

LAW ON NATIONAL MOBILIZATION

A challenge pending in the new defense scenario

Mobilization is an integral process that is planned and directed by the National Government with the purpose of adapting potential to the requirements of National Defense. Therefore, a Law on National Mobilization is necessary in order to meet needs of national defense in a new national and regional context.

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WHAT IS MOBILIZATION?

In the Joint Publication Glossary of Military Use Terms for Joint Military Action (RC 00-02), mobilization is defined as the adequacy of the resources of the Nation to the needs of National Defense¹. This definition seems to be very concise. If we start from the meaning of the word “mobilize” included in the dictionary of the Real Academia Española, we can see it has two meanings: First, to put in activity or movement and second, call, enlist, to put on a war footing troops or other military elements.

Therefore, a more precise definition may be: the set of measures and procedures to which the potential of the nation adapts for the purposes of complying with the requirements of national defense with aptitude and opportunity.

The reference to the national potential includes material and human resources present and possible to be obtained required by national defense to fulfill its objectives. The capacities of the military instrument of a state are a priori the resources permanently mobilized which will meet the demand of defense according to what has been planned. When its operational or support capacity has been exceeded, there is the need for national mobilization with the characteristic of incorporating or adapting material and human resources in aptitude and opportunity that allows to increase their capacities and, therefore, get the support of their efforts thus allowing for a proper balance in the cost-benefit relation. This balance is difficult to measure in the area of national defense.

As it is ruled by aptitude and opportunity conditions, national mobilization is not an improvised activity. On the contrary, it must be organized and foreseeable. The detail of possible resources to be mobilized and the procedures that allow for its rapid availability according to the real needs imposed because of the situation must be included within a proper legal framework that allows to achieve the maximum efficiency in the purpose sought.

In this article, we analyze the situation of the law on national mobilization in Argentina and the legal framework in some countries of the region.

This comparison makes it possible to have a proper reference framework that allows to describe important aspects regarding areas, activities and resources to be mobilized in general terms and, therefore, be able to determine what organization models are needed for its implementation.

The prevailing Argentine defense policy sees cooperative security as an option in the defense of South American interests and identity. Therefore, it is necessary to take the current integration framework into account.

CONTEXT: SCENARIO AND THREATS

Although it presents several lines of action, national defense policy may be summarized in three criteria: cooperation, non-proliferation and control of weapons and defense expenses. Therefore, it is in relation with these criteria that the law of mobilization finds its focus.



This national defense policy occurs in a context in which traditional regional threats do not seem to be a possibility as they take place within a framework of integration processes which, for Argentina, started with MERCOSUR and were continued with UNASUR and the South American Defense Council. It is here where the new strategic challenges become important.

Anyway, no state in the union rejects the design of its military instrument according to its need for self-defense with autonomous criteria. However, they do not disregard cooperative vision. In conclusion, regardless of the feeling of lack of threat of third states, the image that a medium power has of itself is that it will always make an effort to care for its interests, even those that are extensive... Therefore, the medium power will always try to create and keep sufficient power means under national control in order to start and support coercive actions, the result of which will be the preservation of its vital interests².

As regards the determination of threats, within the framework of the meeting of the Committee on Hemispheric Security (CHS) held in March 2000, the following was established:

In relation with threats to security in the Hemisphere, delegations agreed in the sense that the main problems in terms of security that American states face at the beginning of the 21st century are not caused by possible external military threats but by new and complex phenomena such as drug trafficking, arms trafficking, transnational

crimes by non- state actors with their consequences of violence and destabilization of political institutions. As regards small island states, threats to security also include natural disasters, transfer of nuclear waste in the waters of the Caribbean Sea, vulnerability against economic globalization, among others. In spite of the approaches coincidences, there were calls in favour of higher concept accuracy and careful definitions in this field³.

Statements made during this meeting gave rise to the so-called concept of multidimensional security.

There are new strategic challenges apart from the traditional view of threat.

Since 2003 up to now, security issues have evolved and, apart from the statements made by Committee on Hemispheric Security, there are also the following remarks: Cyber war which requires specialized human resources, civic- military cooperation and integration among nations and natural disasters that go beyond small state islands, such as the flood in Bolivia or the earthquake in Chile, both of which required interstate aid to mitigate, at least, its initial effects.

