studies for the Armed Forces. It trains selected military and civilian personnel, so they take part in the national strategic planning (Sec. 289). Institute of Military Social Security: for the protection, welfare and social security of all the members of the military, presided by the Chairman of the Joint Chief of Staff, shall operate in accordance with the specific Law (Sec. 291). For defence and national security reasons, the territory shall be divided in military regions commanded

Other Provisions

Citizen participation: every Honduran citizen is obliged to defend the Motherland (Sec. 38; Sec. 276). Military service is a citizen's duty. It is voluntary in times of peace, under a social, humanitarian and democratic education system. The State can summon the troops, in accordance with the Military Service Law. In case of international war, all the citizens capable of defending and service the Motherland shall be soldiers (Sec. 40, sub. 5; Sec. 276). The people can uprise in defence of the constitutional order (Sec. 3). Embrace the principles and practices of the international law which support human solidarity, the respect for self determination, the non-intervention and strengthening of universal peace and democracy. Honduras proclaims the validity and obligatory execution of arbitrations and judiciary international sentences as unavoidable (Sec. 15). No authority can sign or ratify treaties or grant licences which compromise territorial integrity, sovereignty and the independence of the Republic. Whoever does this shall be tried for treason to the Nation. Responsibility in this case is imprescriptible (Sec. 19).

20 Secretario de Estado en el Despacho de Defensa Nacional. 21 Consejo Nacional de Defensa y Seguridad. 22 Consejo Superior de las Fuerzas Armadas. 23 Jefe del Estado Mayor Conjunto de las Fuerzas Armadas.



Honduras			by a Chief of Military Region. Their organization and operation shall be in accordance with the Statutory Law of the Armed Forces (Sec. 284). Military justice for military crimes and offences (Sec. 90 and Sec. 91). A special law shall regulate the operation of military courts (Sec. 275).	
	Mexico (1917. Last reform 2007)			
	Leading Political Procedures	Military Instrument	Other Provisions	
	<p>Powers of the President: Appoint colonels and other senior officers with the approval of the Senate (Sec. 89, sub. IV) and other officers (Sec. 89, sub. V). Declare war with the approval of the Congress (Sec. 89, sub. VIII). Make use of the permanent Armed Forces and the National Guard to safeguard the security and external defence (Sec. 89, sub. VI and VII). Direct foreign policy and sign International agreements (Sec. 89, sub. X).</p> <p>Powers of the Congress: The Chamber of Deputies has the law initiative on recruitment of troops (Sec. 72, sub. h). Declare war in view of the information submitted by the Executive Power (Sec. 73, sub. XII). Raise and maintain the Armed institutions and regulate their organization and service (Sec. 73, sub. XIV). Enact laws on national security (Sec. 73, sub. XXIX-M). Approve (Senate) international treaties and conventions subscribed by the Executive Power, as well as conclude, denounce, suspend, modify, amend, withdraw reserves and formulate interpretations (Sec. 76, sub. I). Approve the appointment of senior officers (Sec. 76, sub. II; Sec. 89, sub. IV). Approve the transit of foreign troops on the national territory and the deployment of national troops outside the country, and the sojourn of squadrons of other powers in Mexican waters (Sec. 76, sub. III).</p>	<p>The Armed Force²⁴: To join the Army in times of peace or the Navy and Air Force at all times it is required to be a Mexican citizen by birth (Sec. 32). It is composed of the Army, the Navy and the Air Force (Sec. 89, sub. VI). Members of the military cannot be elected Deputies unless they retire ninety days before the election (Sec. 55, sub. V) or six months in case of the President (Sec. 82, sub. V). In times of peace, no military authority may perform any functions other than those that are directly connected with military discipline (Sec. 129). Crimes and offences against military discipline shall be tried by military courts; however, under no circumstances and for no reason shall military courts extend their jurisdiction over persons who are not members of the Army (Sec. 13).</p>	<p>No armed reunion has the right to deliberate (Sec. 9). No member of the Army shall in time of peace be quartered in private dwellings without the consent of the owner, nor may he impose any obligation whatsoever. In time of war the military may demand lodging, equipment, provisions and other assistance in accordance with the respective martial law (Sec. 16). Nuclear energy shall only be used with peaceful purposes (Sec. 27). It is the obligation of every Mexican citizen to: I. Ensure their children or wards receive military education as established by law. II. Attend the training sessions organized by their local Council at the scheduled date and time in order to receive civic and military training on the exercise of their citizens' rights, the use of weapons and military discipline. III. Join and serve in the National Guard in accordance with the applicable organic law to ensure and defend the Nation's independence, territory, honour, rights and interests, as well as internal order and peace (Sec. 31). To bear weapons in the Army or National Guard for the defence of the Republic and its institutions, in accordance with the law, shall be a citizen prerogative (Sec. 35, sub. 4). Foreign policy shall be governed by the following regulatory principles: self-determination of the people; non-intervention; peaceful resolution of disputes; prohibition of the use of threat or force in international relations; legal equality of the States; international cooperation for development; and the struggle for international peace and security (Sec. 89, sub. 10).</p>	
	Nicaragua (1986, Last reform 2007)			
	Leading Political Procedures	Military Instrument	Other Provisions	
	<p>Powers of the President: Supreme Commander of the Army (Sec. 95 and 144). In exceptional cases can the President, in a Council of Ministers, order the intervention of the Nicaraguan Army to support the National Police, when the stability of the Republic is threatened by serious internal disorder, calamities or natural disasters (Sec. 92). Direct international relations of the Republic. Negotiate, celebrate and sign treaties, pacts, agreements or the like to be approved by the National Assembly (Sec. 150, sub. 8).</p> <p>Powers of the National Assembly²⁵: Approve the deployment of national troops outside the country (Sec. 138, sub. 26) and the entry of foreign troops only for humanitarian purposes (Sec. 92). Approve or dismiss international agreements celebrated with countries or organizations subject to International Law (Sec. 138, sub. 12).</p>	<p>The Army²⁶: Mission: defend sovereignty, independence and territorial integrity (Sec. 92). It is a national institution, professional, not affiliated to any political party, obedient and non deliberant. The members of the Army shall be trained in civic and human rights matters (Sec. 93). Organization, structures, activities, ranks, promotions, retirements and everything related to the operational development is specified in the law (Sec. 94). It is strictly subject to the Political Constitution, to which it respects and obeys, it is subject to civil authority exercised by the President or through the corresponding ministry. No other armed corps can exist in the national territory, or military ranks other than those specified by law (Sec. 95). They are not allowed to perform activities of political espionage (Sec. 96). They cannot perform political activities or hold a position in political organizations; they cannot be eligible for public office at elections, if they have not left their active military post at least a year before the elections (Sec. 94); they cannot be ministers, Vice Ministers, presidents or directors of government or autonomous entities, ambassadors (Sec. 152) and magistrates of tribunals of justice (Sec. 161, sub. 6) or of the Supreme Electoral Council (Sec. 171, sub. d). In the last two cases they shall leave their post twelve months before the elections. Military service is not obligatory, and all kinds of forcible recruitment to be a part of the Army or the Police are forbidden (Sec. 96). Military justice for military crimes committed by members of the Armed Forces, civilians cannot be tried by military courts (Sec. 93 and 159).</p>	<p>The strife over peace is one of the unrenounceable principles of the Nation (Sec. 3). The international relations are based on friendship and solidarity among the people and the reciprocity among the States. Thus, all kind of political, military, economic, cultural and religious aggression is inhibited and prohibited, as is the intervention on internal affairs of other States. It recognises the principle of peaceful resolution of international controversies through the international law and proscribes the use of nuclear weapons and other means of mass destruction in internal and International conflicts, ensures political asylum for political reasons, and rejects all subordination of a State with respect to other (Sec. 5). It is prohibited to establish foreign military bases in the national territory (Sec. 92). Civilian functions shall not be militarized (Sec. 131).</p>	

24 Denomination used in the constitutional text. 25 *Asamblea Nacional*. 26 Denomination used in the constitutional text.

