

Scientific
Journal of
**Applied
Social and
Clinical
Science**

**AN ANALYSIS OF
LAW AND ORDER
GUARANTEE
OPERATIONS IN CIVIL-
MILITARY RELATIONS IN
BRAZIL**

Fernando Vitor da Silva Neves

Master in Aerospace Sciences by the
Graduate Program in Aerospace Sciences
at: ``Universidade da Força Aérea``. Rio de
Janeiro –RJ

<http://lattes.cnpq.br/9554757497247317>

All content in this magazine is
licensed under a Creative Com-
mons Attribution License. Attri-
bution-Non-Commercial-Non-
Derivatives 4.0 International (CC
BY-NC-ND 4.0).



Abstract: This article aims to carry out an analysis of the Law and Order Guarantee Operations and their impact on civil-military relations in Brazil from the perspective of civil control theorized by Samuel Huntington, mainly after the country's redemocratization period. The study is based on primary and secondary sources on the subject and is approached in a qualitative way. In the development of the study, the historical context of the Armed Forces will be addressed in order to generate a clear understanding of the military's historical interventionist policy. At the end, considerations will be presented on whether or not the hypothesis proposed in this study is proven.

Keywords: GLO Operations, Civil-Military Relations, Objective Civilian Control.

INTRODUCTION

In the Weberian conception, presented by Castro (2012), the State holds the legitimate monopoly on the use of violence. In this conception, power is concentrated and monopolized with regard to the formulation and application of public policies aimed at social control and political order – fundamental to maintaining the unity of the national State.

In this sense, the economic, political and social chaos experienced by the country seems to contribute to the increase in crime rates and public insecurity, when, on several occasions, the Public Security Forces are not able to face such threats and re-establish the balance of locations.

In this imperative and making use of the attributions and prerogatives foreseen in the Magna Carta, the constituted powers make use of the Operations of Guarantee of the Law and the Order for the reestablishment of the status quo of the public security in States and Municipalities.

Faced with this panorama, the objective

of this study is to analyze whether the Law and Order Guarantee Operations contribute, or not, to the strengthening of civil-military relations in Brazil, within the existing theory of how the relationship must proceed. between the Armed Forces and society, as well as greater civilian control over the Brazilian military apparatus.

In this vein, the work uses the knowledge of Huntington (1996) and Zaverucha (2001; 2005), which bring us the foundation of how civil-military relations must be in current times and, finally, information from Oliveira and Soares (2000), as a way of analyzing the context of the Brazilian redemocratization process and the Armed Forces.

In a second step, a brief analysis of the historical context of the Brazilian Armed Forces will be carried out, in order to have a broad understanding of how this interventionist character of the military apparatus in matters of security and internal politics developed throughout the Brazilian republican life. In addition, it will comment on the importance of creating the Ministry of Defense as a way of asserting civil power over the military apparatus and the birth of a national defense policy.

The justification for this work focuses on the possibility of bringing a better understanding of how the civil-military relationship must be established in Brazil, contributing to improvements and greater reliability of the population in relation to its Armed Forces.

In the academic field, this article will seek to contribute to the promotion of quality scientific knowledge, with a political-strategic focus, aiming to research new methodologies that help in the development of innovative solutions with a view to sovereignty and national interests.

HISTORICAL CONTEXT OF THE BRAZILIAN ARMED FORCES

The origins of the Brazilian military apparatus are intertwined with the coming of the Portuguese Royal Family to Brazil, directly related to the creation of the Supreme Military and Justice Council by D. João VI, publishing a royal charter on April 4, 1808 and with the arrival of the Military Division of the Royal Police Guard, in 1809. (TIFALDI, 2017)

In the second reign of D. Pedro II, from 1840 to 1889, the Brazilian military institution took an increasingly deliberative position in relation to politics when returning from a very significant international conflict for its institutional strengthening and for its professionalization: the Paraguayan War. (TIFALDI, 2017)

Another remarkable episode in the Brazilian political-historical context was the promulgation of the Republic, on November 15, 1889, by Marshal Deodoro da Fonseca, with the effective participation of the Armed Forces. Until the 1930s, this period would be known as the Republic of the Sword, with the alternating succession of soldiers in the Presidency of the Republic.