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1. Ministry of Defense; Joint Staff of the Armed Forces, Argentine Republic; Glossary of Military Use Terms for Joint Military Action; RC 00-02; 2010 edition.
 2. Hill, Richard; *Estrategia marítima para potencias medianas* [Maritime Strategy for Medium Powers]; Instituto de Publicaciones Navales, Buenos Aires; 1990;
 3. Report of the special meeting of the Committee on Hemispheric Security held on May 8, 2000. Available at <http://www.oas.org/csh/spanish/ncsdoc%20infopresid.asp>

LAW ON NATIONAL MOBILIZATION

The Law on National Mobilization No. 17649/1968 was derogated by National Defense Law No. 23554/88. Therefore, Argentina lost an essential instrument that allowed it to organize its resources in case there is a situation of war or conflict and also for any other support activity that national defense deems as necessary within the legal framework in force. An example of this may be support activities carried out in case of natural disasters (whether national or regional), the reaction in case of pandemic and the availability of specialized human resources in the cyber space.

Law 23554/88, in its sections 45 and 46 paragraph C, sets forth that the National Defense Council had to present a draft project on territorial organization and mobilization for defense in a period of 365 days, something that did not occur. Section 32 of said law states that mobilization plans necessary to adapt resources of the Nation for national defense needs will be prepared by the Ministry of Defense and passed by the President of the Nation⁴.

Section 4, paragraph D of Law No. 24948/1988, Reorganization of the Armed Forces, establishes that said reorganization will assure mobilization, political, strategic and logistic predictions that allow to increase the operational capacities of our Armed Forces in short periods of time in case of crisis situations⁵. Section 11 refers to the members of the Armed Forces by mentioning staff for a certain period of time and from the reserve. Last, section 33

paragraph b.4 sets forth the obligation to prepare a project for mobilization law within a period shorter than a year as from the enactment of the law.

Executive Power Decree No. 355/02, which amended the Law of Ministries, sets forth, among the competences of the Ministry of Defense, the competence of taking part in the preparation of the mobilization policy and National Mobilization Plan in case of war and their implementation⁶. Moreover, Executive Power Decree No. 357/02 states the preparation of the mobilization policy and the National Mobilization Plan and their implementation in case of war as well as the participation, with other State agencies, in the planning and coordination of civil defense as objectives of the Secretary of Military Issues⁷.

In this sense, the Libro Blanco de la Defensa 2010 [Book on Defense], in line with the provisions of section 8 of National Defense Law, when describing the organization of the system, sets forth the preparation and implementation of national mobilization⁸ as one of its purposes and it also defines its regional cooperative dimension.

Law No. 17649/1968⁹, which has been derogated, established that the fields of mobilization were: The Military Mobilization Plan (which includes the Joint Mobilization Plan), the Economic Mobilization Plan, the Foreign Policy Mobilization Plan and the Domestic Policy Mobilization Plan.

It explained that the activities mentioned in said plans would be carried out during situations of peace or war/



conflict with the measures and procedures that said plans stated. The Military Industrial Mobilization Plan did not only include the obtention of war material or critical or strategic raw materials, but also included scientific and technical research, the promotion of production and transformation forecasts, which implied enlistment activities carried out in peace times.

The General Direction of Military Manufacturing kept the stock of the industry which could be modified for the service of defense, if necessary. These records are nowadays not updated.

Section 11 of this law stated the responsibilities of the Ministry as to competence regarding preparation of the plans mentioned. This led to the integration of all components of national power with policies aimed at strengthening national awareness with respect to the importance of problems inherent to mobilization and training courses for staff carrying out planning activities for mobilization and adopting pertinent decisions.

Thus, the structure of the mobilization conduction, of which the President of the Nation is responsible, was supported not only by the Armed Forces, but also by the whole political structure, even at municipality level with the corresponding responsibilities.

The Argentine National Mobilization Law has not been prepared yet. However, countries in the region have already implemented theirs.

Although national defense policy has several lines of action, it may be summarized in three criteria: cooperation, non-proliferation and control of weapons and defense expenses.

