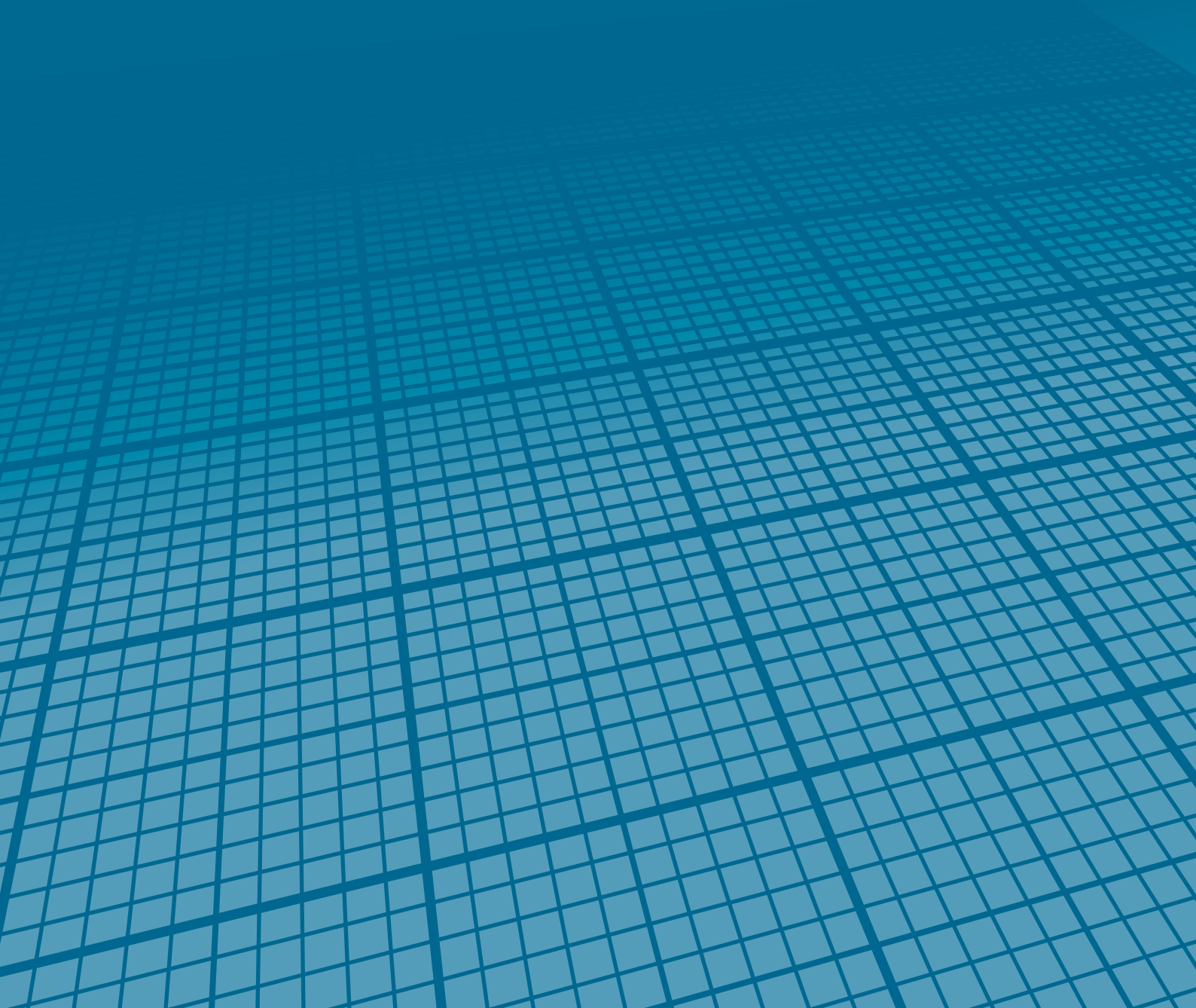


Chapter 2:

# The Institutions





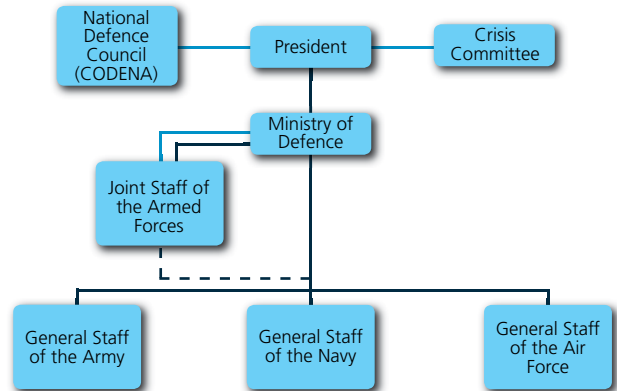
## Defence System Structure

### Defence system organization

Chain of command design, political leadership-military relations, security and defence councils, and role of the Joint Chiefs of Staff in the various institutional organizations.

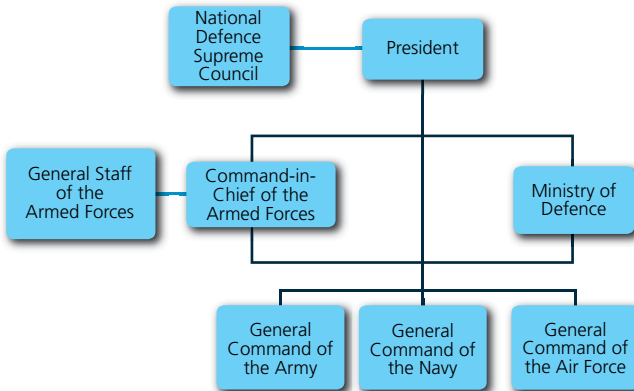
- Advisory and assistance functional relationship
- Command reporting line
- Joint planning and management relationship

### ARGENTINA



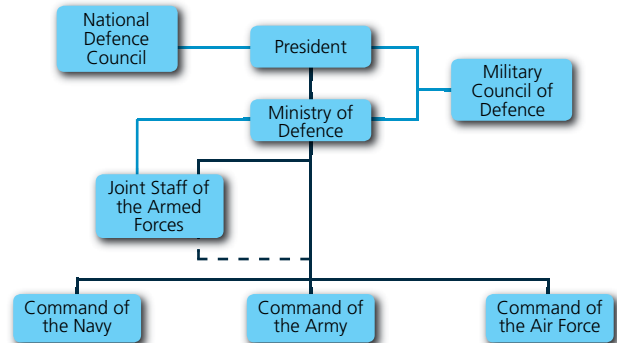
Source: Compilation based on *Ley de Defensa Nacional* (N° 23.554 - 05/05/1988) and *Reglamentación de la Ley de Defensa Nacional* (Decree N° 727/2006 - 2006/06/13).