Paraguay (1992)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Commander-in-Chief of the Armed Forces (Sec. 238, sub. 9). Adopt the necessary measures for the national defence (Sec. 238, sub. 9). Declare the state of national defence, in case of external aggression, with the approval of the Congress (Sec. 238, sub. 7). Make peace with the approval of the Congress (Sec. 238, sub. 7). Appoint senior officers of the public force (Sec. 238, sub. 9). Issue military regulations and arrange, organise and distribute the Armed Forces (Sec. 238, sub. 9).</p> <p>Powers of the Congress: Approve or dismiss international treaties (Sec. 141 and Sec. 202, sub. 9). Approve the appointment of senior officers (Senate) (Sec. 224, sub. 2). Authorize the entry of foreign troops to the territory of the Republic and allow the deployment of national armed forces outside the country, except in cases where this is required for courtesy reasons. (Sec. 183 sub.3). Approve the entry of foreign troops to the national territory and the deployment of national troops outside the country (Senate) (Sec. 224, sub. 5).</p>	<p>The Armed Forces: They are a permanent, professional, non deliberant and obedient institution, subordinated to the powers of the State, to the provisions of the Constitution, and to the law (Sec. 173). Mission: safeguard the territorial integrity and defend the legitimately constituted authorities (Sec. 173). The members of the military on active duty will conform their actions to the laws and regulations (Sec. 173). Military service is compulsory and must be based on full respect of human dignity. In times of peace, it will not exceed twelve months (Sec. 129). They cannot be affiliated to any political party or movement or engage in any type of political activity (Sec. 173); they cannot be elected President or Vice President, except for those who retire at least one year prior to the day of election (Sec. 235, sub. 7). Police or military personnel on active duty cannot be candidates for senators or deputies (Sec. 197). Military courts will hear only crimes and offences of a military nature, committed by military personnel on active duty. Their decisions can be overturned by courts of law (Sec. 174). Only in cases of an armed international conflict can military courts have jurisdiction over civilians and retired military personnel (Sec. 174).</p>	<p>The manufacturing, assembly, import, sale, possession or use of nuclear, chemical and biological weapons is prohibited (Sec. 8). National defence cannot be subjected to referendum (Sec. 122, sub. 3). Citizen participation: every Paraguayan citizen is obliged to be prepared and give his services for the defence of the Motherland (Sec. 129). "Chaco" War veterans and veterans of other international armed conflicts shall enjoy honours and privileges, and shall receive pensions, comprehensive free preferential health care, and other benefits determined by law (Sec. 130). In its international affairs, Paraguay accepts the international law and endorses the following principles: 1. national independence; 2. self-determination of the people; 3. legal equality among all States; 4. international solidarity and cooperation; 5. international protection of human rights; 6. free navigation of international rivers; 7. non-intervention, and 8. the condemnation of every form of dictatorship, colonialism and imperialism (Sec. 143). Relinquishes war but upholds the principle of legitimate self-defence (Sec. 144). On equal footing with other States, admits a supranational legal system that guarantees the enforcement of human rights, peace, justice, and cooperation, as well as political, socioeconomic, and cultural development. Decisions on this sphere can only be adopted through an absolute majority vote by each Chamber of Congress (Sec. 145).</p>
Peru (1993. Last reform 2009)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Ensure external security (Sec. 118, sub. 4). Preside the national defence system; organize, deploy and arrange the Armed Forces (Sec. 118, sub. 14). Adopt the necessary measures to ensure the defence of the Republic, the integrity of the territory and the sovereignty of the State (Sec. 118, sub. 15). Declare war and accord peace with the approval of the Congress (Sec. 118, sub. 16). Authorise Peruvians to serve in a foreign army (Sec. 118, sub. 23). Supreme Commander of the Armed Forces (Sec. 164 and Sec. 167). Grant promotions to Generals and Admirals (Sec. 172). Determine the number of troops (Sec. 172). Declare the state of siege in case of invasion, foreign or civil war, in accordance with the Council of Ministers (Sec. 137). Sign international treaties on national defence (Sec. 56, sub. 3).</p> <p>Powers of the Congress: Approve international treaties on national defence (Sec. 56, sub. 3). Have the troops available as requested by the President of the Congress (Sec. 98). Approve the entry of foreign troops to the national territory as long as it does not affect the national sovereignty in any way (Sec. 102, sub. 8). Approve the declaration of war and the signing of peace treaties (Sec. 118, sub. 16).</p>	<p>The Armed Forces: The Armed Forces are composed of the Army, the Navy and the Air Force (Sec. 165). Mission: guarantee the independence, sovereignty and territorial integrity, to take control of the internal order in state of emergency if so provided by the President (Sec. 165). The respective laws and regulations determine the organization, functions, specialization, training, use and discipline (Sec. 168). They are non deliberant and are subordinated to the constitutional power (Sec. 169). The ethical and civic training and the teaching of the Constitution and human rights are compulsory both in the civilian and military education process. (Sec. 14). The members of the military are not entitled to make collective petitions (Sec. 2, sub. 20). They cannot run for elections) or perform political activities while on active duty (Sec. 34); to set up unions or go on strike (Sec. 42). Members of the Armed Forces on active duty cannot be elected members of Parliament unless they have retired six (6) months prior to the election (Sec. 91, sub. 4). They may not enter the floor of Congress without authorization from its President (Sec. 98). They can be ministers of State (Sec. 124). The law allocates funds for the logistical requirements of the Armed Forces (Sec. 170). The Armed Forces and the National Police participate in the social and economic development of the country, and in civil defence according to the law (Sec. 171). Military justice is established for the Armed Forces and the National Police (Sec. 139, sub. 1). Military courts may have jurisdiction over civilians in the cases of treason and terrorism (Sec. 173).</p>	<p>Any person shall have the right to request, without stating the reason, any information needed, within the legally specified time and cost. Exceptions are made of information affecting personal privacy and that is expressly excluded by law for reasons of national security (Sec. 2, sub. 5). The defence of national sovereignty is one of the prime duties of the State (Sec. 44). No person, organization, Armed Force, National Police or group of people may arrogate to themselves the exercise of the power of the State. To do so constitutes acts of rebellion or sedition (Sec. 45). No person owes obedience to a usurping government, nor to any member of government assuming public functions in violation of the laws and the Constitution. The civilian population has the right to resort to insurgency in defence of the constitutional order. Any act usurping public functions shall be considered null and void (Sec. 46). The death penalty may only be applied for the crimes of treason in wartime, and of terrorism, in accordance with the laws and treaties Peru is bound to (Sec. 140). The State guarantees the security of the Nation through a national defence system. National defence is integral and permanent and is developed both in the internal and external spheres. All natural and legal persons are obliged to participate in accordance with the law (Sec. 163). Only the members of the Armed Forces and the National Police are entitled to possess and use weapons of war. All existing weapons, as well as those manufactured in or introduced into the country, shall be property of the State without any proceeding or indemnity, except for weapons of war manufactured by the private industry in the cases determined by law. The law regulates the manufacturing, sale, possession and use of non-war firearms by individuals (Sec. 175).</p>
Uruguay (1967. Last reform 2004)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Maintain and defend external security (Sec. 168, sub. 1). Command the Armed Forces (Sec. 168, sub. 2). Provide military posts and confer promotions, Grant retirements and manage pensions for civil and military employees in accordance with the law (Sec. 168, sub. 3, 9 and 11). Order to break off relations and, based on a prior</p>	<p>The Armed Forces: The members of the military are regulated by special laws (Sec. 59, sub. A). Members of the military on active duty cannot have a position in the government, form part of commissions or political parties, subscribe to party manifests, authorize the use of their name and execute any other public or private political act, except vot-</p>	<p>A clause by which all disputes among contracting parties should be settled through arbitration or other peaceful means shall be proposed for international treaties; it shall provide social and economic integration of the Latin American States, especially regarding common defence of its commodities, goods and resources. Furthermore, it shall provide for the effective complementation of its public ser-</p>



<p>Uruguay</p> <p>resolution by the General Assembly, declare war if arbitration or other peaceful means have not been effective to avert a war (Sec. 168, sub. 16). Take prompt security measures in serious unexpected events of external attack or internal unrest, upon informing the General Assembly (Sec. 168, sub. 17). Enter into and sign treaties, which shall later be ratified with the approval of the Legislative Branch (Sec. 168, sub. 20).</p> <p>Powers of the General Assembly²⁷: Declare war and approve peace treaties (Sec. 85, sub. 7). Approve the appointment of senior officers (Sec. 168, sub. 11). Approve the entry of foreign troops to the national territory and the deployment of national troops outside the country (Sec. 85, sub. 11 y 12). Approve the number of Armed Forces personnel (Sec. 85, Sub. 8). Establish militia regulations and determine time and number of recruitment (Sec. 85, sub. 15).</p>	<p>ing (Sec. 77, sub. 4). They cannot run for the election of Representatives (Sec. 91, sub. 2; Sec. 92), Senators (Sec. 100) or for President (Sec. 171) unless they resign and retire at least three months before the election. Military justice for military crimes in state of war. Common crimes committed by members of the Armed Forces in times of peace, wherever they are committed, shall be subject to ordinary justice (Sec. 253).</p>	<p>vices (Sec. 6). Nobody shall be obliged to provide assistance, of any kind, or provide lodging to the Armed Forces, if it has not been specified by a civil magistrate in accordance with the law, and shall receive a compensation from the Republic for the perjury which would result from such actions (Sec. 35).</p>
Venezuela (1999)		
Leading Political Procedures	Military Instrument	Other Provisions
<p>Powers of the President: Commander-in-Chief of the National Armed Force. Exercise the highest authority (Sec. 236, sub. 5) and the supreme command (Sub. 236, sub. 6). Establish the armed forces strength (Sec. 236, sub. 5). Promote officers starting at the rank of colonel or naval captain and appoint them to the positions exclusively reserved to them (Sec. 236, sub. 6). Convene and preside over meetings of the National Defence Council (Sec. 236, sub. 23). The President of the Republic, in a Council of Ministers, can declare the state of exception (Sec. 337). The President can declare the state of internal or external emergency in case of internal or external conflict seriously endangering the security of the Nation, its citizens or institutions (Sec. 338).</p> <p>Powers of the National Assembly²⁸: Authorize the operation of military missions abroad or foreign military missions within the country (Sec. 187, sub. 11). Approve any international treaties or agreements signed by the National Executive (Sec. 187, sub. 18).</p> <p>National Defence Council²⁹: It is the highest consultative body for planning and advising the Public Authority on matters related to the integral defence of the Nation, its sovereignty and the integrity of its geographical space and it establishes the strategic concept of the Nation. It is presided over by the President and includes the Vice President, the President of the National Assembly, the Chairman of the Supreme Tribunal of Justice, the Chairman of the Republican Moral Council, and the Ministers of Defence, Internal Security, Foreign Affairs and Planning, and other whose participation may be deemed appropriate (Sec. 323).</p>	<p>The National Armed Force³⁰: It is an essentially professional institution, with no political orientation, organized by the State, at the exclusive service of the Nation. It is founded on discipline, obedience and subordination. The National Armed Force is composed of the Army, the Navy, the Air Force and the National Guard. Its mission is to guarantee the independence and sovereignty of the Nation and ensure the integrity of its geographical space, through military defence, cooperation in the maintenance of internal order, and active participation in national development (Sec. 328). Their essential responsibility is the planning, execution and control of military operations, as required to ensure the defence of the Nation. The National Guard shall cooperate in the development of these operations and shall have as basic responsibility that of conducting operations as required maintaining internal order within the country. The National Armed Force shall carry out activities of administrative policing and criminal investigation as provided by law (Sec. 329). Members of the military on active duty can vote. They are not allowed to run for elections, or to participate in propaganda, militancy or proselytizing (Sec. 330). It shall regulate and control, in accordance with the pertinent legislation, the manufacture, importing, exporting, storage, transit, registration, control, inspection, trade, possession and use of weapons, ammunition and explosives (Sec. 324). Military promotions shall be effective in accordance with merit, hierarchy and vacancies. They are the exclusive prerogative of National Armed Forces in accordance with the corresponding law (Sec. 331). Military justice for military crimes, its judges shall be elected by competitive procedures (Sec. 261). The General Controller of the National Armed Forces: monitors, controls and audits revenues, expenses and property allocated to the National Armed Force and their dependencies; it shall be under the responsibility of the General Controller of the Armed Forces, appointed by means of a competitive process (Sec. 291).</p>	<p>Promotes peaceful cooperation among nations, and strengthens and furthers nuclear disarmament (Preamble). The main objective of the State is to create a peace-loving society (Sec. 3). The geographical space of Venezuela is an area of peace, no foreign military bases, or facilities having purposes that are in any way military, shall be established within such space by any power or coalition of powers (Sec. 13). The public authorities, whether military or civilian, even during a state of emergency, exception or restriction of guarantees, are prohibited from effecting, permitting or tolerating the forced disappearance of persons. The officer receiving an order or instruction to carry it out has the obligation not to obey and report the order or instruction to the competent authorities (Sec. 45). The State shall prevent the manufacturing and use of nuclear and chemical or biological weapons (Sec. 129). Every person, in accordance with the law, has the duty to perform such civilian or military service as maybe necessary for the defence, preservation and development of the country, or to deal with situations involving a public calamity, no one shall be subject to forcible recruitment (Sec. 134). The Republic shall promote and encourage Latin America and Caribbean integration, in the interest of advancing towards the creation of a community of nations, defending the region's economic, social, cultural, political and environmental interests. The Republic shall sign international treaties that implement and coordinate efforts to promote the common development of our nations, and ensure the welfare of their people and the collective security of their inhabitants (Sec. 153). A clause shall be added to international treaties, covenants and agreements, establishing that potential disputes among the parties shall be solved through peaceful means accepted by international law or previously agreed upon by the parties (Sec. 155). National security is an essential competence and responsibility of the State (Sec. 322). The National Executive reserves the right to classify and control the disclosure of information directly related to the planning and execution of operations concerning the security of the Nation, on such terms as may be established by law (Sec. 325). National security is based on the shared responsibility between the State and civil society (Sec. 326). Securing the borders is a priority for compliance and application of national security principles. To that effect, a security fringe is established in the borders (Sec. 327).</p>