However, it was during the period in which Getúlio Vargas (1930-1945) was in power that a greater empowerment and participation of the military apparatus in political decisions, especially the Army, can be observed, both in terms of the number of troops and in re-equipment and prestigious positions. Comparatively, state public forces lost ground. During this period, an emptying of state autonomy was envisioned and a consequent increase in power in the hands of the federal executive.

Oliveira and Soares (2000) well define the criterion of the interventionist relationship between the Armed Forces and the political class by stating that this association between civilians and military personnel was often

inspired by a coup between forces that, in fact, did not value democracy or strive for its consolidation. With the prevailing perspective that political crises must be resolved by short-term military interventions, promoted by the highest levels, the second golden rule must be respected: once the crisis is over, power must return to the civil system, since military power only would be accepted exceptionally and under the conditions defined herein. That is, essentially regulatory, moderating and provisional, autonomous in intervention initiatives, but dependent on the legitimacy of civil partners to remain in power or retreat from it. Finally, the Moderating Power was essentially a power of intervention of the Armed Forces, whose most accentuated and contradictory consequence (the military regime) meant the overcoming of the condition of military “intermediation” between the political forces.

After the Vargas era, Brazil experienced a short period of democratization, between 1945 and 1964, with a transition from a dictatorial capitalist regime to a democracy more suited to the interests of international capitalism, mainly due to the global social context of the post-war period.

In the 1945 elections, in addition to the mandate of General Eurico Gaspar Dutra, a National Congress was elected with powers to transform itself into a Constituent Assembly, responsible for producing the Brazilian Constitution of 1946.

The geopolitical context of the period is relevant for the analysis of the political structure that would be installed in Brazil in the period from 1964 to 1985. With the division of the world between capitalists and communists, Brazil was considered by the United States as a fundamental part of the control and maintenance of the capitalist world in Latin America, since it was projected that, if the country became communist, the

entire continent could follow the same fate, in a true domino effect.

According to Tifaldi (2017), with the arrival of João Goulart to power in 1961, the country began to experience enormous economic and social development, however, the so-called structural, or basic, reforms promoted by Jango were interpreted by certain sectors of the Brazilian society as a threat, or even a process of subversion, which obeyed a subversive war scheme, making them support military intervention, also called the March Movement, as certain sectors of society saw in it a restorative character, materialized in the form of military intervention, for the elimination of the perversion and corruption of the institutions.

And, on April 1, 1964, the period called the Military Government began.

According to Oliveira and Soares (2000), this regime became more clearly centralized and equipped with instruments contrary to the democratic regime and the free dispute for political power, such as the replacement of political parties arising from the 1946 Constitution by a two-party system; indirect election of the President of the Republic, the governors and mayors of the capitals and of several cities of strategic interest; submission of the constitutional order to the institutional order that restricted political freedoms and, through Institutional Act No. 5, the suspension of habeas-corpus.

After 1985, Brazil experienced the redemocratization process. The Brazilian transition to democracy took place through ways that implanted a very peculiar pattern in civil-military relations, when seeking to demilitarize politics, trying to get the military to concentrate on their extroverse professional activity, that is, defending the state's borders. Militarization is understood as the process of adopting and using military models, concepts, doctrines, procedures and

personnel in civil activities, including public security. (ZAVERUCHA, 2001).

In this continuum Huntington (1996, p. 99) clarifies that “the role of the military in society has often been discussed in terms of civilian control, but it has never been satisfactorily defined. It is generally accepted that civilian control has something to do with the relative power of civilian and military groups. It is presumed that civilian control is achieved by reducing the power of military groups.”

CREATION OF THE MINISTRY OF DEFENSE

A series of facts makes it possible to consider that the paths towards a democratic adaptation of civil-military relations were consolidated throughout the post-1985 period, as attested by the direct elections of 1989, the impeachment of President Fernando Collor conducted according to constitutional parameters, the assumption of the government of Itamar Franco, the Law of the Disappeared, the effective creation of the Ministry of Defense in the second government of President Fernando Henrique Cardoso, in 1999.