### BOLIVIA



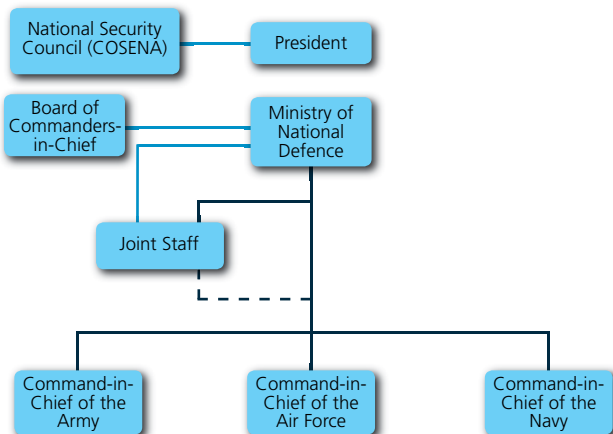
Source: Compilation based on *Ley Orgánica de las Fuerzas Armadas* (N° 1.405 - 1992/12/30).

### BRAZIL



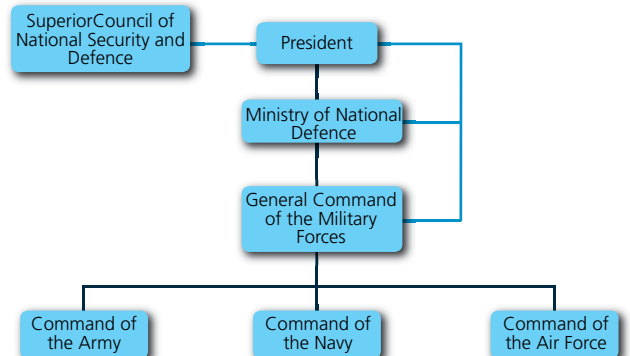
Source: Compilation based on the Political Constitution; *Lei que dispõe sobre a organização e o funcionamento do Conselho de Defesa Nacional e dá outras providências* (N° 8.183 - 1991/04/11. Last amendment: 2001/08/31); *Lei sobre as Normas Gerais para a Organização, o Preparo e o Emprego das Forças Armadas, para Estabelecer Novas Atribuições Subsidiárias* (Complementary Act N° 117 - 2004/09/02; modifies Complementary Act N° 97 - 1999/06/09); and *Lei Complementar da Defesa* (Complementary Act N° 136 - 2010/08/25; modifies Complementary Act N° 97 - 1999/06/09).

### CHILE



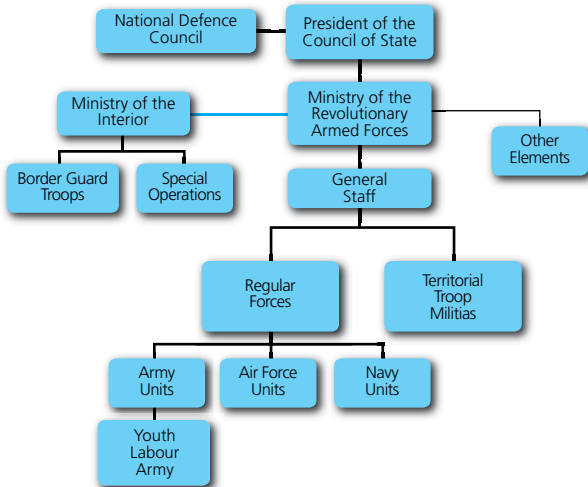
Source: Compilation based on the Political Constitution, *Ley del Estatuto Orgánico del Ministerio de Defensa Nacional* (N° 20.424 - 2010/02/04) and the *Libro de la Defensa Nacional* (2010).

### COLOMBIA



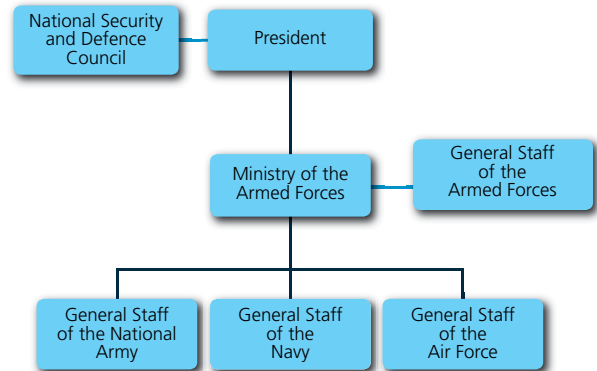
Source: Compilation based on *Decreto por el cual se modifica parcialmente la estructura del Ministerio de Defensa Nacional* (N° 1.512 - 200/08/11. Last amendment: Decree N° 4.481 - 2008/11/27), and *Decreto por el cual se fusionan el Consejo Nacional de Seguridad, el Consejo Superior de la Defensa Nacional y la Comisión creada por el Decreto 813 de 1983* (N° 2.134 - 1992/12/31).

**CUBA**



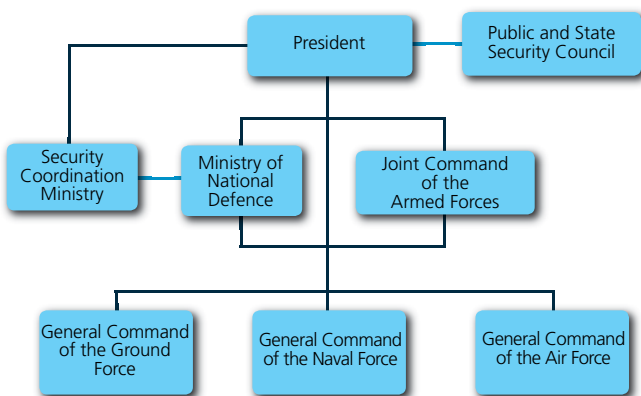
Source: Compilation based on *Ley de la defensa nacional* (Nº 75 - 1994/12/21).

**DOMINICAN REPUBLIC**



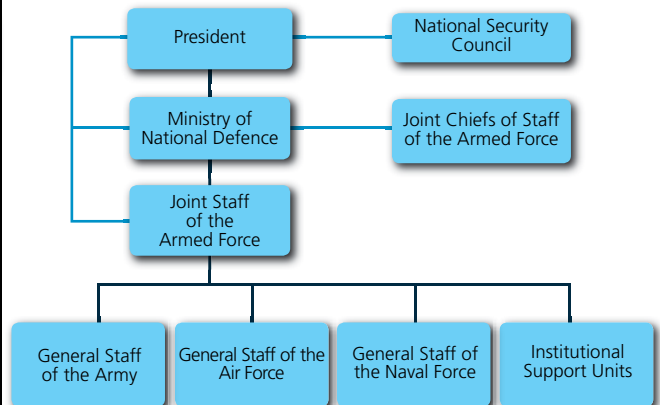
Source: Compilation based on the Political Constitution and the *Ley orgánica de las Fuerzas Armadas* (Nº 873 - 1978/05/08).

**ECUADOR**



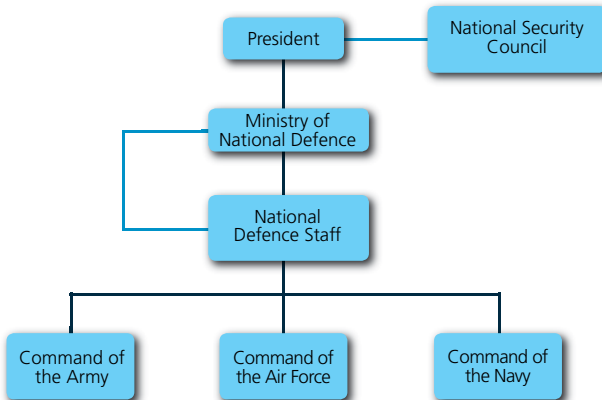
Source: Compilation based on *Ley orgánica de la defensa nacional* (Nº 74 - 2007/01/19. Last amendment: Act Nº 35 - 2009/09/28), and *Ley de seguridad pública y del Estado* (Nº 35 - 2009/09/28).