27 Asamblea General. 28 Asamblea Nacional. 29 Consejo de Defensa de la Nación. 30 Fuerza Armada Nacional.

Source: Compilation based on the Constitution of each country.

National Legislation

Argentina	
Systems and Concepts	Military Organization
<ul style="list-style-type: none"> - National Defence Act (N° 23.554 - 1988/05/05) - Internal Security Act (N° 24.059 - 1992/01/17) - Ministerial Law (N° 22.520 - 1992/03/20) - Act on the Restructuring of the Armed Forces (N° 24.948 - 1998/04/08) - National Intelligence Act (N° 25.520 - 2001/12/06) 	<ul style="list-style-type: none"> - Military Service Act (N° 17.531 - 1967/11/16) - Military Personnel Act (N° 19.101 - 1971/07/19) - Financial Aid Institute Act for Pension and Retirement Payments (N° 22.919 - 1983/09/26. Last amendment: Decree N° 860- 2009/07/07) - Voluntary Military Service Act (N° 24.429 - 1995/01/10) - Act on the Entry of Foreign Troops and the Deployment of National Troops outsider the Country (N° 25.880 - 2004/04/23) - Act which derogates the Code of Military Justice, approves reforms to the Criminal Code and to the Criminal Code of Procedures of the Nation; it also approves instructions to civilians in war times and in other armed conflicts, as well as the Armed Forces Code of Discipline and the organization of the joint justice service of the Armed Forces (N° 26.394 - 2008/08/26)
Bolivia	
<ul style="list-style-type: none"> - Organic Law of the Armed Forces (N° 1.405 - 1992/12/30) - Organization of the Executive Power Act (N° 2.446 - 2003/03/19) 	<ul style="list-style-type: none"> - Decree-Law on the Military Social Insurance Corporation (N° 11.901 - 1974/10/21. Last amendment: Law N° 1.732- 1996/11/29) - Decree-Law of Organization of Military Justice (N° 13.321 - 1976/04/02) - Manual on the Use of Force in case of Internal Conflict (Supreme Decree N° 27.977 - 2005/01/14)
Brazil	
<ul style="list-style-type: none"> - Act which establishes the Deployment of Brazilian Troops Overseas (N° 2.953 - 1956/11/20) - Act which determines the Cases when Foreign Armed Forces can transit or remain temporarily in National Territory (Complementary Act N° 90 - 1997/10/02) - Act which institutes the Brazilian System of Intelligence, creates the Brazilian Agency of Intelligence – ABIN (N° 9.883 - 1999/12/09) - Act on the organization and operation of the National Defence Council (N° 8.183 - 1991/04/11. Last amendment: 2001/08/31) - Act on the Organization of the Presidency of the Republic and the Ministers (N° 10.683 - 2003/05/28. Last amendment: MP 499/10 - 2010/08/25) - Act which Rules over National Mobilization and creates the National System of Mobilization (N° 11.631 - 2007/12/28) 	<ul style="list-style-type: none"> - Military Pension Act (N° 3.765 - 1960/05/04. Last amendment: Provisional Measure 2215-10 - 2001/08/31) - Military Service Act (N° 4.375 - 1964/09/03) - Military Penal Code (Decree-Law N° 1.001 - 1969/10/21. Last amendment: Act N° 9.764 - 1998/12/17) - Code of Military Penal Procedure (Decree-Law N° 1.002 - 1969/10/21. Last amendment: Act. N° 9.299 - 1996/08/07) - Act on the Statute of the Members of the Armed Forces (N° 6.880 - 1980/12/11) - Act on Education at the Air Force (N° 7.549 - 1986/12/11) - Act on rendering Alternative Service to Compulsory Military Service (N° 8.239 - 1991/10/07) - Act on the Organization of Military Justice (N° 8.457 - 1992/09/04. Last amendment: Act N° 10.445 - 2002/05/07) - Act on Education at the Army (N° 9.786 - 1999/02/08) - Act on Regulations for the Organization, Preparation and Use of the Armed Forces, to establish New Subsidiary Powers (Complementary Act N° 117 - 2004/09/02; modifies Complementary Act N° 97 - 1999/06/09) - Act on Education at the Navy (Act N° 11.279 - 2006/02/09) - Complementary Act on Defence (Complementary Act N° 136 - 2010/08/25; modifies Complementary Act N° 97 - 1999/06/09)
Chile	
<ul style="list-style-type: none"> - Act which creates the Superior Council of National Defence (N° 7.144 - 1942/01/05. Last amendment: 1959/04/06) - Act which dictates Regulations on Mobilization (N° 18.953 - 1990/03/09) - Act on the National Intelligence System; creates the National Intelligence Agency (N° 19.974 - 2004/10/02) - Ministry of National Defence Organization Statute (N° 20.424 - 2010/02/04) 	<ul style="list-style-type: none"> - Code of Military Justice (Decree-Law N° 806 - 1925/12/23. Last amendment: Act N° 20.357 - 2009/07/18) - Reserved Copper Law (N° 13.196 - 1958/01/01) - Act authorizing the President of the Republic the disposition of State-owned Lands and Real Estate used by the Armed Forces (N° 17.174 - 1969/08/21. Last amendment: DL N° 1.195 - 1975/11/01) - Act on out Rules for the Execution of Works designated for exclusive Military Use (N° 17.502 - 1971/11/12) - Decree-Law on the Recruiting and Mobilization of the Armed Forces (N° 2.306 - 1978/09/12. Last amendment: Law N° 20.045 - 2005/03/10) - Decree Law of the Military Public Ministry (N° 3.425 - 1980/06/14) - Decree which establishes Regulations on the Constitution, Mission, Dependency and Responsibilities of the Armed Forces (DS N° 272 - 1985/03/16) - Act on National Defence Staff Pension System (N° 18.458 - 1985/11/11. Last amendment: Act N° 20.369 - 2009/09/17) - Act for Armed Forces' Social Welfare Service Statute (N° 18.712 - 1988/06/04) - Act establishing the Authority of the Army Military Industry and Engineering Command (N° 18.723 - 1988/07/12) - Constitutional Organic Act of the Armed Forces (N° 18.948 - 1990/02/27. Last amendment: Act N° 20.424 - 2010/02/04) - Act of the Armed Forces health system (N° 19.465 - 1996/08/02) - Decree with Force of Law which establishes Armed Forces staff's statute (DFL N° 1 - 1997/10/27. Last amendment: DFL N° 1 - 2009/05/12) - Act which modernizes the Mandatory Military Service (N° 20.045 - 2005/09/10) - Act on Staff and Professional Troops for the Armed Forces (N° 20.303 - 2008/12/04) - Act which amends Act N° 19.067 and sets out Rules for Chilean troops to take part in Peace Operations (N° 20.297 - 2008/12/13) - Act of War Crimes and Crimes against Humanity (N° 20.357 - 2009/07/18)
Colombia	
<ul style="list-style-type: none"> - Decree by which the National Security Council merges with the Superior Council of National Defence and the Commission created by the Decree 813 of 1983 (N° 2.134 - 1992/12/31) - Act establishing Civil Service Career Rules (N° 443 - 1998/06/11) - Act by which benefits are granted to relatives of People Demised during Mandatory Military Service (N° 447 - 1998/07/21) - Act on National Agency Organization and Operation Rules (N° 489 - 1998/12/29) - Act by which the President of the Republic is vested with Extraordinary Authority to issue Rules related to Military Forces and the National Police (N° 578 - 2000/03/15) - Decree by which the Ministry of National Defence Structure is modified and other Provisions are enacted (N° 1.512 - 2000/08/11, Last amendment: Decree N° 4.881 - 2008/11/27) - Decree modifying the Bylaw which regulates the National Ministry of Defence 	<ul style="list-style-type: none"> - Act on Recruiting and Mobilization Service (N° 48 - 1993/03/03) - Military Penal Code Act (N° 522 - 1999/08/12) - Decree which modifies the Decree which regulates the Rules for the Promotion of Officers and Warrant Officers of the Military Forces (N° 1.790 - 2000/09/14. Last amendment: Act N° 1.405 - 2010/07/28) - Act regulating Issues concerning Disability, Compensations, Disability Pensions and Administrative Reports for Injuries (N° 1.796 - 2000/09/14) - Act on the Unique Disciplinary Code (N° 734 - 2002/02/05) - Act which partially modifies the Statute of Promotions of Officers and Warrant Officers of the Military Forces (N° 775 - 2002/12/09) - Act which Rules over the Armed Forces Disciplinary Regime (N° 836 - 2003/07/16) - Decree establishing a Disability and Survival Pension System for Armed Forces Professional Soldiers (N° 2.192 - 2004/07/08)