With the establishment of the Ministry of Defense, civil-military relations would experience a new structure, with the transition from a model based on subjective civil control to another level, objective civil control, becoming a central question about the possibilities of subordination from the Armed Forces to civilian control.

It is a consensus among scholars, academics and politicians that in a society where a democratic system of government prevails, the most effective way to obtain civilian political control over the Armed Forces would be to provide the conditions for them to be able to dedicate themselves to technical problems, and professionals under their responsibilities, having the necessary autonomy to deal with

such issues. In theory, this would create the environment to keep them away from political issues. (ROCHA, 2012).

On this board, Huntington theorizes objective civilian control as “the maximization of military professionalism. More precisely, it is that distribution of political power between military and civilian groups which leads to the emergence of professional attitudes and behavior among officers. Objective civil control, therefore, is directly opposed to subjective civil control. Subjective civil control reaches its end by turning the military into civilians, making them the mirror of the State. Objective civilian control achieves its end by militarizing the military, making them the instrument of the state. (HUNTINGTON, 1996, p. 102).

Within this new theorization for civil-military relations, the concept of the real use of the military apparatus was strengthened, that defense is external military security and the need to define, for this, national defense planning and a strategic thinking of a national nature, which is above all else, and that it would have the Ministry of Defense as its central body.

However, what could be observed in the first years of creation of the Ministry of Defense were limited attributions, such as centralizing the Armed Forces budget to purchase weapons and drafting Brazil’s defense policy.

Oliveira and Soares (2000) also point out that, subject to criticism for its generalist form, the national defense policy adopted by President Fernando Henrique Cardoso is guided by the preservation of the strong tradition of continuity and predictability, maintained for more than a century, by the Brazilian foreign policy. The central objectives of the National Defense Policy (PND) are the preservation of national sovereignty, territorial integrity and the rule of law; Brazil’s projection in the international decision-making process;

contribution to the preservation of peace and security at the international level. Thus, Brazilian diplomacy and military training are aimed above all at preserving national borders, rejecting the war of conquest and the diplomatic solution of controversies between States. The document explains the Brazilian strategic orientation based on a dissuasive posture of a defensive nature.

Still on the PND, we can observe that it is of interest to all segments of Brazilian society. Therefore, it would be the document that would align civil and military interests, where greater participation of society and the political class in the decision-making process regarding the military apparatus must prevail, recognizing the need, at the level of society and the political system, of an adequate mentality of national defense.

With the creation of the Ministry of Defense, a clear distinction can be seen between what would remain the mission of the Armed Forces and what would be the responsibility of federal, state and municipal public security agencies. It was clearly outlined that the military must be concerned with external antagonisms to the Brazilian State, while the police must focus on internal security and that, only in the case of failure of these police forces and under express determination of the President of the Republic, could the military intervene in public security, the so-called Law and Order Guarantee Operations.

THE OPERATIONS OF GUARANTEE OF LAW AND ORDER AND THE LEGISLATION

After the period of the authoritarian regime (1964-1985), Brazil found itself in a moment of democratic adaptation and a phase of relaxation that the process would require for the conduct of the new civil-military relations in order to reach levels compatible with the new regime.

Internally, the Armed Forces themselves were experiencing a phase of increasing adaptation requirements. The external context of ideological changes in the post-Cold War world and the internal constraints related to democratic consolidation created new conditions that suggested or even imposed on the Armed Forces a redefinition of their political role. In the immediate period after the end of the authoritarian regime, the postulates concerning “national security” are reinforced in the military environment.

According to Oliveira and Soares (2000, p. 102), “the way in which the transition was engendered in Brazil allowed the permanence of this autonomy, which refers to the ability to interpret national defense issues (from the perspective of security) and, based on certain conclusions, to issue not only technical opinions, but to articulate plans of action in spite of political power”.