**EL SALVADOR**



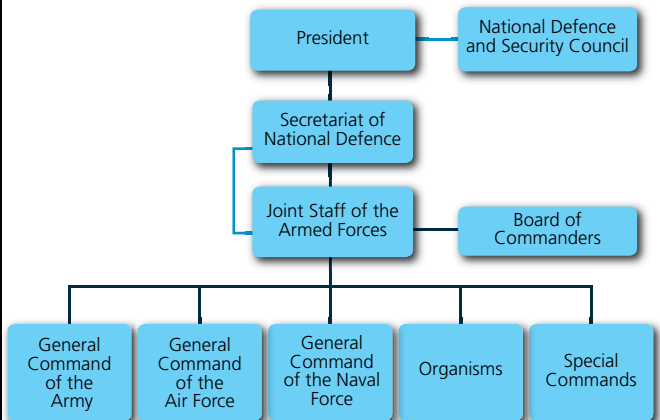
Source: Compilation based on the Political Constitution, *Ley orgánica de la Fuerza Armada de El Salvador* (DL Nº 353 - 1998/07/30), and *Ley de la defensa nacional* (DL Nº 948 - 2002/10/03).

**GUATEMALA**



Source: Compilation based on *Ley marco del sistema nacional de seguridad* (DL Nº 18-2008 - 2008/04/15) and *Ley constitutiva del Ejército de Guatemala* (DL Nº 72-90 - 1990/12/13).

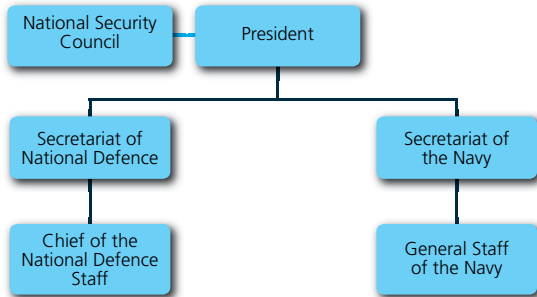
**HONDURAS**



Source: Compilation based on the Political Constitution, *Ley constitutiva de las Fuerzas Armadas* (Decree Nº 39-2001 - 2001/10/29) and *Libro Blanco de la Defensa Nacional* (2005).

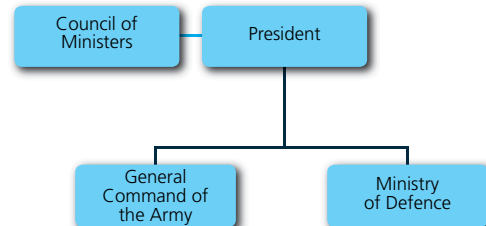


**MEXICO**



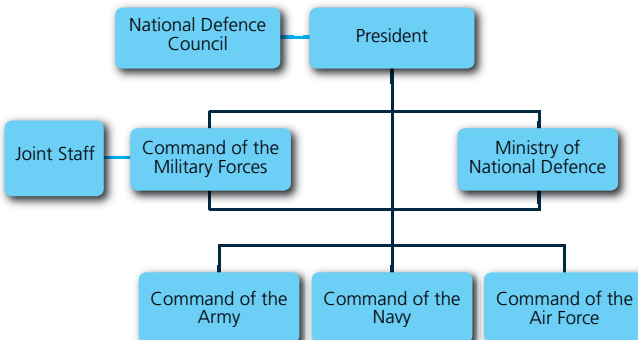
**Source:** Compilation based on the Political Constitution, *Ley orgánica de la administración pública federal* (DOF 1976/12/29. Last amendment: DOF 2009/06/17), *Ley orgánica de la Armada de México* (DOF 2002/12/30. Last amendment: DOF 2009/06/12), *Ley orgánica del Ejército y la Fuerza Aérea* (DOF 1986/12/26. Last amendment: DOF 2009/06/12), and *Ley de seguridad nacional* (DOF 2005/01/31. Last amendment: DOF 2005/12/26).

**NICARAGUA**



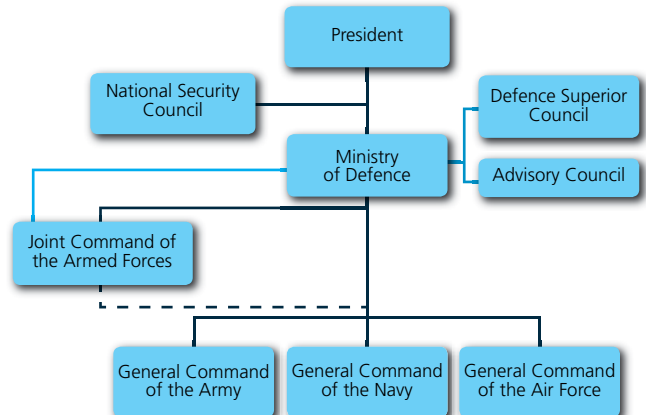
**Source:** Compilation based on *Ley de organización, competencia y procedimientos del Poder Ejecutivo* (N° 290 – 1998/06/03. Last amendment: Act N° 612 – 2007/01/29).

**PARAGUAY**



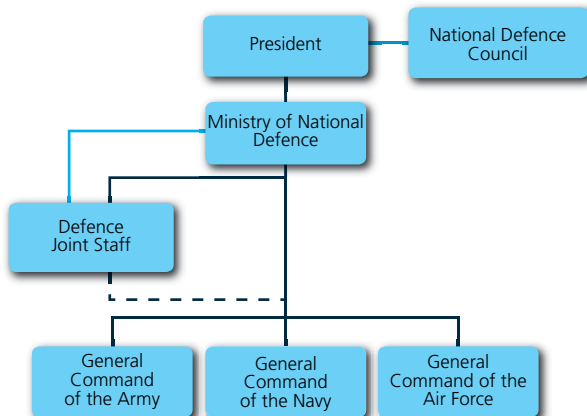
**Source:** Compilation based on the Political Constitution, *Ley de defensa nacional y de seguridad interna* (N° 1.337 - 1999/04/14), and *Ley de organización general de las Fuerzas Armadas de la Nación* (N° 74 - 1991/11/20. Last amendment: Act N° 216 - 1993/06/16).

**PERU**



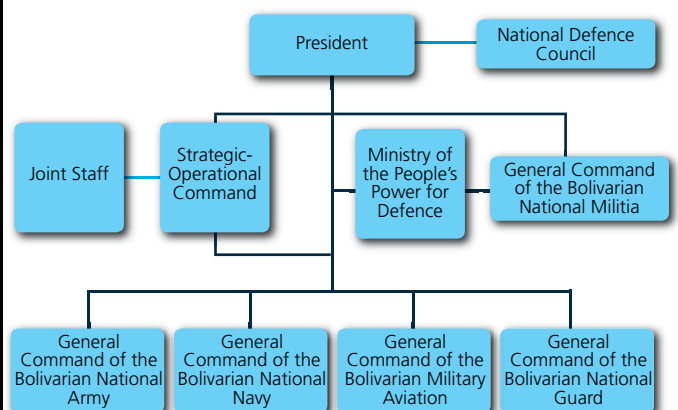
**Source:** Compilation based on *Ley que establece la naturaleza jurídica, función, competencias y estructura orgánica básica del Ministerio de Defensa* (N° 29.075 - 2007/08/01) and *Ley del sistema de seguridad y defensa nacional* (N° 28.478 - 2005/03/23).