Colombia	Systems and Concepts	Military Organization
	<ul style="list-style-type: none"> Civil Personnel Management System (N° 1.792 - 2000/09/14) - Act by which the Juridical Nature of Nueva Granada Military University is modified (N° 805 - 2003/04/29) - Act by which Provisions are established to reinstate Members of Outlaw Armed Groups (N° 975 - 2005/07/25) - General Act on Forestry (N° 1.021 - 2006/04/20) - Act which establishes the Special Administrative System for Civilian Public Employees at the Service of the National Ministry of Defence, for the Military Forces, the National Police and its Decentralised Entities (N° 1.033 - 2006/07/19) - Act governing the Acquisition of Goods and Services for National Security and Defence (N° 1.089 - 2006/09/01) - Decree governing Special Career System (N° 091 - 2007/01/17) - Decree setting out and modifying the Denomination and Classification of Jobs at Defence Agencies (N° 092 - 2007/01/17) - Decree setting out Basic Wage Scales for Civilian Staff (N° 093 - 2007/01/17) - Act 1.097 on Confidential Expenses Regulation Decree (N° 1.837 - 2007/05/25) - Act by which Rules are enacted to strengthen the Legal Frame which allows Intelligence and Counter intelligence Agencies to fulfill their Constitutional and Legal Mission (N° 1.288 - 2009/03/05) 	<ul style="list-style-type: none"> - Act on Rules, Objectives and Criteria to set out the Pension System and Retirement Allowance for Members of the Public Force (N° 923 - 2004/12/30) - Act of Military Situation of People older than 28 (N° 924 - 2004/12/30) - Act on Requirements for Positions at Military Penal Jurisdiction (N° 940 - 2005/01/05) - Act which modifies Decrees related with the Wage System and Benefits (N° 987 - 2005/09/09) - Act which establishes a Special Procedure in the Penal Military Code (N° 1.058 - 2006/07/26) - Decree compiling the Rules of Decree Law 1.790 of 2000 on Career Rules (N° 1.428 - 2007/04/27)
	Cuba	
	<ul style="list-style-type: none"> - Decree Law on the Organization of the State's Central Administration (DL N° 67 - 1983/04/19. Last amendment: DL N° 147 - 1994/04/21) - National Defence Act (N° 75 - 1994/12/21) 	<ul style="list-style-type: none"> - Military Penal Procedure Act (N° 6 - 1977/08/08) - Military Crime Act (N° 22 - 1979/02/15) - Decree Law on Social Security for Expatriates performing Civil or Military Missions (N° 90 - 1985/12/02) - Decree Law of Social Security for the Revolutionary Armed Forces (N° 101 - 1988/02/24. Last amendment: DL N° 222 - 2001/08/14) - Act of Military Courts (N° 97 - 2002/12/21) - Act of Military Prosecution (N° 101 - 2006/06/10)
	Dominican Republic	
	<ul style="list-style-type: none"> - Organic Act of the Armed Forces (N° 873 - 1978/08/08) 	<ul style="list-style-type: none"> - Code of Justice of the Armed Forces (Act N° 3.483 - 1953/02/13)
	Ecuador	
	<ul style="list-style-type: none"> - Organic Act for National Defence (N° 74 - 2007/01/19. Last amendment: Act N° 35 - 2009/09/28) - Act of Public and State Security (N° 35 - 2009/09/28) 	<ul style="list-style-type: none"> - Penal Military Code (Codification N° 27 - 1961/11/06) - Code of Penal Military Procedures (Codification N° 28 - 1961/11/06) - Act of Armed Forces Personnel (1991/04/10. Last amendment: 2009/06/08) - Social Security Act for the Armed Forces (N° 169 - 1992/08/07. Last amendment: 2009/03/30)
	El Salvador	
	<ul style="list-style-type: none"> - Organic Law of the Armed Force of El Salvador (DL N° 353 - 1998/07/30) - Act on the Intelligence Agency of the State (DL N° 554 - 2001/09/21) - National Defence Act (DL N° 948 - 2002/10/03) 	<ul style="list-style-type: none"> - Military Justice Code (DL N° 562 - 1964/05/29. Last amendment: DL N° 368 - 1992/11/27) - Act of Military Decorations (DL N° 520 - 1969/10/24) - Act of the Armed Forces Social Security Institute (DL N° 500 - 1980/11/28. Last amendment: DL N° 1.027 - 2002/11/20) - Act on Military Career (DL N° 476 - 1995/10/18. Last amendment: DL N° 882 - 2005/11/30) - Act on Fire Arms, Ammunitions, Explosives and similar Articles Control and Regulation (DL N° 665 - 1999/07/26. Last amendment: DL N° 118 - 2009/10/09) - Act on Military Service and Reserves of the Armed Force (DL N° 298 - 2002/07/30. Last amendment: DL N° 793 - 2009/01/14)
	Guatemala	
	<ul style="list-style-type: none"> - Constitutive Act of the Guatemalan Army (DL N° 72-90 - 1990/12/13) - Executive Body Act (DL N° 114-97 - 1997/11/13) - General Bureau of Civil Intelligence Act (DL N° 71-2005 - 2005/10/12) - Framework Act on the National Security System (DL N° 18-2008 - 2008/04/15) 	<ul style="list-style-type: none"> - Military Code (Decree N° 214 - 1878/09/15. Last amendment: Decree N° 41-96 - 1996/07/10) - Military Social Security Institute Organization Act (Decree Law N° 75-1984 - 1984/07/20. Last amendment: Decree N° 21-2003 - 2003/06/11) - Act on the Support to Civil Security Forces (Decree N° 40-2000 - 2000/06/16) - Civil Service Act (Decree N° 20-2003 - 2003/05/12) - Act on Fire Arms (Decree N° 15 - 2009 - 2009/04/21)
	Honduras	
	<ul style="list-style-type: none"> - Constitutive Act of the Armed Forces (Decree N° 39-2001 - 2001/10/29) 	<ul style="list-style-type: none"> - Military Code (Decree N° 76 - 1906/03/01. Last amendment: Decree N° 47 - 1937/01/22) - Military Service Act (Decree N° 98-85 - 1985/08/22) - Personnel Act for the Members of the Armed Forces (Decree N° 231-2005 - 2005/10/11) - Military Security Service Institute Act (Decree N° 167 - 2006/11/27)
	Mexico	
	<ul style="list-style-type: none"> - Act to preserve the country's neutrality (DOF 1939/11/10) - Organic Law for Federal Public Administration (DOF 1976/12/29. Last amendment: DOF 2009/06/17) - National Security Act (DOF 2005/01/31. Last amendment: DOF 2005/12/26) - General Act on the Public Security System (DOF 2009/01/02) 	<ul style="list-style-type: none"> - Navy General Ordinance (DOF 1912/01/08) - Discipline Act of the Mexican Army and Air Force (DOF 1926/03/15. Last amendment: DOF 2004/12/10) - Organic Act of Military Courts (DOF 1929/06/22. Last amendment: DOF 1931/02/24) - Code of Military Justice (DNL N° 005 - 1933/08/31. Last amendment: DOF 2005/06/29) - Military Service Act (DOF 1940/09/11. Last amendment: DOF 1998/01/23) - Act which creates the Army and the Air Force University (DOF 1975/12/29) - Reward Act for Navy of Mexico (DOF 1985/01/14)