In this sense, the Federal Constitution of 1988 maintained the legal precept of attributing, in addition to external defense, the guarantee of constitutional powers, law and order, as described in article 142: “The Armed Forces, made up of the Navy, the Army and the Air Force, are permanent and regular national institutions, organized on the basis of hierarchy and discipline, under the supreme authority of the President of the Republic, and are intended to defend the Homeland, the guarantee of constitutional powers and, at the initiative of any of them, of law and order”. (BRASIL, 1988, p.89)

As can be seen, the Federal Constitution was still silent when disciplining the use of the military apparatus, as we can observe through § 1 of Article 142. This way, Complementary Law n° 97 was elaborated in 1999, in an infraconstitutional scope, as a way of regulating the employment of the military in the operations of Guarantee of Law and Order. And in its Article 15, we find the support

required for the use of the Armed Forces in matters concerning the maintenance of law and order:

Article 15. The use of the Armed Forces in the defense of the Homeland and in the guarantee of constitutional powers, of law and order, and in the participation in peacekeeping operations, is the responsibility of the President of the Republic, who will determine to the Minister of State for Defense the activation of operational bodies, observing the following form of subordination:

[...] § 1 It is incumbent upon the President of the Republic to decide on the use of the Armed Forces, on his own initiative or in response to a request made by any of the constitutional powers, through the Presidents of the Federal Supreme Court, the Federal Senate or the Chamber of Deputies. of Deputies.

§ 2 The Armed Forces' performance, in guaranteeing law and order, at the initiative of any of the constitutional powers, will occur in accordance with the guidelines issued in an act of the President of the Republic, after exhausting the instruments intended for the preservation of public order and safety of persons and property, listed in article 144 of the Federal Constitution. (BRASIL, 1999)

Still part of the legal framework, we find additional support in Decree No. 3,894, of August 24, 2001, which establishes the guidelines for the use of the Armed Forces in the Guarantee of Law and Order.

Finally, after a quick review of the legal support for the use of federal troops in this type of mission, the Ministry of Defense, through Manual MD33-M-10, defines Operation to Guarantee Law and Order as “a military operation determined by the President of the Republic and conducted by the Armed Forces on an episodic basis, in a previously established area and for a limited time, which aims to preserve public order and the safety of people and property in situations

of exhaustion of the instruments for this provided for in article 144 of the Constitution or in others where it is presumed to be possible to disturb order” (BRASIL, 2001).

It must also be noted that the aforementioned manual establishes a system for employing the Armed Forces in GLO Operations, and in the case of employment, it will be up to the competent authority, through a formal act, to transfer the operational control of the public security bodies necessary for the development of actions, to the authority in charge of operations.

In general terms, the decision to use the Armed Forces to guarantee law and order rests exclusively with the President of the Republic, on his own initiative, or in response to a request made by any of the constitutional powers, through the Presidents of the Federal Supreme Court, of the Federal Senate or the Chamber of Deputies, or at the request of the Governor of the State or the Federal District.

In the table below, we can see the evolution of these operations by type from 1992 to 2018.

From the data analysis, it appears that, in the period from 1992 to 2018, the Armed Forces were employed 132 times in Law and Order Assurance operations, having in certain periods, up to 11 activation episodes per year.

Graph 1 shows the number of GLO Operations per year over the period from 1992 to 2013.

This information brings a relevant conclusion: that such actions failed to fulfill a primordial requirement arising from their own definition, that is, they completely lost the episodic character of employment, a fact that definitely exposes the fragility of the executive branch in managing the Public Security (OSP) of the other entities of the federation.

Also according to Oliveira and Soares (2000), military employment in public order represents a limiting option that, on the one hand, expresses the failure of the traditional

police instrument and, on the other hand, encourages a dependency of the president in relation to the area of military force of State. This hypothesis would point to military protection over the greatest expression of civil power.

CONCLUSION

This work aimed to carry out an analysis if the Law and Order Guarantee Operations contribute, or not, to the strengthening of civil-military relations in Brazil.

The research pointed out that, since the times of the Brazilian Empire, the Brazilian State itself resorts to the military apparatus to solve the problems that it cannot solve, using the Military Power as a form of moderating power to its interests, in a sort of problem solver for the executive branch.