**URUGUAY**



**Source:** Compilation based on the Political Constitution, *Ley orgánica de las Fuerzas Armadas* (N° 14.157 - 1974/03/05. Last amendment: Act N° 15.808 - 1986/04/07), and *Ley marco de defensa nacional* (N° 18.650 - 2010/03/08).

**VENEZUELA**



**Source:** Compilation based on the Political Constitution, *Ley orgánica de seguridad de la Nación* (GO N° 37.594 - 2002/12/18), and *Ley orgánica de la Fuerza Armada Nacional Bolivariana* (GO N° 6.239 - 2009/08/13. Last amendment: Act N° 6.239 - 2009/10/21).

## Responsibilities of the Ministries of Defence

Country	Responsibility
<b>Argentina</b> Ministry of Defence	The Ministry of Defence exercises the direction, organization and coordination of the activities that are proper to national defence and are not exclusively or directly conducted by the President or assigned to other officials, bodies or organizations. ( <i>Ley de Defensa Nacional</i> , N° 23.554 – 1988/05/05, Sec. 11).
<b>Bolivia</b> Ministry of Defence	The Ministry of Defence is the political and administrative body of the Armed Forces. The Minister of Defence is the legal representative of the armed institution before the public powers. ( <i>Ley orgánica de las Fuerzas Armadas</i> , N° 1.405 – 1992/12/30, Sec. 22).
<b>Brazil</b> Ministry of Defence	The Minister of Defence exercises the senior leadership of the Armed Forces, on the advice of the Military Council of Defence as the permanent consultation body, the Joint Staff of the Armed Forces, the secretariats and other bodies, in accordance with the law. ( <i>Lei Complementar da Defesa - Complementary Act</i> N° 136 – 2010/08/25, modifies Complementary Act N° 97 - 1999/06/09, Sec. 9).
<b>Chile</b> Ministry of National Defence	The Ministry of National Defence is the highest body in assisting the President in its government and administration functions of national defence. ( <i>Ley del Estatuto Orgánico del Ministerio de Defensa Nacional</i> , N° 20.424 – 2010/02/04, Sec. 3).
<b>Colombia</b> Ministry of National Defence	The Ministry of Defence conducts the Military Forces and the National Police as ordered by the President, formulating and adopting the sector policies, general plans, programmes and projects for the defence of the sovereignty, independence and territorial integrity of the nation as well as to maintain the constitutional order and guarantee a democratic co-existence. The National Ministry of Defence counts on the immediate assistance of the General Commander of the Military Forces, the Commanders of the Armed Forces, the General Director of the National Police and the Vice Minister. ( <i>Decreto por el cual se modifica la estructura del Ministerio de Defensa Nacional y se dictan otras disposiciones</i> , N° 1.512 – 2000/08/11, Sec. 2, 3, 4 and 5).
<b>Cuba</b> Ministry of the Revolutionary Armed Forces	It is the body responsible for directing, executing and controlling the implementation of the State and Government policy with respect to the country's preparation for defence, the defence of the State sovereignty on the entire national territory, the preparation and execution of armed combat, and the contracting, acquisition, production and use of war material to meet the Ministry of Defence needs. ( <i>Ley de la defensa nacional</i> , N° 75 – 1994/12/21, Sec. 37).
<b>Dominican Republic</b> Ministry of the Armed Forces	The Ministry of the Armed Forces, closely assisting the President of the Republic, is the highest military authority in all matters related to the command, organization, training and administration of the armed corps. ( <i>Ley Orgánica de las Fuerzas Armadas</i> , N° 873 – 1978/08/08, Sec. 50).
<b>Ecuador</b> Ministry of National Defence	It is the political, strategic and administrative body of national defence. ( <i>Ley Orgánica de la Defensa Nacional</i> , N° 74 – 2007/01/19, Sec. 8).
<b>El Salvador</b> Ministry of National Defence	It is the main advisory body of the President of the Republic and General Commander of the Armed Forces in relation to national defence. It directs the military field of action. ( <i>Ley de la defensa nacional</i> , DL N° 948 – 2002/10/03, Sec. 19).
<b>Guatemala</b> Ministry of National Defence	The Minister of National Defence, under the orders of the General Commander in Chief of the Army (the President), shall conduct and manage the Army of Guatemala. It is the communication agency between the Army of Guatemala and the other government bodies. ( <i>Ley constitutiva del Ejército de Guatemala</i> , DL N° 72-90 – 1990/12/13, Sec. 15 and 17).
<b>Honduras</b> Secretary of National Defence	It ensures that the national defence policy is duly executed by the Armed Forces; it represents Honduras at international defence bodies; and it authorizes, regulates and controls all matters related to weapons, ammunitions and explosives. In relation to military matters, it is the administrative organization of the Armed Forces; it countersigns decrees, agreements, orders and decisions; it secures the preparation and implementation of plans and programs, and orders their elaboration or update; it recommends officer promotions to the President; and supervises, inspects and exerts control over the organization and performance of the Armed Forces. ( <i>Ley constitutiva de las Fuerzas Armadas</i> , Decree N° 39-2001 – 2001/10/29, Sec. 5).
<b>Mexico</b> Secretariat of National Defence	The Secretary of National Defence exercises the High Command of the Army and the Air Force; is responsible for organizing, equipping, educating, training, instructing and managing the Ground and Air Forces, in conformity with the instructions issued by the President of the Republic. ( <i>Ley orgánica del Ejército y la Fuerza Aérea</i> , DOF 1986/12/26. Last amendment: DOF 2009/06/12, Sec. 16 and 17).
Secretariat of the Navy	The Secretary of the Navy exercises the High Command of the Mexican Navy. ( <i>Ley orgánica de la Armada de México</i> , DOF 2002/12/30. Last amendment: DOF 2009/06/12, Sec. 7).
<b>Nicaragua</b> Ministry of Defence	By delegation of the President of the Republic, the Ministry of Defence conducts the elaboration of policies and strategies for the defence of the sovereignty, independence and territorial integrity of the country. ( <i>Ley de organización, competencia y procedimientos del Poder Ejecutivo</i> , N° 612 – 2007/01/29, Sec. 3).
<b>Paraguay</b> Ministry of National Defence	The administrative responsibilities of the Nation's Armed Forces fall under the National Ministry of Defence. ( <i>Ley de organización general de las Fuerzas Armadas de la Nación</i> , N° 74 – 1991/11/20. Last amendment: Act N° 216 – 1993/06/16, Sec. 48).
<b>Peru</b> Ministry of Defence	It is the main executor body of the national security and defence system, responsible for formulating, coordinating, implementing, executing and supervising the national defence policy in the military sphere, as well as for designing, planning and coordinating this policy in the non-military arena, in accordance with current laws in effect. ( <i>Ley del sistema de seguridad y defensa nacional</i> , N° 28.478 – 2005/03/23, Sec. 18).
<b>Uruguay</b> Ministry of National Defence	It has the power and competence over the political conduct of national defence areas determined by the laws and the Executive Branch within the framework of their powers, in particular, of all matters related to the Armed Forces. It exercises the command and supervision of all activities carried out by the Armed Forces. ( <i>Ley marco de defensa nacional</i> , N° 18.650 – 2010/03/08, Sec. 14 and 15).
<b>Venezuela</b> Ministry of the People's Power for Defence	It is the highest administrative body as regards the military defence of the Nation, responsible for the formulation, adoption, monitoring and assessment of the policies, strategies, plans, programs and projects of the defence sector. The President and Commander-in-Chief is entitled to issue operational orders through the Ministry of the People's Power for Defence. ( <i>Ley orgánica de la Fuerza Armada Nacional Bolivariana</i> , GO N° 6.239 – 2009/08/13. Last amendment: Act N° 6.239 – 2009/10/12, Sec. 11 and 20).