Systems and Concepts	Military Organization
	<ul style="list-style-type: none"> - Organic Law of the Army, Air Force and Navy National Bank (DOF 1986/01/13. Last amendment: DOF 2002/06/24) - Organic Law of the Mexican Army and Air Force (DOF 1986/12/26. Last amendment: DOF 2009/06/12) - Discipline Act for the Personnel of the Navy of Mexico (DOF 2002/12/13) - Organic Act of the Navy of Mexico (DOF 2002/12/30. Last amendment: DOF 2009/06/12) - Act on Promotions and Rewards of the Mexican Army and Air Force (DOF 2003/10/30. Last amendment: DOF 2009/06/12) - Act for the Armed Forces Social Security Institute (DOF 2003/07/09. Last amendment: DOF 2008/11/20) - Act on Firearms and Explosives (DOF 1972/01/25. Last amendment: DOF 2004/01/23) - Act for checking, adjusting and calculating the Services for the Mexican Navy (DOF 2004/06/14. Last amendment: DOF 2009/06/12) - Promotions Act for the Navy of Mexico (DOF 2004/06/25. Last : DOF 2010/08/27) - Military Education Act for the Mexican Army and Air Force (DOF 2005/12/23) - Act for checking, adjusting and calculating the Services in the Mexican Army and Air Force (DOF 2006/02/09. Last amendment: DOF 2009/06/12)
Nicaragua	
<ul style="list-style-type: none"> - Act on the Organization, Competence and Procedures of the Executive Power (Nº 290 - 1998/06/03. Last amendment: Act Nº 612 - 2007/01/29) 	<ul style="list-style-type: none"> - Code of Organization, Jurisdiction and Military Social Benefits (Act Nº 181 - 1994/08/23) - Organic Act of Military Tribunals (Nº 523 - 2005/04/05. Last amendment: Law Nº 567 - 2005/11/25) - Military Penal Code (Act Nº 566 - 2006/01/05) - Code of Military Penal Procedures (Act Nº 617 - 2007/08/29)
Paraguay	
<ul style="list-style-type: none"> - National Defence and Internal Security Act (Nº 1.337 - 1999/04/14) - Act which establishes the Border Security Zone (Nº 2.532 - 2005/02/17) 	<ul style="list-style-type: none"> - Obligatory Military Service Act (Nº 569 - 1975/12/24. Last amendment: Law Nº 3.360 - 2007/11/02) - Organic Act of Military Courts (Nº 840 - 1980/12/19) - Military Penal Code (Act Nº 843 - 1980/12/19) - Code of Military Penal Procedures in War and Peace Times (Act Nº 844 - 1980/12/19) - General Organization of the National Armed Forces Act (Nº 74 - 1991/11/20. Last amendment: Act Nº 216 - 1993/06/16) - Act of the Military Personnel Statute (Nº 1.115 - 1997/08/27. Last amendment: Law Nº 2.879 - 2006/04/06) - Firearms, Ammunition and Explosives Act (Nº 1.910 - 2002/06/19) - Act on the Right to Conscientious Objection (Nº 4.013 - 2010/06/17)
Peru *	
<ul style="list-style-type: none"> - Act which establishes Rules for Exceptional Conditions in which the Armed Forces take over the Control of Internal Order (Nº 24.150 - 1985/06/07. Last amendment: DL Nº 749 - 1991/11/08) ¹ - Legislative Decree which establishes Rules which the Armed Forces have to be subjected to when operating in Zones not declared in State of Emergency (DL Nº 738 - 1992/03/10. Last amendment: Act Nº 28.222 - 2004/05/17) - Act on the Entry of Foreign Troops (Nº 27.856 - 2002/10/30) - National Mobilization Act (Nº 28.101 - 2003/11/13) - Security System and National Defence Act (Nº 28.478 - 2005/03/23) - National Intelligence System Act (Nº 28.664 - 2006/01/04) - Act which establishes the Legal Nature, Responsibilities, Competencies and Organic Structure of the Ministry of Defence (Nº 29.075 - 2007/08/01) - Act which establishes the Rules for the Use of Force by Members of the Military in the National Territory (Decree-Law Nº 1.095 - 2010/09/01) 	<ul style="list-style-type: none"> - Peruvian Army Organic Act (DL Nº 437 - 1987/09/27. Last amendment: Act Nº 29.417 - 2009/09/30) - Peruvian Air Force Organic Act (DL Nº 439 - 1987/09/27) - Navy Organic Act (DL Nº 438 - 1987/09/27) - Organic Act for the Joint Command of the Armed Forces (DL Nº 440 - 1987/09/27) - Military Status Act for Officers of the Armed Forces (Nº 28.359 - 2004/10/13. Last amendment: Law Nº 29.406 - 2009/09/15) - Act which creates the Fund for the Armed Forces and the National Police (Nº 28.455 - 2004/12/31) - Military Police Penal Code (Decree-Law Nº 1.094 - 2010/09/01) - Act on the Promotion of Officers in the Armed Forces (Nº 29.108 - 2007/10/30. Last amendment: Act Nº 29.404 - 2009/09/10) - Act on the Disciplinary Regime of the Armed Forces (Nº 29.131 - 2007/11/09. Last amendment: DS 014-2009 -DE- 2009/05/23) - Police Justice Law Organization and Procedures Act (Nº 29.182 - 2008/01/11. Last amendment: Decree-Law Nº 1.096 - 2010/09/01) - Military Service Act (Nº 29.248 - 2008/06/28)
Uruguay	
<ul style="list-style-type: none"> - Act on State Security and Internal Order (Nº 14.068 - 1972/07/12) - Armed Forces Organic Act (DL Nº 14.157 - 1974/03/05. Last amendment: Act Nº 18.198 - 2007/11/28) - National Defence Framework Act (Nº 18.650 - 2010/03/08) 	<ul style="list-style-type: none"> - Military Retirement Service Organization Act (Nº 3.739 - 1911/02/24. Last amendment: Act Nº 16.320 - 1992/11/01) - Military Codes (Decree-Law Nº 10.326 - 1943/01/28) - Organic Act of the Navy (Nº 10.808 - 1946/11/08) - Organic Act of the Air Force (Nº 14.747 - 1977/12/30) - Organic Act of the National Army (Nº 15.688 - 1985/01/17)
Venezuela	
<ul style="list-style-type: none"> - National Security Organic Act (GO Nº 37.594 - 2002/12/18) 	<ul style="list-style-type: none"> - Organic Code of Military Justice (GO Nº 5.263 - 1998/09/17) - Organic Act of the Bolivarian National Armed Force (GO Nº 5.891 - 2008/07/31. Last amendment: GO Nº 5.933 - 2009/10/21) - Act of Military Service and Enrolment (GO Nº 5.933 - 2009/10/06)

¹ The Constitutional Court declared as unconstitutional paragraphs c), d) and e) of article 5 amended by Legislative Decree Nº 749, and article 11; and it amended certain texts of articles 4, 5, 8 and 10 (sentence Nº 0017-2003-AI/TC - 2004/08/14).

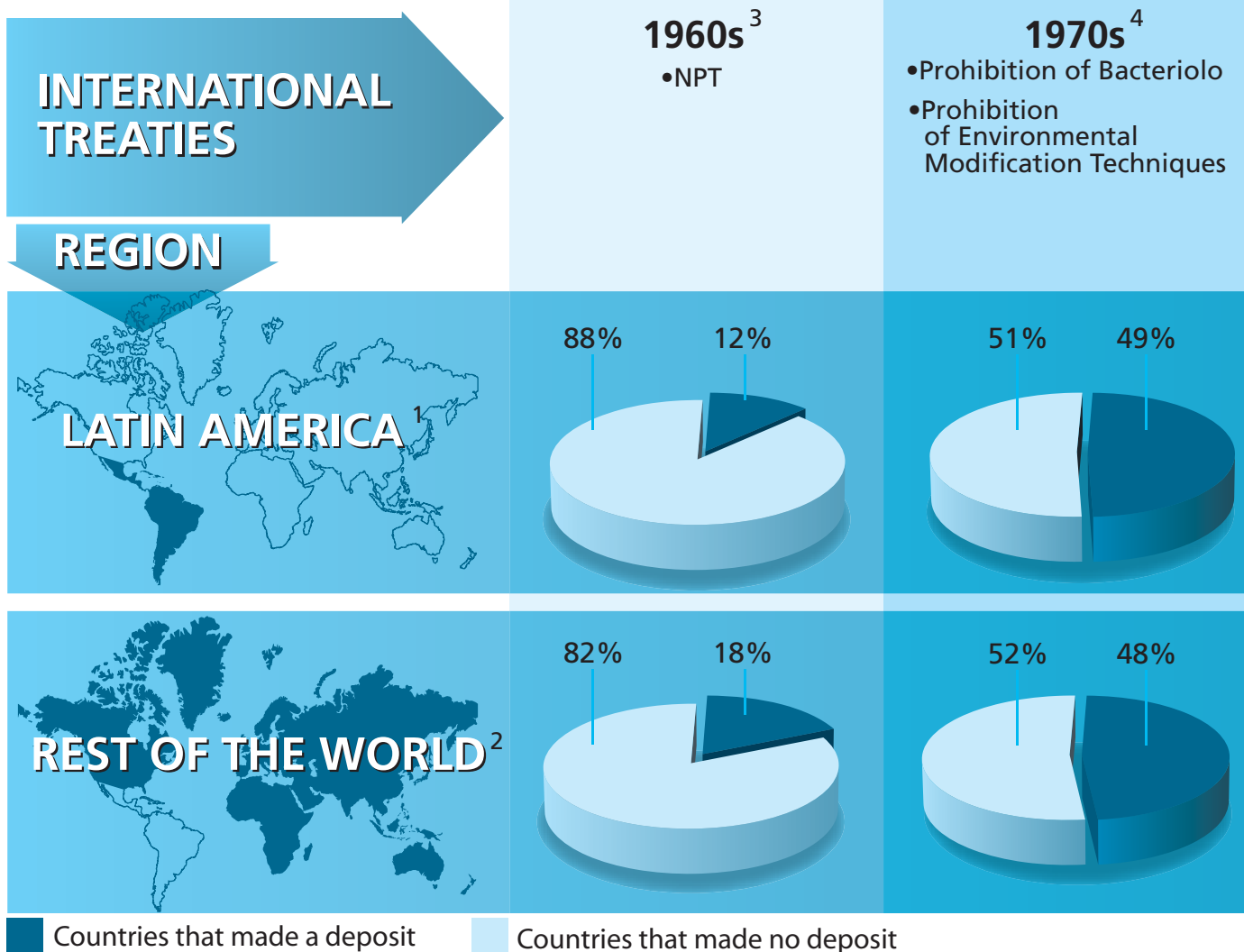
*The Legislative Decree concerning Self-Defence Committees as people's organizations to develop self-defence activities within their community (DL Nº 741 - 1991/08/11) was submitted for derogation by the Congress on July 1st 2010; said derogation is expected to occur by the end of this year.

Source: Compilation based on the above mentioned legislations. Acts falling in one category may also fall in others and do not exclusively belong to one.



International Treaties

Evolution of Latin American countries' endorsement to International Treaties



(1) Covers the seventeen countries included in the publication.