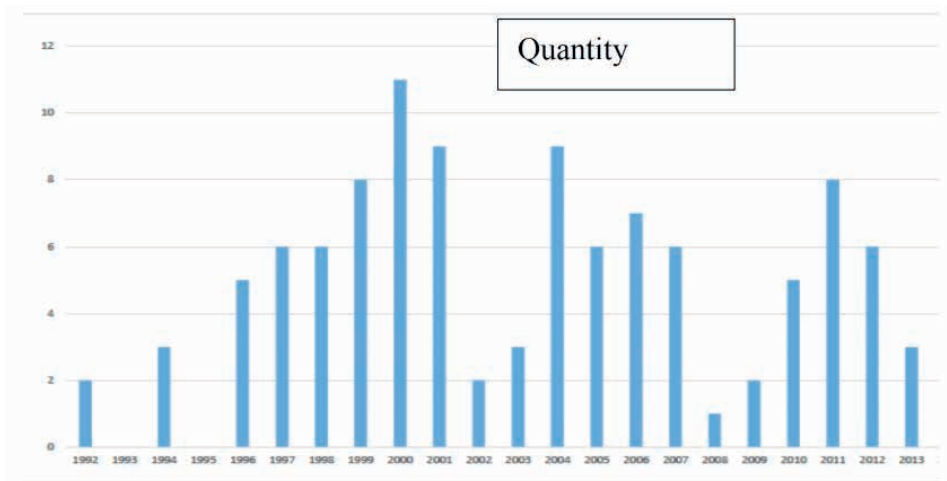
The maintenance of the military and the increase of their prerogatives in the scope of public security are criteria that limit civil autonomy in the areas of management, planning and strategic actions in security. This authoritarian legacy in the Federal Constitution and in some institutions of coercive power, especially the Ministry of Defense and the Brazilian Intelligence Agency (ABIN), means that democracy in Brazil is not consolidated, since the control of civilians in their commands is quite fragile. In general, in order to increase civilian control over the military, the transition from authoritarianism to democracy in Brazil sought to minimize military power with the creation of the Ministry of Defense.

It was also observed that this power must be diluted and shared with the National Congress, not only with regard to decision-making on the use of the Armed Forces in Law and Order Guarantee Operations, but also a more effective participation in issues related to the development of the country's strategic policies, the definition of national

Type	Quantity	Percentage
Urban violence	23	18%
Police Strike	25	19%
Voting guarantee and verification	21	15%
Events	38	29%
Others	25	19%
Total	132	100%

Table 1 - Law and Order Guarantee Operations from 1992 to 2018

Source: Ministry of Defense (BRAZIL,2018).



Graphic 1 – Distribution of GLO Operations 1992 - 2013

Source: Defense Ministry (BRAZIL, 2018)

defense policies and the consequent defense strategies.

The analysis carried out is that, at first, Law and Order Assurance Operations are a boon for the civilian population, as they bring a clear sense of security and resolution of critical and specific problems, but in the future, they can generate significant shocks in civil-military relations, as the clash takes place over people of the same nationality, in a way that can contribute to serious fractures in these relations, in addition to threatening the democratic regime.

In view of the analyzes presented, this research confirms the hypothesis that Law and Order Assurance Operations do not contribute to the strengthening of civil-military relations by concluding that the interventionist nature of the military apparatus in matters of internal

public security, it has been shown to be an inefficient procedure in strengthening these relations, as such issues must be resolved by civil and state Public Security Agencies, as a demonstration of the full enjoyment of democracy and not by the military apparatus of the State. For, the more the executive power employs the military apparatus in internal matters, the extroverse role of the military is distorted and, the more this happens, the less democracy there is and, consequently, the more weakened the civil-military relations will be.

This way, it is hoped that this work has been able to bring up the debate on civil-military relations and contribute to the reflection and production of knowledge about this important topic for the consolidation of Brazilian democracy.