Source: Compilation based on the above mentioned legislation.



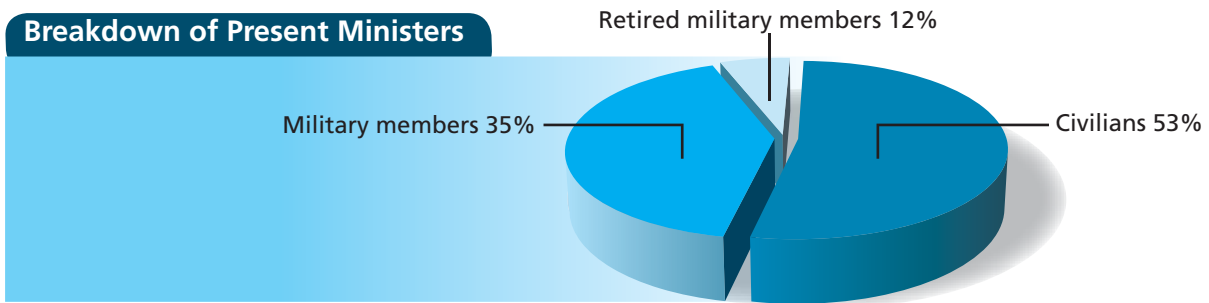
### Institutional Guidance

Country	Can the military members become Ministers of Defence?	Number of military members who became Ministers of Defence	Number of civilians who were Ministers of Defence	Date of creation of the Ministry
Argentina	Yes (if they have retired)	4	33	1958
Bolivia	Yes (if they have retired)	39	37	1933
Brazil	Yes (if they have retired)	None	5	1999
Chile	Yes (if they have retired)	18	31	1932
Colombia	Yes (if they have retired)	12	13	1965
Cuba	Yes	1	1	1959
Dominican Republic	Yes	36	3	1930
Ecuador	Yes (if they have retired)	33	20	1935
El Salvador	Yes	26	None	1939
Guatemala	Yes (1)	12 <sup>2</sup>	None	1945
Honduras	Yes (if they have retired)	None <sup>3</sup>	4 <sup>3</sup>	1954
Mexico	Secretariat of National Defence	14	None	1937
	Secretariat of the Navy	15	3	1940
Nicaragua	Yes (if they have retired)	2	7	1979
Paraguay	Yes (if they have retired)	18	5	1943
Peru	Yes	11	6	1987
Uruguay	Yes (if they have retired)	15	22	1935
Venezuela	Yes	39	1	1946

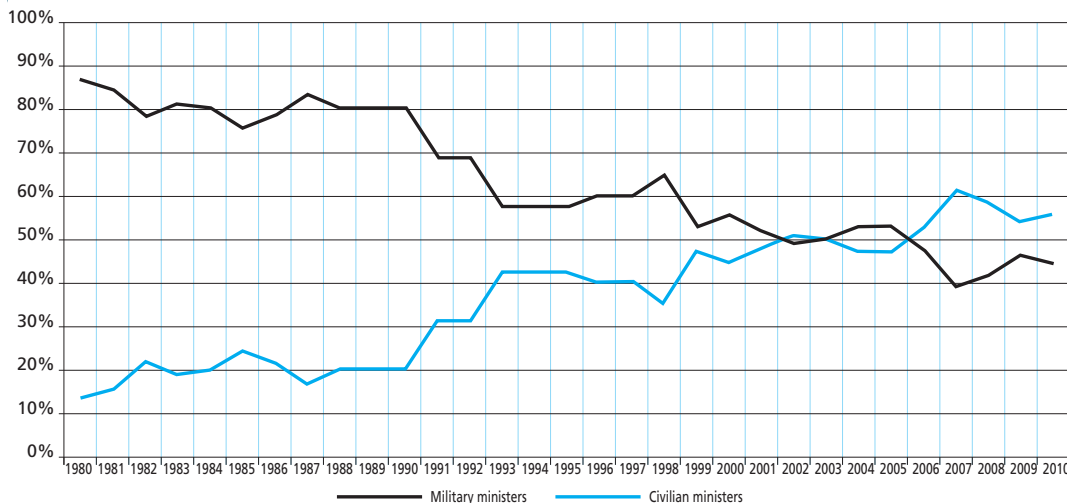
1. According to the Constitution of the Republic, civilians cannot become Ministers of Defence.
2. Since 1996, year of the Lasting and Consistent Peace Agreements.
3. Since 1998, year of the constitutional reform.

**Source:** Compilation based on information provided by the Ministries and Departments of Defence of each country. The Ministers and Secretaries currently in charge are not considered (September 2010). The creation date is related to the time in which the term "Defence" becomes part of the Institution's name (except of the Ministry of the Revolutionary Armed Forces from Cuba, the Ministry of the Armed Forces from Dominican Republic, and the Secretariat of the Navy from Mexico).

### Breakdown of Present Ministers



### Ministries of Defence Leadership, 1980-2010 (in %)

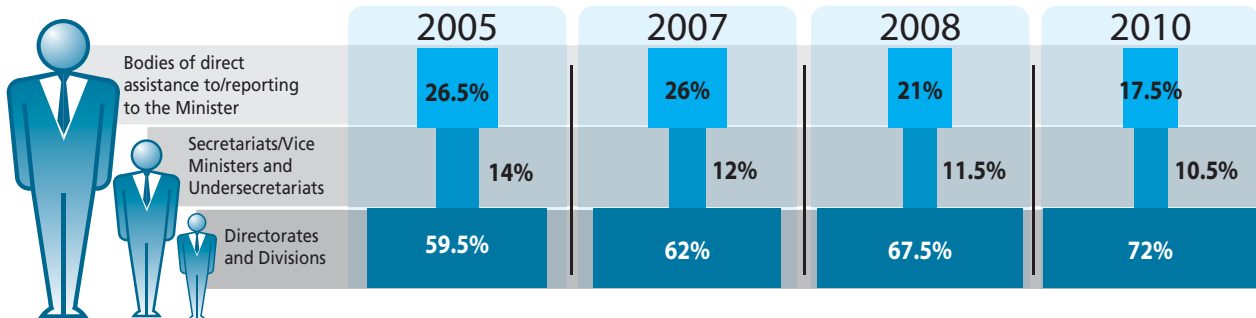


**Note:** All countries included in this publication have been considered. Percentages include all existing ministries on a particular year. Peru is considered since 1987 and Brazil since 1999.