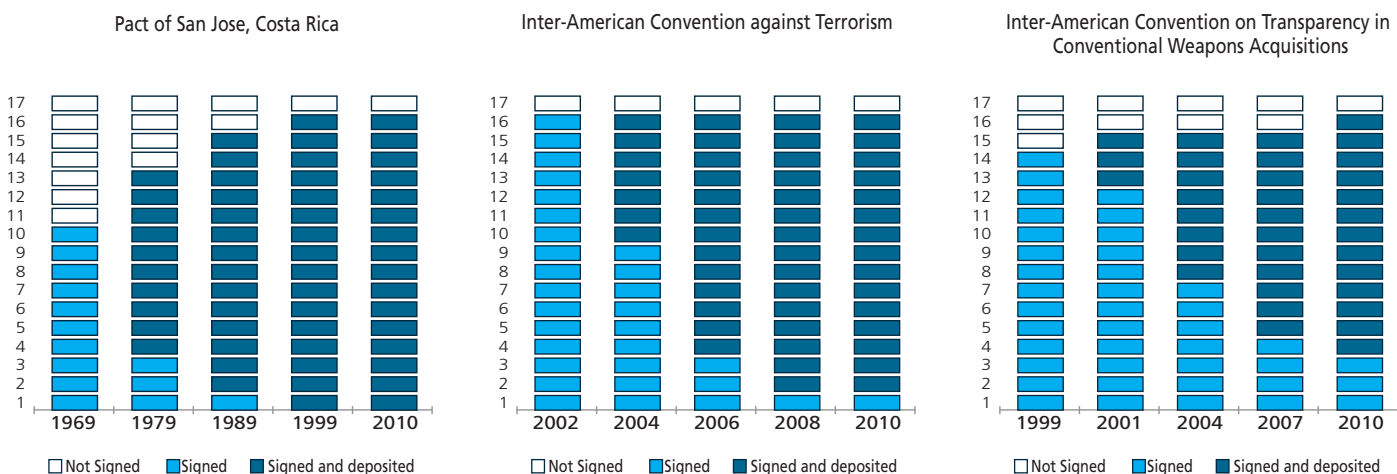
(2) All UN countries registered to date have been considered, except for those included in Latin America.

(3) The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), opened for signature on July 1, 1968, has been taken into account.

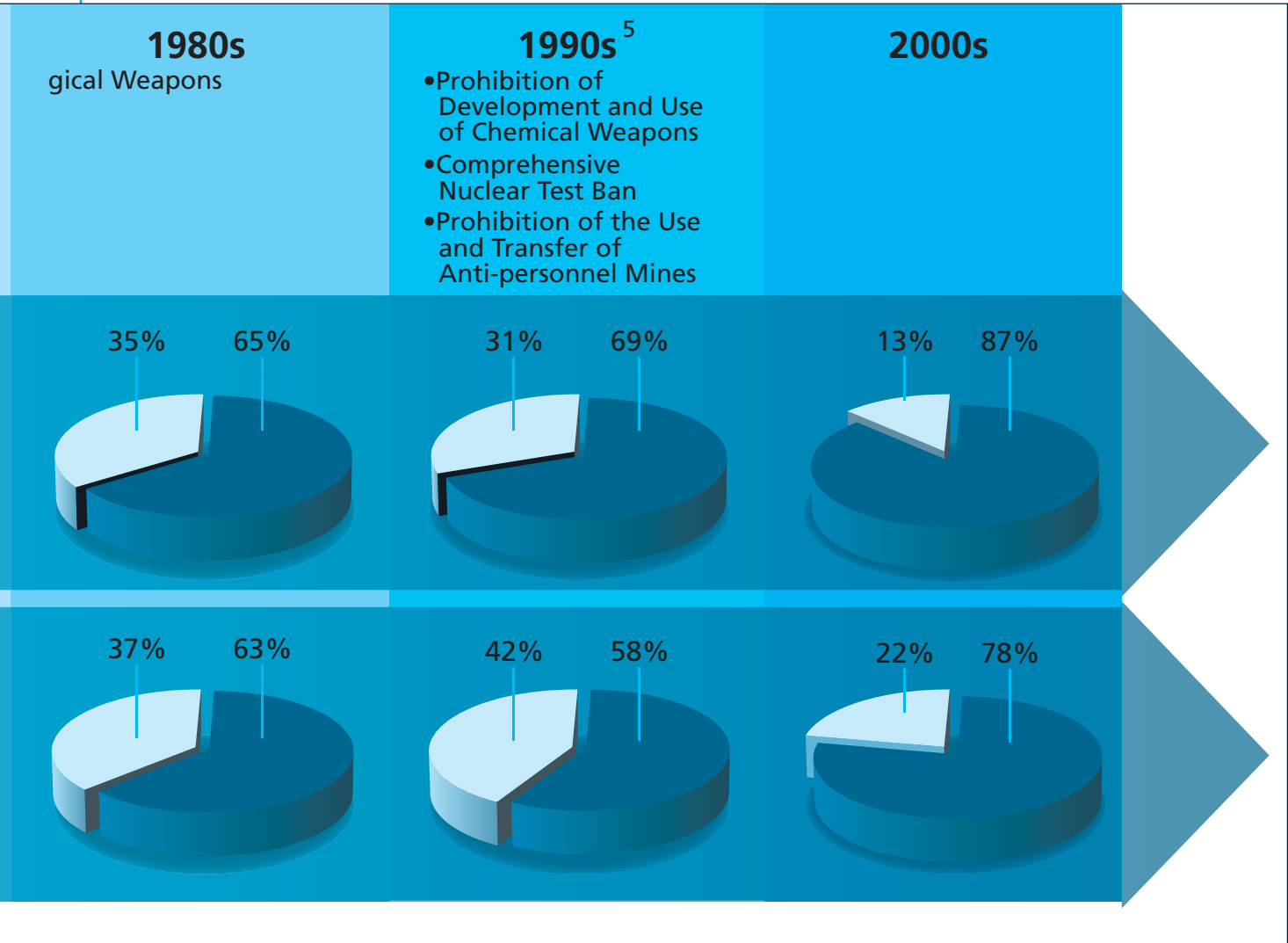
(4) The prior treaty and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons

Inter-American Treaties

Evolution of Latin American Countries' endorsement to Inter-American Treaties

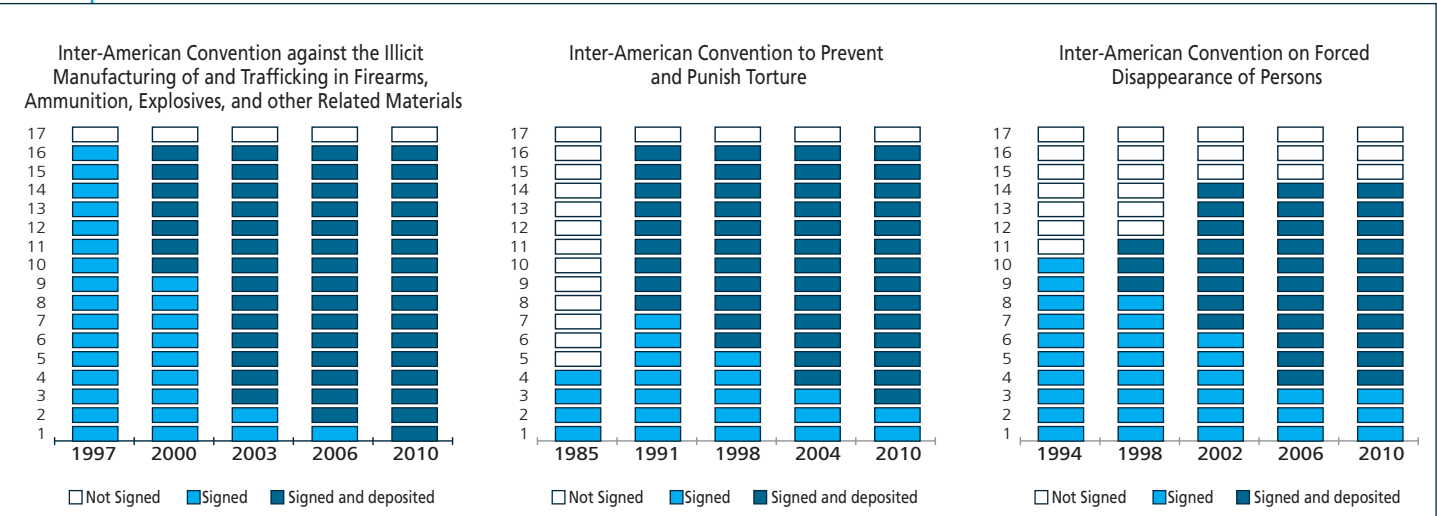


Source: Compilation based on the information supplied by the web site of the UN Disarmament Commission.



and on their Destruction, opened to signature on April 10, 1972, and the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, opened to signature on May 18, 1977, have been taken into consideration.

(5) Prior treaties plus the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed on January 13, 1993, the Comprehensive Nuclear Test Ban Treaty, opened to signature on September 24, 1996, and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention), opened to signature on December 3 and 4, 1997, have been taken into consideration.

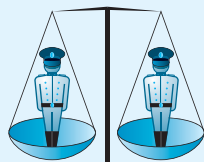


Source: Compilation based on the information supplied by the web page of the Department of International Law of the OAS.



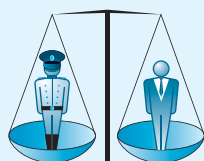
Military Criminal Justice Systems

Who is responsible for the trials?



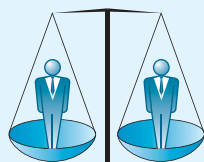
MILITARY MODEL (MM)

Courts are composed of members of the Armed Forces only



MIXED MODEL (XM)

Civilians participate in this system through Supreme Courts as the last resort of appeal



CIVILIAN MODEL (CM)

The courts in charge of trying military crimes are composed of civilians only. The military justice system is within the civil criminal system

Who is tried?



Members of the military



Retired members of the military



Civilian personnel of the Armed Forces



Civilians not related to defence



Police personnel and/or members of other security forces

Disciplinary sub system	Military Criminal Justice sub system
It punishes acts defined as a breach or infringement of military discipline.	It punishes acts defined as military crimes.
Infringement of Disciplinary Rules	Military Crime
Any willful or negligent act by military personnel affecting the disciplinary system.	An illegal act affecting any legally-institutionally protected interest, specific for and related to the military.