REFERENCES

- BRASIL. [Constituição (1988)]. **Constituição da República Federativa do Brasil**: promulgada em 5 de outubro de 1988. 38. ed. Brasília, DF: Senado Federal: Centro Gráfico, 1988. 292 p.
- BRASIL. Decreto nº 3.897, de 24 de agosto de 2001. Fixa as diretrizes para o emprego das Forças Armadas na Garantia da Lei e da Ordem e dá outras providências. **Diário Oficial da União**, DF, 2001. Disponível em: <<http://www2.camara.leg.br/legin/fed/decret/2001/decreto-3897-24-agosto-2001-391395-norma-pe.html>>. Acesso em: 18 maio 2018.
- BRASIL. Decreto Legislativo nº 373, de 2013. Aprova a Política Nacional de Defesa, a Estratégia Nacional de Defesa e o Livro Branco de Defesa Nacional, encaminhados ao Congresso Nacional pela Mensagem nº 83, de 2012. **Diário Oficial da União**, DF, 2013. Disponível em: <<http://www2.camara.leg.br/legin/fed/decleg/2013/decretolegislativo-373-25-setembro-2013-777085-publicacaooriginal-141221-pl.html>>. Acesso em: 18 maio 2018.
- BRASIL. Lei Complementar nº 97, de 9 de junho de 1999, alterada pela LC nº 117, de 2 de setembro de 2004 e LC nº 136, de 25 de agosto de 2010. Dispõe sobre as normas gerais para a organização, o preparo e o emprego das Forças Armadas. **Diário Oficial da União**, Brasília, DF, 1999. Disponível em: <<http://www2.camara.leg.br/legin/fed/leicom/1999/leicomplementar-97-9-junho-1999-377583-publicacaooriginal-1-pl.html>>. Acesso em 18 maio 2018.
- BRASIL. Ministério da Defesa. Portaria Normativa nº 186/MD, de 31 de janeiro de 2014. Dispõe sobre a publicação “Garantia da Lei e da Ordem – MD33-M-10”. **Diário Oficial da União**, DF, 2014. Disponível em: <https://www.defesa.gov.br/arquivos/2014/mes02/md33_m_10_glo_2ed_2014.pdf>. Acesso em: 18 maio 2018.
- BRASIL. Ministério da Defesa. **Levantamento de Operações GLO**. Disponível em: <<https://www.poder360.com.br/wp-content/uploads/2018/02/levantamento-operacoes-GLO.pdf>>. Acesso em: 18 maio 2018.
- CASTRO, T. **Teoria das Relações Internacionais**. Brasília: FUNAG, 2012. 580p.
- HUNTINGTON, S. **O soldado e o Estado: Teoria das Relações entre civis e militares**. Rio de Janeiro: Bibliex, 1996.
- OLIVEIRA, E. R.; SOARES, S. A. Forças Armadas, direção política e formato institucional. **Democracia e Forças Armadas no Cone Sul**. Rio de Janeiro: Fundação Getúlio Vargas, p. 98-124, 2000. 336p.

ROCHA, M. A Relação civil-militar no Brasil: uma análise do período de 1985 a 2006. *In: Encontro Regional de História da ANPUH-Rio*, 15, 2012, São Gonçalo. **Anais** [...]. Rio de Janeiro: UERJ, 2012. p. 1-15. Disponível em: <http://www.encontro2012.rj.anpuh.org/resources/anais/15/1338415178_ARQUIVO_1MarcioRocha-Relacaocivil-militar1985a2006V1.pdf>. Acesso em: 08 out. 2019.

TIFALDI, T. **Ditadura Residual**. 2017. 111f. Dissertação (Mestrado em Ciências Sociais)-Curso de Mestrado em Ciências Sociais, Pontifícia Universidade Católica de São Paulo, São Paulo, SP, 2017.

ZAVERUCHA, J. A fragilidade do Ministério da Defesa brasileiro. **Rev. Sociologia e Política**, Curitiba, n. 25, p. 107-121, nov. 2005. Disponível em: <http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-44782005000200009&lng=en&nrm=iso>. Acesso em: 18 maio 2018.

ZAVERUCHA, J. Poder militar: entre o autoritarismo e a democracia. **São Paulo em Perspectiva**, São Paulo, v. 15, n. 4, p. 76-83, dez. 2001. Disponível em: <http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-88392001000400009&lng=en&nrm=iso>. Acesso em: 18 maio 2018.