MOBILIZATION AT REGIONAL LEVEL

In this essay, we will make reference to laws from Brazil, Chile and Peru which allow to add new aspects regarding the derogated law and knowledge to be taken into consideration when drafting the Argentine law.

It is worth mentioning that the circumstances in which national mobilization is planned vary from state to state. This is partly because of the differences with respect to the use of the military instrument depending on the circumstances.

From the analysis, we can state that Brazil¹⁰, in its mobilization law, states the case of foreign attack, including not only the traditional vision of harmful acts against national sovereignty, but also against national institutions although this may not mean invasion to the national territory.

On the other hand, it explains the principles of action of the National Mobilization System (SINAMOB, in its Spanish acronym), among which we can highlight the promotion of national development and cooperation in the search for a synergy situation that allows for the proper use of national power.

This mobilization is implemented in three documents:

- › National Mobilization Policy, the purpose of which is to define objectives and actions aimed at its planning.
- › National Mobilization Government Guidelines that allow for an orientation for the conduction of mobilization.



4. Law on Argentine National Defense; No. 23554, April 26, 1988. Available at <http://www.infoleg.gob.ar/infolegInternet/anexos/20000-24999/20988/texact.htm>
5. Law on Reorganization of the Armed Forces, No. 24948, April 3, 1998. Available at <http://www.infoleg.gob.ar/infolegInternet/anexos/50000-54999/50229/norma.htm>
6. Executive power decree 355/02, on amendment of the Law of Ministries, February 22, 2002. Available at <http://www.infoleg.gob.ar/infolegInternet/verNorma.do?id=72483>
7. Executive Power Decree 357/02, on Organization of the National Administration; February 22, 2002. Available at <http://www.infoleg.gob.ar/infolegInternet/anexos/70000-74999/72486/texact.htm>
8. Ministry of Defense of the Argentine Republic; Libro Blanco de la Defensa; 2010.
9. Argentine Republic; Law on Defense and Security - Civil Defense - Mobilization, No. 17569, March 1, 1968. Available at http://www.linfojus.gov.ar/legislacion/ley-nacional-17649-defensa_seguridaddefensa_civilmovilizacion.htm;jsessionid=1fc14sca2s2ba1gvhplxcosm6?0
10. Executive Power Decree No. 6528, on National Mobilization and creation of the National Mobilization system (SINAMOB, in its Spanish acronym); Brazil; August 2, 2008. Available at http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2008/Decreto/D6592.htm



› National Mobilization Plan, which defines actions and goals to meet the needs established in the Defense Military Strategy.

With reference to the organization of the Mobilization System, Brazil has chosen a centralized management of the system through the Ministry of Defense that ends with a decentralized execution by mobilization subsystems divided by government areas.

In the case of Chile¹¹, mobilization occurs within the framework of what is called “states of exception” allowing the executive power to adopt different measures, among which we can find mobilization. Law No. 18415 regulates this situation which seems to be aimed at the requirements of foreign security.

Chile has added an interesting aspect as regards the setting of the degree of reserve, whether public or secret, that mobilization may have at the time of execution pursuant to the level of discretion imposed by the situation. For its implementation, it has the General Direction of National Mobilization (DGMN, in its Spanish acronym), which is not only responsible for records and databases with the annual inclusion for obligatory military service, but also for the control of weapons and toxic substances.

Apart from the traditional vision, Peru¹² states emergency situations caused by natural disasters or any other disaster that affect security. It particularly explains that in cases of natural disasters, mobilization will be a responsibility of the National Civil Defense System.

All countries state the planning stage in a permanent and integral way as part of the defense strategic planning. Also, mobilization and demobilization stages are also considered as an integral part of the cycle and this may be total or partial. The demobilization stage is stated in all laws of the countries analyzed because, as it occurs with mobilization, it requires estimates that assure its efficient compliance. As regards mobilization of staff, it is worth mentioning the systems of Chile and Brazil when discussing obligatory vs. voluntary military service as, within the concept of “obligatory”, there is the criterion of first selection of voluntariness.

CONCLUSIONS

Designing military capacities requires a redesign of the mobilization system that must be included in the defense strategic planning cycle.