Argentina: Military jurisdiction was revoked by Law N°. 26.394, which establishes that all crimes committed by the military shall be tried by the ordinary justice

Bolivia: (MM) (m) (mr) (caf) (cv) (psf)

Brazil: (MM) (m) (mr) (caf) (cv) (psf)

Chile*: (XM) (m) (mr) (caf) (cv) (psf)

Colombia: (XM) (m) (psf)

Cuba: (MM) (m) (psf)

Dom. Rep.: (XM) (m) (psf)

Ecuador: Military jurisdiction was modified by the Political Constitution of Ecuador Republic, which establishes that all crimes committed by the military shall be tried by the ordinary justice

El Salvador: (XM) (m) (psf)

Guatemala: (XM) (m) (mr) (psf)

Honduras: (XM) (m) (psf)

Mexico: (MM) (m) (psf)

Nicaragua: (XM) (m) (psf)

Paraguay: (MM) (m) (psf)

Peru: (MM) (m) (psf)

Uruguay: (XM) (m) (mr) (psf)

Venezuela: (XM) (m) (mr) (caf) (cv) (psf)

***Note:** A military justice code reform was passed by Congress. By the closing of this edition, the law was sent to the President for its enactment. The new rule establishes that civilians cannot be judged by the military justice.

Source: Compilation based on the following regulations: *Ley que deroga el Código de Justicia Militar, aprueba modificaciones al Código Penal y al Código Procesal Penal de la Nación, aprueba instrucciones para la población civil en tiempo de guerra y otros conflictos armados, el Código de Disciplina de las Fuerzas Armadas y la organización del servicio de justicia conjunto de las Fuerzas Armadas* (N° 26.394 – 2008/08/26) (Argentina). *Decreto Ley de organización judicial militar y Código Penal Militar* (Decree-Law N° 13.321 – 1976/04/02) (Bolivia). *Código Penal Militar* (Decree-Law N° 1.001 – 1969/10/21. Last amendment: Law N° 9.764 – 1998/12/17), and *Ley de organización judicial militar* (N° 8.457 – 1992/09/04. Last amendment: Act N° 10.445 – 2002/05/07) (Brazil). *Código de justicia militar* (Decree-Law N° 806 – 1925/12/23. Last amendment: Act N° 20.357 – 2009/07/18) (Chile). *Ley por la cual se expide el Código penal militar* (Act N° 1.407 – 2010/08/17) (Colombia). *Ley procesal penal militar* (N° 6 – 1977/08/08) and *Ley de los delitos militares* (N° 22 – 1979/02/15) (Cuba). *Código de justicia de las Fuerzas Armadas* (Act N° 3.483 – 1953/02/13) (Dominican Republic). Political Constitution (Ecuador). *Código de justicia militar* (DL N° 562 – 1964/05/29. Last amendment : DL N° 368 – 1992/11/27) (El Salvador). *Código militar* (Decree N° 214 – 1878/09/15. Last amendment: Decree N° 41-96 – 1996/07/10) (Guatemala). *Código penal militar* (Decree N° 76 – 1906/03/01. Last amendment: Decree N° 47 – 1937/01/22) (Honduras). *Código de justicia militar* (DNL N°005 – 1933/08/31. Last amendment: DOF 2005/06/29) (Mexico). *Código penal militar* (Act N° 566 – 2006/01/05) (Nicaragua). *Código penal militar* (Act N° 843 – 1980/12/19) (Paraguay). *Código Penal Militar Policial* (Decree-Law N° 1.094 – 2010/09/01) (Peru). *Códigos Militares* (Decree-Law N° 10.326 – 1943/01/28) and *Ley marco de defensa nacional* (N° 18.650 – 2010/03/08) (Uruguay). *Código orgánico de justicia militar* (GO N° 5.263 – 17/09/1998) (Venezuela).

Legal Instruments on Military Justice

Country	Disciplinary Sub-system	Military Criminal Justice Sub-system
Argentina	<i>Ley que deroga el Código de justicia militar, aprueba modificaciones al Código Penal y al Código Procesal Penal de la Nación, aprueba instrucciones para la población civil en tiempo de guerra y otros conflictos armados, el Código de Disciplina de las Fuerzas Armadas y la organización del servicio de justicia conjunto de las Fuerzas Armadas (N° 26.394 – 2008/08/06).</i>	-----
Bolivia	<i>Reglamento de faltas disciplinarias y sus castigos (Supreme Resolution N° 181.303 – 1979/03/01).</i>	<i>Ley de organización judicial militar, Código penal militar, Código de procedimiento penal militar (Decree-Law N° 13.321 – 1976/04/02).</i>
Brazil	<i>Regulamento disciplinar da Aeronáutica (Decree N° 76.322 – 1975/09/22).</i>	<i>Código Penal Militar (Decree-Law N° 1.001 – 1969/10/21. Last amendment: Law N° 9.764 – 1998/12/17).</i>
	<i>Regulamento disciplinar do Exército e dá outras providências (Decree N° 4.346 – 2002/08/26).</i>	<i>Código de proceso penal militar (Decree-Law N° 1.002 – 1969/10/21. Last amendment: Law N° 9.299 – 1996/08/07).</i>
	<i>Regulamento disciplinar para a Marinha e dá outras providências (Decree N° 88.545 – 1983/07/26).</i>	<i>Ley de organización judicial militar (N° 8.457 – 1992/09/04. Last amendment: Act N° 10.445 – 2002/05/07).</i>
Chile	<i>Reglamento de disciplina para las Fuerzas Armadas (DS N° 1.445 – 1951/12/14)</i>	<i>Código de justicia militar (Decree-Law N° 806 – 1925/12/23. Last amendment: Act N° 20.357 – 2009/07/18).</i>
	<i>Reglamento de disciplina de la Armada. (DS N° 1.232 – 1986/10/21).</i>	<i>Código orgánico de tribunales (Law N° 7.421 – 1943/07/09. Last amendment: AA-S/N – 2008/03/20).</i>
Colombia	<i>Ley por la cual se expide el reglamento del régimen disciplinario para las Fuerzas Militares (N° 836 – 2003/07/16).</i>	<i>Ley por la cual se expide el Código penal militar (Act N° 1.407 – 2010/08/17).</i>
Cuba	-----	<i>Ley procesal penal militar (N° 6 – 1977/08/08). Ley de los delitos militares (N° 22 – 1979/02/15). Ley de los tribunales militares (N° 97 – 2002/12/21).</i>
Dominican Republic	<i>Reglamento militar disciplinario de las Fuerzas Armadas (Decree N° 02-08).</i>	<i>Código de justicia de las Fuerzas Armadas (Act N° 3.483 – 1953/02/13).</i>
Ecuador	<i>Reglamento de disciplina militar (Acuerdo Ministerial N° 831 – 1998/08/07).</i>	<i>Código penal militar (Codification N° 27 – 1961/11/06). Código de procedimiento penal militar (Codification N° 28 – 1961/11/06).</i>
El Salvador	<i>Código de justicia militar (DL N° 562 – 1964/05/29. Last amendment: DL N° 368 – 1992/11/27).</i>	
		<i>Código procesal penal militar (DL N° 904 – 1996/12/04).</i>
Guatemala	<i>Reglamento de sanciones disciplinarias (Acuerdo Gubernativo N° 24-2005 – 2005/01/24).</i>	<i>Código militar (Decree N° 214 – 1878/09/15. Last amendment: Decree N° 41-96 – 1996/07/10).</i>
Honduras	<i>Reglamento de personal para los miembros de las fuerzas armadas (Law and Order Department 2005 – 1991/09/12).</i>	<i>Código penal militar (Decree N° 76 – 1906/03/01. Last amendment: Decree N° 47 – 1937/01/22).</i>
Mexico	<i>Ley de disciplina del Ejército y Fuerza Aérea (DOF 1926/03/15. Last amendment: DOF 2004/12/10).</i>	<i>Ley orgánica de los tribunales militares (DOF 1929/06/22. Last amendment: DOF 1931/02/24).</i>
	<i>Ley de disciplina para el personal de la Armada de México (DOF 2002/12/13).</i>	<i>Código de justicia militar (DNL N°005 – 1933/08/31. Last amendment: DOF 2005/06/29).</i>
Nicaragua	<i>Reglamento disciplinario militar (Order N° 17 – 2007/08/13).</i>	<i>Ley orgánica de tribunales militares (N° 523 – 2005/04/05. Last amendment: Law N° 567 – 2005/11/25).</i>
		<i>Código penal militar (Act N° 566 – 2006/01/05).</i>
		<i>Código de procedimiento penal militar (Act N° 617 – 2007/08/29).</i>
Paraguay	<i>Código penal militar (Act N° 843 – 1980/12/19).</i>	
		<i>Ley Orgánica de los tribunales militares (N° 840 – 1980/12/19).</i>
		<i>Código de procedimiento penal militar en tiempo de paz y de guerra (Act N° 844 – 1980/12/19).</i>
Peru	<i>Ley del régimen disciplinario de las Fuerzas Armadas (N° 29.131 – 2007/11/09. Last amendment: DS 014-2009-DE – 2009/05/23).</i>	<i>Código Penal Militar Policial (DL N° 1.094 – 2010/09/01).</i>
		<i>Ley de organización y funciones del fuero militar policial (N° 29.182 – 2008/01/11. Last amendment: DL N° 1.096 – 2010/09/01).</i>
Uruguay	<i>Reglamento general de disciplina para el personal militar de la Fuerza Aérea (Decree 55/994 – 1994/02/08).</i>	<i>Códigos militares: Código penal militar, Código de organización de los tribunales militares, Código de procedimiento penal militar (DL N° 10.326 – 1943/01/28).</i>
	<i>Reglamento de disciplina de la Armada Nacional (Decree 180/001 – 2001/05/17).</i>	
	<i>Reglamento general del servicio N° 21. Ejército Nacional (Decree 305/003 – 2003/07/29).</i>	
Venezuela	<i>Reglamento de castigos disciplinarios (N° 6 – 1949/01/31).</i>	<i>Código orgánico de justicia militar (GO N° 5.263 - 1998/09/17) Código orgánico procesal penal (GO N° 38.536 – 2006/10/04).</i>

Source: Compilation based on above-mentioned legislation.