**Source:** Compilation based on the information provided by the Ministries of Defence and Secretariats of each country. This chart considers Ministers and Secretaries currently in charge. As for September 2010 Nicaragua does not have a Minister of Defence. In the case of Mexico, both the Secretary of National Defence (including the Ground and Air Force) and the Secretary of the Navy were considered.



### Evolution of Defence Ministry Structures, 2005-2010 (in %)

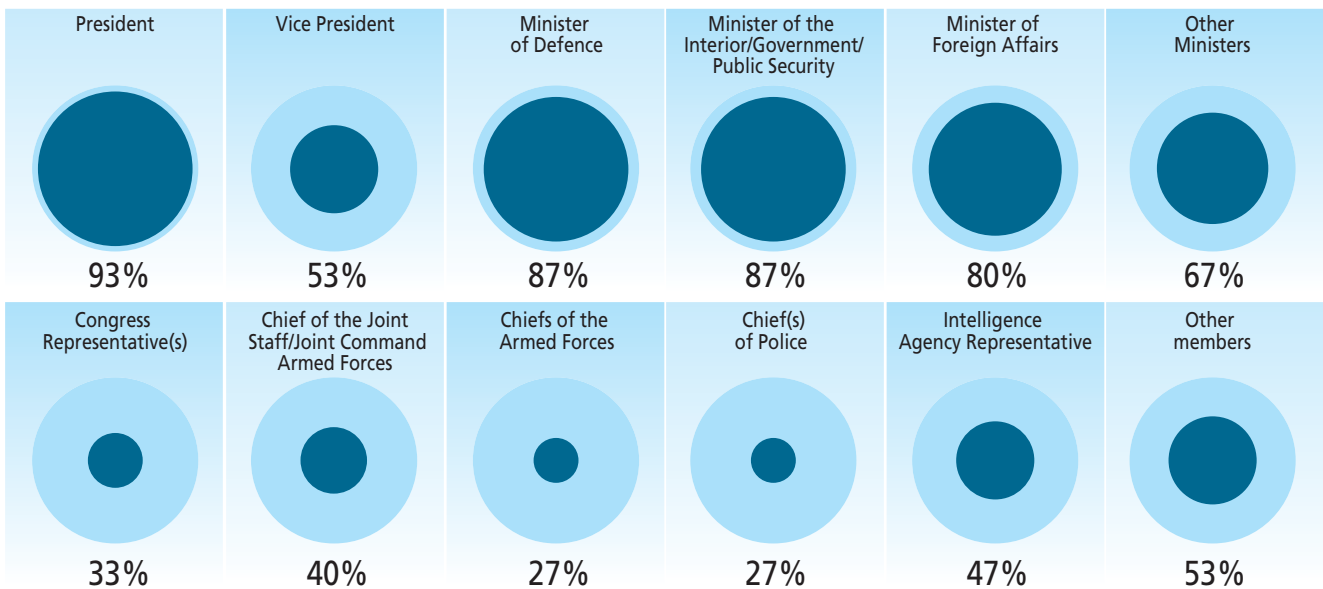


**Note:** The comparison includes the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, Uruguay and Venezuela. In the case of "Directorates", other equivalent offices, departments and divisions are included according to each country's denominations, in order to complete this category. Bodies of the Armed Forces, the Defence Councils, sports committees or federations, the military bishopric, companies and industries, schools and other institutes or study centres have been excluded for the purposes of comparison.

**Source:** Compilation based on the organization charts provided by the Ministries and Departments of Defence of each country.

### National Defence and/or Security Council Officials (in %)

Countries: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela.



**Note:** Although Section 287 of the Honduran Political Constitution orders to "create the National Defence and Security Council and to establish a special law to regulate its organization and operation" this regulation has not been created so far. Sec. 258 of the Dominican Republic's Political Constitution, dated 2010/01/26 also establishes the creation of a National Defence and Security Council. When this edition closed, the regulations on its composition and operation were still pending.

**Source:** *Ley de defensa nacional* (N° 23.554 - 1988/05/05) and *Libro blanco de la Defensa Nacional* (1999) (Argentina). Political Constitution, *Ley de organización del Poder Ejecutivo* (N° 2.446 - 2003/03/19), and *Ley sobre la organización y funcionamiento del Consejo de Defensa Nacional* (N° 8.183 - 1991/04/11). Last amendment: 2001/08/31 (Brazil). Political Constitution and *Libro de la defensa nacional de Chile* (2010). *Decreto por el cual se fusionan el Consejo Nacional de Seguridad, el Consejo Superior de la Defensa Nacional y la Comisión creada por el Decreto 813 de 1983* (N° 2.134 - 1992/12/30) (Colombia). *Ley de la defensa nacional* (N° 75 - 1994/12/21) (Cuba). *Ley de seguridad pública y del Estado* (N° 35 - 2009/09/28) (Ecuador). *Decreto de creación del Consejo de Seguridad Nacional* (N° 168 - 1992/09/11). Last amendment: DE N° 1 - 2005/01/12) (El Salvador). *Ley marco del sistema nacional de seguridad* (DL N° 18-2008 - 2008/04/15) (Guatemala). *Ley de seguridad nacional* (DOF 2005/01/31. Last amendment: DOF 2005/12/26) (Mexico). *Reglamento a la Ley N° 290 de Organización y Competencia, Procedimientos del Poder Ejecutivo* (D-71-98 - 1998/10/31. Last amendment: Decree N° 19 - 2010/05/13) (Nicaragua). *Ley de defensa nacional y de seguridad interna* (N° 1.337 - 1999/04/14) (Paraguay). *Ley del sistema de seguridad y defensa nacional* (N° 28.478 - 2005/03/23) (Peru). *Ley marco de defensa nacional* (N° 18.650 - 2010/03/08) (Uruguay). *Political Constitution and Ley orgánica de seguridad de la Nación* (GO N° 37.594 - 2002/12/18) (Venezuela).