Mobilization capacity, expressed in a proper legal framework and included in the defense policy, is an

11. Executive power decree- Law 2306, on Enlistment and Mobilization of the Armed Forces; Chile; September 12, 1978. Available at http://www.dgmn.cl/transparencia/leyes_dgmn/nuevas/D.Ley%202.306%20dicta%20normas%20sobre%20reclutamiento.pdf
Constitutional Organic Law over States of Exception, No. 18415; Chile; June 14, 1985; Available at [http://www.dgmn.cl/transparencia/leyes_dgmn/nuevas/\(10\)LOC_18415.pdf](http://www.dgmn.cl/transparencia/leyes_dgmn/nuevas/(10)LOC_18415.pdf)
Law on Mobilization; No. 18953; Chile; February 22, 1990. Available at http://www.dgmn.cl/transparencia/leyes_dgmn/nuevas/Ley%2018.953%2009.MAR.1990%20dicta%20Normas%20de%20Movilizacion.pdf

12. National Mobilization Law, No. 28101; October 22, 2013; Peru. Available at <http://www.resdal.org/Archivo/peru-movilizacion-nacional.pdf>

essential element of the cooperation effect sought in regional defense.

A Mobilization law must integrate all areas of national power from a systemic conception taking into consideration that it must adapt to reality in which although strategic risks are more restricted in time, they are more spontaneous in their formation in an uncertainty environment.

Therefore, mobilization requires a high forecast level in order to face danger with the maximum option capacity, which includes the military capacity, with aptitude and in a timely manner. In this context, all strategic risks should be considered.

Regional cooperation level poses a challenge when designing the National Defense System and, therefore, the national mobilization, but this does not imply that the preservation of vital interests is subject to the self-defense level.

However, this level finds a place for integration in areas such as science and technology which allow for the development of a military instrument in line with the political attitude of cooperation. This makes it easier to strengthen interoperability and mutual confidence measures and to avoid dependence that may subject autonomy when stating the defense of vital interests.

Developing dual media and technology provides the necessary sustainability aspect that, if regionally integrated, makes it possible to promote its feasibility.

Laws from Brazil, Chile and Peru show interesting aspects both in the areas of mobilization to be considered and organization. The centralized conduction model with decentralized execution which includes all government areas seems to be a better proposal than the derogated Law No. 17649 optimizing, mainly, the planning stage.

The model explained in the Brazilian law- Mobilization Policy, National Mobilization Government Guidelines and the National Mobilization Plan is key for the conduction of planning and execution.

Therefore, the consolidation of the guiding documentation pursuant to the logics of the defense planning cycle is still a relevant aspect for Argentina which may allow to reach the desired effect. It is important to highlight

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the legal framework provided by the concept of states of exception as explained in the laws from Chile, which may include natural disasters, and also in the laws from Peru.

From the concepts exposed by Brazil, we can highlight the one referring to considering acts that are harmful to sovereignty although this may not mean invasion of the national territory, an aspect that needs to be taken into account as we are neighbor countries.

As regards mobilization, it is important to mention the principles of action of the SINAMOB related to the promotion of national development and cooperation which are taken as the guiding principles of a national policy that must integrate all structures of the state.

From the point of view of Argentina, the SINAMOB principles are interesting as they express a way to generate development conditions in favour of mobilization and, also, a coincidence of principles with national defense principles stated in the Libro Blanco de la Defensa.

Last, it is important to consider a Mobilization Plan and a demobilization stage. This must be taken into account in terms of the organization of the activity and, mainly, to provide legal certainty to individuals and legal persons based on the estimations of compensation/remuneration to be given.

It is essential to prepare a National Mobilization Law. This will allow to integrate national power searching for synergy and it must be ruled according to the laws in force and the actual conduction capacity of the government area or authority that is responsible for its direction.

The National Mobilization Law is pending at strategic level which, beyond its main function of adapting the national power for the purpose of meeting the requirements of Defense in a new regional and national context, becomes an opportunity and tool to promote the development of the country. Therefore, it aims at optimizing regional integration as well as the cost-benefit relation of the defense system that is so difficult to determine and reach.