Analysis

Military Constitutional Missions in Latin America

David Pion-Berlin

Professor of Political Science – University of California, Riverside.

■ Constitutions are powerful, legal instruments. They define rights, freedoms, obligations and roles that are of vital, national importance. And because that is so, they are difficult to revise. Where military missions are enshrined within constitutions they are not only elevated in stature, but likewise, difficult to amend or repeal. Thus, nations want to be sure that the roles that they constitutionally delegate to the armed forces are ones that should not or could not be reserved for civilians, are absolutely vital to national interests, and are carefully circumscribed. In a democracy, powers should never be too generously granted to any organization with enormous coercive might. That is particularly so in a region like Latin America, whose militaries for too long used their formidable power to pursue selfish ends, often at the expense of democratic regimes. Governments want militaries that are capable of executing missions *they* delegate, not ones that are delegated for them. But that does not necessarily mean it is wise to constitutionally delegate military missions. Much depends on the purpose and nature of the operation itself.

The most common constitutional permission pertains to the defense of “la patria.” No other security force has the ability to defend the nation against existential threats, and so these mission assignments are reasonable and necessary. Seventy five percent of Latin American states constitutionally authorize the armed forces to protect the independence, territorial integrity and sovereignty of the nation. They do not exclude the possibility that threats to the nation may arise from inside the nation itself. Indeed, all Latin American nations allow for some form of internal security role for the armed forces though these may not always appear in the constitution itself.

Argentina, Uruguay, Mexico, and Cuba make no con-

stitutional mention of any defensive role for the military. But in some cases, there are other laws that do so. For example, Argentina’s Defense Law (Ley Nº 23.554) states that the military is to be used to defend against external aggressors only, ones who threaten the sovereignty, territorial integrity or political independence of the country. Mexico’s Organic Law of the Army and Air Force stipulates that the military shall defend the integrity, independence and sovereignty of the nation; and Uruguay’s Military Organic Law (Decreto Ley Nº 14.757) has similar language.

Six of seventeen countries have constitutions that stipulate military powers to defend either constitutions, constitutional powers or constitutional orders. While at first blush this may seem unobjectionable we should not forget that in the past, militaries have justified the overthrow of regimes by purporting to be defenders of the constitution. In March, 1976, Argentine General Jorge Videla said “profoundly respectful of constitutional powers, the natural underpinning of democratic institutions, the armed forces, on repeated occasion sent clear warnings to the government about the dangers that existed and also about the shortcomings of their senseless acts.”¹ If the highest law of the land grants the military the power to be its guardian, can the military infer it may protect the Magna Carta against purported infractions committed by the President? The Congress? The Courts? If the armed forces believe such language affords them some power of discretion -to decide if and when the constitution have been violated by politicians- then they may also infer they have the power to intervene to overthrow those authorities. It is for these

¹ Brian Loveman and Thomas Davies Jr., eds., *The Politics of Anti-Politics: the Military in Latin America*, (Lincoln: University of Nebraska Press, 1989), 199-200.

reasons and no doubt others that ten nations choose not to define any military defense of the constitution at all.

Those legal “silences” allow other sections of the constitution to reign, restricting the military’s own interpretation. In particular, all constitutions in Latin America state that only the President as commander in chief can order the military to act; the military has no powers of self-direction. And all those constitutions that have language pertaining to the military mention that the military is a non-deliberative actor, meaning it is prohibited from convening on political matters or reaching independent political decisions, obviously including those that would plot the overthrow of the president, or other legitimate office holders. That leaves them without the legal means of initiating political praetorian actions against the president based on *their own* interpretation of the constitution and whether or not it has been violated. But what about the interpretation of others such as a Supreme Court? Some might ask whether the Honduran Supreme Court was within its right to instruct the military to oust the president based on his *alleged* constitutional violation. And were the armed forces obligated to comply, as they did on June 28, 2009? Legal and political scholars will no doubt debate this point for some time to come. While President Zelaya had the constitutional right to order the military to provide logistical assistance for the referendum, other portions of the Honduran constitution prohibit the military from obeying illegal orders.² Then whose judgment call is it? None of this obscures the fact that President Zelaya was the victim of a coup—one authorized, organized and implemented by a host of civilian and military actors. Sometimes, what is *not* stated in constitutions is as important as what is. For example, only six constitutions authorize the military to undertake public order functions. And yet, my own research indicates that all Latin American nations explicitly or implicitly allow their militaries to engage in internal security operations of one form or another, including the preservation of public order and security.³ Even countries that impose the tightest restrictions (Argentina, Nicaragua) nonetheless have escape clauses that do not preclude the introduction of the military in rare circumstances.

For example, all constitutions allow for states of ex-

ception which authorize the President to take unusual measures (i.e. curbing civil liberties, making arrests without warrants, etc.) to restore internal order during grave crises by calling on an assortment of security forces. In only one or two cases does state of siege or emergency clauses specify that the military per se would be used; in all the other cases, it would be left to the discretion of the President. He could plausibly resort to police, military police, hybrid forces (Gendarmería, National Guard) the armed forces, or some combination of these. If an internal threat to public security were to overwhelm the police and other internal security forces, the head of state could, in theory, call upon the military to intervene as a last resort.

Constitutional states of exception “raise the bar” on military intervention. Those missions would be undertaken only on rare occasion, require substantial justification and presidential authorization, have built in time limitations (usually between 45-90 days) and be subject to congressional concurrence and re-authorization. The intent is to limit military operations to those occasions when maximum lethal force will be imperative to subdue internal threats. And it is especially in these instances when civilian control should be rigorously applied by the highest authorities.

These kind of constitutional provisions lend greater weight, clarity, and firmness to the president’s role, leaving less room for military interpretation or challenge. There are difficulties however. First, these measures are reserved only for grave national emergencies marked by pervasive violence. They are normally not invoked for lower threshold instability and certainly not for ordinary law enforcement purposes. Second, states of exception are affirmative, not prohibitive; they indicate when presidents may call upon their militaries rather than specify all those situations when they may not. Only a handful of countries restrict the military’s internal security use to *only* states of siege or emergency, leaving the door open to other uses. Hence the third problem is that too many countries sanction internal missions of all sorts through their organic military laws or national security laws without defining limits: thresholds, time duration, rules of engagement, or political authorizations.

Approximately three quarters of Latin American countries fail to draw the line between high and low threshold security functions; they allow armies to switch from national security to public security or public order functions such as anti-crime patrols, counter-narcotic ope-

2 J. Mark Ruhl, “Honduras Unravels”, *Journal of Democracy*, Volume 21, no 2, (2010): 93-107.

3 David Pion-Berlin, “Seguridad Militar y Misiones de Desarrollo en América Latina”, in *Perspectivas para la Democracia en América Latina*, ed. Leticia Heras Gómez and John A. Booth, 305-326, (Xochicalco: Universidad Autónoma del Estado de México, 2009).



rations or suppression of civilian uprisings. Without clear limitations and guidelines—including rules of engagement—that would set boundaries to military public security functions, there is the risk that ambiguity will lead to costly errors and excesses. According to a 2007 study by FLACSO, the following countries establish general internal security missions but do not specify actual functions: Bolivia, Colombia, Guatemala, Mexico and Peru.⁴ My own research reveals the same for Paraguay, Uruguay and Venezuela. And finally, some forty percent of Latin American countries allow for military use for public security and law and order without explicitly stating that each mission assignment must be made by the president or a legitimate political official.

Latin American states must perform a delicate balancing act: to place constitutional restrictions on military use without completely tying the hands of political leaders who may need to rely on soldiers from time to time. Licensing public order/public security military functions at a constitutional level, and doing so without explicit limitations—as do Guatemala, Honduras and Venezuela—is ill advised. At the same time, restricting such use to only states of siege is simply impractical for countries like Mexico, Guatemala, Honduras and El Salvador which are confronted daily by highly capable and lethal criminal organizations. Presidents need discretion, but societies need protection from the potential misuse of military power. Thus it seems reasonable that either constitutions or more preferably, security laws be revised to allow for the circumstantial, last resort use of military power to assist police forces in subduing organized crime—but only with presidential authorization and congressional approval.

Nearly all Latin American militaries find themselves implicated in development missions, requiring that soldiers expand their reach beyond classic defense-related roles. Soldiers can be seen building infrastructure, hos-

pitals, schools, conducting literacy campaigns, protecting the environment, distributing goods, and providing medical services. These missions are somewhat controversial, and history is replete with cautions against undertaking them: the chance for mission creep, the development of entrenched military interests far a field from defense, and the distractions from defense-related training regimens. If the military represents the only organization capable of meeting those needs, so be it. As unfortunate as that may be, governments faced with huge development deficits may have little choice but to depend on soldiers. It does require however that governments remain vigilant against military efforts to exert permanent ownership over these assignments, so that civilian agencies could eventually fill those roles.

And that is the predicament with embedding such missions within constitutions, as do some 40 percent of Latin American countries—the bulk of which are among the region's poorest (i.e. Bolivia, Honduras, El Salvador, Ecuador). Once a development oriented mission is legitimized constitutionally, it is difficult to revoke. The military's role is elevated in stature by virtue of its constitutionality. The armed forces will exert guardianship over those missions, arguing that they and only they should be authorized to conduct those activities. It also becomes difficult if not impossible to impose time limitations on missions especially in light of the fact that underdevelopment is a deep-rooted, intractable, and persistent problem.

In sum, granting constitutional licenses to military action may be well advised for the defense of the nation against grave external threats. But for other challenges, having too many military constitutional prerogatives is unwarranted. Countries need to clarify if and when they should call upon the armed forces to assist in internal security and developmental missions. And clear restrictions and rules of engagement must be written. But they should be written within the defense and security laws of the land, not within the framework of constitutions.

⁴ Facultad Latinoamericana de Ciencias Sociales (Chile), *Reporte del Sector Seguridad en América Latina y el Caribe*, (Santiago de Chile: FLACSO, 2007), 50.