Only 5 countries include members of Congress in their Defence Councils



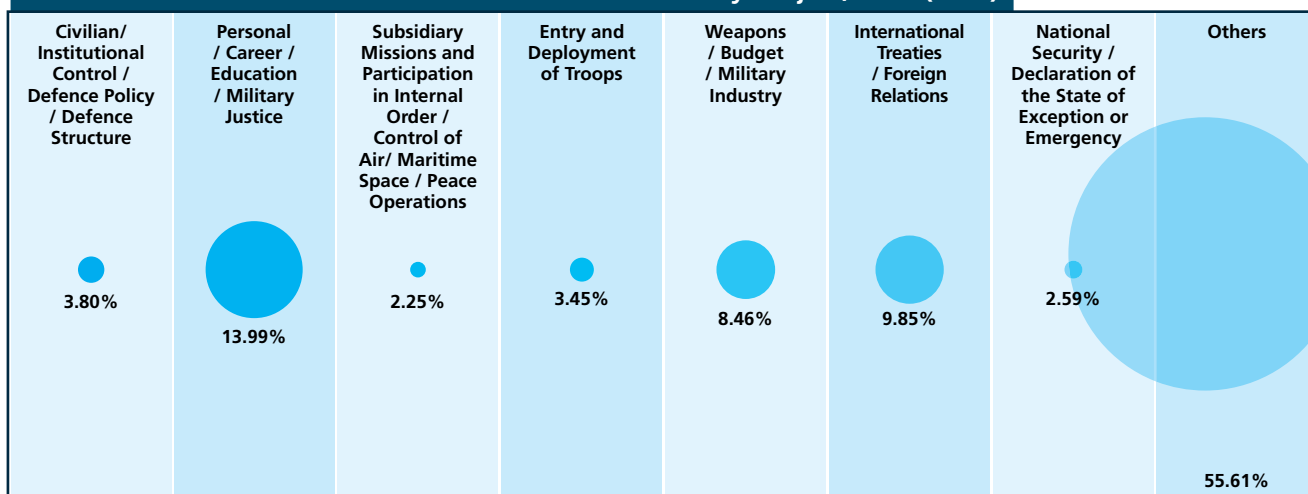
### Constitutional Powers of the Congress

Country	Related to War and Peace		Related to the entry and deployment of troops		Related to Control
	Can it declare war?	Can it make peace?	Is a congressional authorization necessary for the entry of foreign troops?	Is a congressional authorization necessary for the deployment of national troops outside the country?	Is its approval required to appoint senior officers of the Armed Forces?
Argentina	No	No	Yes	Yes	Yes <sup>1</sup>
Bolivia	No	No	Yes	Yes	Yes <sup>1</sup>
Brazil	No	No	Yes	N/R	No
Chile	No	No	Yes	Yes	No
Colombia	No	No	Yes <sup>1</sup>	N/R	Yes <sup>1</sup>
Cuba	Yes	Yes	N/R	N/R	N/R
Dominican Republic	No	No	Yes <sup>1</sup>	Yes <sup>1</sup>	No
Ecuador	No	No	N/R	N/R	No
El Salvador	Yes	No	Yes	N/R	No
Guatemala	Yes	No	Yes	N/R	No
Honduras	Yes	Yes	Yes	Yes	Yes
Mexico	Yes	No	Yes <sup>1</sup>	Yes <sup>1</sup>	Yes <sup>1</sup>
Nicaragua	No	No	Yes	Yes	N/R
Paraguay	No	No	Yes	Yes	Yes <sup>1</sup>
Peru	No	No	Yes	N/R	No
Uruguay	Yes	No	Yes	Yes	Yes <sup>1</sup>
Venezuela	No	No	Yes	Yes	No

N/R: No reference. (1) Corresponds to the Senate.

Source: Compilation based on the Constitution of each country.

### Bills introduced in the Defence Commissions classified by subject, 2009 (in %)



**Note:** The dates set for project submission were January 1, 2009, to December 31, 2009. In the cases where legislatures start sessions in the middle of the year, the project is considered by date and not by period. The "others" category includes subjects such as: new island designations; Malvinas War; transfer of titles and real assets; declaration of historic monuments or sites; national migration system; various celebrations; life tributes; military card gratuity; declaration of national holidays for various reasons; regulations for citizens living abroad; automotive registration system; amendments to the criminal code; regulation of the constitutional section on national budget; changes to the electoral code; Sale of State-owned companies; Supreme Court of Justice; Agrarian Technology Institute; granting of honorary nationality; capital status; Transport Department; intensive care; punishment of terrorist acts; civil servant participation; party election positions; Particular pardons and amnesties; regulation of pyrotechnic products; commemorative parades of various anniversaries. In the case of Brazil, Congress Legislative Decrees have been included under the "Others" category.

**Source:** National Defence Committees of the Congress Houses (Argentina). The Bolivian Armed Forces, Police and State Security Senate Committee and Government, the Defence and Armed Force Committee of the House of Representatives (Bolivia). Foreign Relations and National Defence Committee of the Senate and Foreign Relations and National Defence Committee of the House of Representatives (Brazil). National Defence Committees of Congress (Chile). Senate Second Committee and House Second Committee (Colombia). National Defence Committee of the National Assembly of the People's Power (Cuba). National Defence and Security Senate Committee and National Defence and Security Committee of the House of Representatives (Dominican Republic). Committee on Sovereignty, Integration, International Affairs and Integral Security of the National Assembly (Ecuador). Defence Committee of the Legislative Assembly (El Salvador). National Defence Committee of the Congress of the Republic (Guatemala). National Defence Committee of the National Congress (Honduras). National Defence Committees of the Congress Houses (Mexico). Committee on Peace, Defence, Government and Human Rights of the National Assembly (Nicaragua). Committee on Constitutional Affairs, National Defence and Public Forces of the Senate and Committee on National Defence, Security and Internal Order of the House of Representatives (Paraguay). Committee on National Defence, Internal Order, Alternative Development and Fight Against Drugs of the Congress of the Republic (Peru). Senate National Defence Committee and House National Defence Committee (Uruguay). Venezuela: The National Assembly did not report any projects for 2009.



## States of Exception

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

Note: Copilation based on the Constitution of each country



## Analisis

# The Ministries of Defence and the Political Power

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PEITHO

The national States of the region have, since their early days, had a Secretary of State or Minister of War. Their function was traditionally to assist the Head of State and/or government in all aspects related to the conduct of the military, their recruitment, provisioning, pay and the general conduct of operations. However, in several instances, a clear-cut division existed between the administrative and logistic management and the operational command, with the latter usually left exclusively in the hands of the military.

As military forces became more professional, and soldiers or seamen (the grassroots of the military organization, troops and NCOs) became a differentiated corps from that of the so-called military professionals (members of the officer corps), the command structure became more intricate. Initially, in the national European countries, military senior officers had a higher class standing. And the institution of Secretaries of War and of the Navy was progressively introduced. At the beginning, these functions were performed by military commanders themselves.

Since military organizations in the Americas followed the same models, they replicated the differentiation between members of the disciplined personnel at the bottom of the organization and those of the higher ranks in command positions. However, while in most of the more advanced European countries the military were subjected to the political power they served, in the feeble Latin American States the servicemen started to gain, amid a context of constant unrest, a high freedom of action and, for many years, not only did they control the weapons but also became political actors. These circumstances had not been provided for in constitutional instruments and laws, as they had also been devised

according to European moulds.

Some countries called their departments “Ministries of War;” others “Ministries of War and the Navy,” depending on the degree of importance acquired by the naval force. Where the country had significant maritime interests, two different departments would be established. Their power was limited; and the structure, simple and minimal. Normally, it only served as a personnel and military payroll office and as liaison with other government departments. As the aviation developed, countries created Secretariats or Ministries of the Air Force, not only comprising military responsibilities, but also civilian roles such as airport control and civil aviation administration, as was the case in Argentina with the Department of Aeronautics (*Secretaría de Aeronáutica*), a ministry-level agency that existed between 1945 and 1958.

During the 1930s, in most countries of the world, after the end of World War I and the conduct of several international disarmament conferences, the name of the Ministry of War was changed to National Defence on the assumption that wars of aggression had been abolished. In the countries that from the early 20<sup>th</sup> century were called Latin Americans, the initial Ministries of War and Navy also adopted the denomination of Ministries of National Defence, but with some exceptions: in those nations where military autonomy was high, each service had its own Secretary of State. Brazil, for instance, maintained three Ministries (one for each military service) until 1999 and Peru kept the same until one year earlier.

In many countries of the region, the predominant role that the military had in the political sphere determined a strong autonomy and that is why in many cases the

ministries were solely an administrative and logistics office at the service of the military forces and acting as a liaison with the rest of the State. The Ministry was considered an agency of the armed forces rather than an actual State Secretariat. Some of the legal provisions referring to the Ministries were included in the organic laws for the military forces, which in some instances remains unchanged.

With the (re)democratization process virtually commenced in the '80s, almost all countries started a process seeking effective conduct of military organizations by the legal and legitimate authorities, instituted according to the democratic rules that assume the prevalence of elected authorities. The process implied that Ministries of Defence little by little started to become the actual leaders of the area, managing defence policies, resource allocation and controlling military careers and personnel.

In many instances, constitutional and legal adjustments (some of them still underway) were required and the political and military personnel involved in these matters had to devise accommodation and conduct practices. The various countries obtained different results. A significant point to be underscored is the gap between what legal provisions mandate and what the common practice is. In many countries the former are more advanced than the latter.

In a very general way, it can be said that models range from those where the Ministry of Defence has the control of the force in its capacity as the specialized institution of the Executive Branch (in all instances acting under the instructions of the Executive Branch as Commander-in-Chief of the whole military structure and responsible for the conduct of the defence) to models in which the armed forces operate with the greatest autonomy and only respond to the Presidency as an institution which is the symbol of the very existence of the State.

Many of the existing legal bodies provide for a National Defence Council, which usually is never called nor does it meet. Their natural members, especially those in the financial area, do not want to get involved in the matter, knowing that the only thing to be discussed is a demand for funds, which they try to avoid in order to maintain fiscal discipline.

Usually, a military chief is included, who responds for all of the armed forces. Also in this respect there are opposite examples. In some cases, it is part of the old autonomization process and the predominance of

the land force. In this situation the general commander of the military forces, generally bypasses the ministerial instance and talks directly to the Head of the State. In more modern organizations, a joint administrative and logistic order is sought which usually has an operating scope. In those cases the Chief of the Joint Staff is supposed to be above the commanders of each force. But this figure, in more than a country, is more a coordinator than an effective commander.

### **Reflexions on the models**

Of the cases where the Ministry exercises the authority delegated by the President, Argentina is clearly an example, followed by Brazil, Chile, Colombia, Peru and Uruguay. Joint bodies, up to the present moment, are in practice over passed by each force's commander. But peculiarities exist in each one of those countries. Argentina is the country where the elected authority has the most control over its services. Colombia follows this model although, in legal terms, the Ministry is nothing but an administrative body. But in practice, it is closer to this model. Also Brazil, above after the law that strengthens the Ministry and names a Joint Staff was passed. Although the legal rule states that the Ministry of Defence is an advisor to the President as the Commander in Chief, it also sustains that the armed forces are subordinated to the Ministry of Defence. This type of contradictions in legal instruments is very common. It is for this reason that military subordination greatly depends on effective practices and leadership.

Bolivia is an example of the second model, where the Ministry has a different role, followed by Ecuador. Although in both countries there is a trend to an effective command of the President over the military structure, history shows the predominance of post-modern and neo-populist leaders ('caudillos') with strong popular support. The Ministries in fact act as mere presidential delegates and legal structures are somewhat confusing, especially after the approval of new Constitutions that have not had their correlative legal instruments dealing specifically with military conduct.

In a third model, the clearest example is Nicaragua. There is a very high autonomization of the unified military force (the Army). And, for historical and political reasons, no person has been named to lead the Ministry. After becoming the national Army, the military force has resisted political control by the party and the leader that created it.



In legal terms, it is also the case of Paraguay, but the Minister here sustains a significant fight to exercise command. The same happens in Guatemala, Honduras and El Salvador, where high autonomy has been inherited in spite of the fact that the Ministry is supposed to be higher along the line of command over the military forces. Amid disputes between politicians and the military, this is also the case in the Dominican Republic. In all these countries legal provisions on Defence Ministries or Secretariats are parts of the legislation on the military.

Venezuela makes the fourth example. In recent years, the President subordinates the military force but as counterbalance, it has a new institution going through a slow process of creation: a Militia which competes with the professional force and responds directly to the Commander-in-Chief (President).

A fifth example is the special case of Mexico, where the military forces, for historical reasons, had two separate commands: one for the Army and the Air Force (the Secretariat for National Defence); and another for the navy (the Secretariat of the Navy). In the past, the commanders and officers were all members of the governing party, the PRI, but they were exclusively military and took no part in everyday political conduct. With the political reforms of the '90s they ceased their party affiliation but the military character of both Secretariats remained unchanged.

A sixth model refers to Cuba. The command is in the hands of the Chief, who is also President of the State Council and the Council of Ministers. At the same time, he is the General Secretary of the Communist Party of Cuba. Following the illness of Fidel Castro, these positions have been occupied by his brother Raul, except for the Cuban Communist Party (PCC) where he still is Second General Secretary. Raul Castro was Minister of the Armed Forces, an agency now under charge of General Julio Casas Regueiro, who is also a member of the PCC's political bureau. Control in Cuba is exercised by the political force, the only one existing in the country, but its peculiar history makes key roles to be held by individuals who are, at the same time, politicians and service men.

The seventh example includes many Caribbean states,

which do not have Armed Forces but police organizations.

At the time of writing this paper, the process of change is still in progress in many countries, specifically in Brazil and Uruguay, where it is assumed that the new chiefs of staffs will have a significant role in military reform as it belongs with the new institutions. The new White Book on Defence already published by Chile, the one to be issued in Argentina before the end of 2010, and the one established by law in Brazil to be prepared every four years, also show a change that tends to affirm the supremacy of the political power legitimately and legally constituted, over the military forces. At present, all processes are geared to solving problems of the pre-democratic past, while, on the other hand, new problems are appearing for which there is not yet a precise formulation of the questions to be addressed and much the less, of course, their potential answers.

Said questions refer, for example, to the forms that defence institutions will assume in countries that have defined themselves as plurinational (including Bolivia and Ecuador); or the potential reach of defence institutions vis-à-vis regional international organizations such as the South American Defence Council. In the same manner, recruiting problems also show two potential models: the one where military service is maintained, to a large extent of a voluntary character although the majority of the force is paid (in an attempt to obtain greater social cohesion, and avoid class differences); and the one aiming at a professional force at all levels. The issue of military education and training has not been raised yet, especially among commissioned officers, nor has the reach of the reform of military affairs.

Recent history problems, the strong differentiation of defence and internal security, as well as whether or not the armed forces should be involved in national development activities are already part of the current debate and ministry institutions will have a lot to say in this respect. Whether or not supplementary forces should exist will be an issue for debate in a short time. And the discussion on military industry and equipment is just about to come, or fully underway.