



In the course to a MEXICAN militarism

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SIGNOS VITALES
EL PULSO DE MÉXICO

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Since 2008, an open militarization process started in Mexico. The disposition to start frontal armed combat with organized crime was taken by the then president Felipe Calderón, who reinforced the use of the Army and the Navy to perform different national security tasks, especially the ones related to the country's public safety. Ever since, this militarization trend has been complex. Enrique Peña Nieto deepened the militarization; he even proposed the so-called Interior Security Law intending to blend the Mexican legal framework. The FFAA (Armed Forces for its acronym in Spanish) could perform the federal executive's designated tasks within the legal framework. Congress approved this law,¹ but it was declared unconstitutional by the SCJN (Supreme Court of Justice for its acronym in Spanish).²

¹ DOF (Official Journal of the Federation for its acronym in Spanish). The decree issued by the Interior Security Law. December 21st, 2017. Available at: <https://tinyurl.com/y5epp8w3>

² <https://tinyurl.com/dq9rqko8>

The use of the military to fight insecurity has had a significantly high human and economic cost, but the issue is not resolved. Within this context, it was expected that with the victory of López Obrador, the security strategy would change, restrain the country's militarization process and lead towards a human rights protection management and civil security institution strengthening. What has happened is the exact opposite.

Militarization is understood as the Permanent Armed Forces used in tasks decoupled from the national defense. Precisely in the field of public safety, it is not only about the corporations performing these tasks but how they are executed. Meaning, the mere use of the Army to fight the country's insecurity, in itself, may not be a militarization process. However, the Army's performance with a state-mandated armed response to such a degree that threatens the integrity of the members of a society is, definitely, the fulfillment of a militarization process.

Different academics identify two types of militarization: active or direct, concerning military deployment with internal control goals; and the passive or indirect, which relates to the gradual transformation of the police with civilian characteristics to one with military armament, discipline, and tactics (Hall y Coyne, 2013). Accordingly, Calderón and Peña's government security strategies can be considered as military strategies. The arrival of Andrés Manuel López Obrador made many people think that this security paradigm was finished since, for years, he promised to return the military to its headquarters (*El Universal*, 2020). Nevertheless, this government did not stop the country's militarization process, but it turned towards an accelerated militarism process.

Militarism can be understood as the influence of the military apparatus focused on the state of power (Fernández y Martínez, 1984). Hence, militarism implies the influence or perhaps the prevalence of the military power over civil power in the field of the general public decision making and not only the ones pertaining to defense or security. Under this analytic framework, the current federal government decisions started as a militarization process that included issuing more capabilities to the FFAA to perform public safety tasks. However, they swiftly started to build a militarism framework that unusually amplified the activities entrusted to the Army and the Navy.

In the militarization field, the 4T (Fourth Transformation for its acronym in Spanish) made legal, constitutional, and institutional modifications needed for SEDENA (Secretariat of National Defense for its acronym in Spanish) and SEMAR (Secretariat of the Navy for its acronym in Spanish). This, so they rely on a legal umbrella that enables them to fulfill the security tasks they had been performing for years. The executed laws and amendments harmonized the contradictions about using the FFAA in the public safety tasks, even if most of them have been challenged and await resolution from the SCJN.

TABLE 1. NEW ACTIVITIES OF THE ARMED FORCES AND THE NATIONAL GUARD (GN FOR ITS ACRONYM IN SPANISH) IN PUBLIC SAFETY MATTERS

LEGAL FRAMEWORK	ACTIVITIES
GENERAL LAW OF THE PUBLIC SAFETY NATIONAL SYSTEM	<ol style="list-style-type: none"> 1. Hold in an absolute, indeterminate, and previous manner all the information in the Public Safety National System databases, in the National Records. 2. Ban the public from accessing the information contained in the Public Safety National System databases in the National Records.
LAW OF THE NATIONAL GUARD	<ol style="list-style-type: none"> 3. Perform investigations in the matter of felony prevention. 4. Perform verification tasks to prevent administrative offenses. 5. Request geolocation of mobile equipment. 6. Request interception of communications. 7. Gather intelligence in public places. 8. Require and request information from people and authorities. 9. Analyze and process information.
USE OF FORCE NATIONAL LAW	<ol style="list-style-type: none"> 10. Use all levels of public force, among which the use of firearms and lethal force is found. 11. Using weapons against those participating in demonstrations or public gatherings qualified, without clear authority bases, as non-peaceful or lacking legal grounds.

Source: In-house elaboration with information from LGSNSP (General Law of the Public Safety National System for its acronym in Spanish) (2019), LGN (Law of the National Guard for its acronym in Spanish) (2019), and la LNUF (Use of Force National Law for its acronym in Spanish) (2019).

TABLE 2. CONTROVERSIAL ACTIONS SUED FOR UNCONSTITUTIONALITIES PERTAINING TO THE MILITARIZATION OF PUBLIC SAFETY

CONSTITUTIONAL CONTROVERSIES	MOTIVE
MILITARIZATION DECREE ISSUED BY THE PRESIDENT	Agreement with which the use of Permanent Armed Forces to perform Public Safety tasks until 2024 is permitted.
UNCONSTITUTIONAL ACTIONS	MOTIVE
NATIONAL LAW OF PROPERTY EXTINCTION	Constitutional vices are indicated for the discretionality to execute the extinction of property which legitimate ownership cannot be proven.
NATIONAL SECURITY LAW	The juristic safety rights, personal freedom, freedom of transit, and due process are considered breached. The presumption of innocence principle. The precision legal principle, the minimum intervention on criminal matters, and the unofficial preventive prison exceptionality.
LAW OF THE NATIONAL GUARD	The rights to juristic safety, right to intimacy, right to privacy, right of personal data protection, right to personal safety, right of personal integrity, right of nondiscrimination and equality, right of freedom to work, the right to occupy a public charge or public service employment, and the right to labor rest are considered breached.
USE OF FORCE NATIONAL LAW	The rights to juristic safety, freedom of expression, freedom of assembly, and the principle of legality and obligation to protect and guarantee human rights are considered breached.
NATIONAL LAW OF ARREST RECORDS	The right of juristic safety, the legality principle, the immediacy arrest record principle, and the obligations to promote, respect, protect, and guarantee human rights are considered breached.

Source: In-house elaboration with data from the Government’s Decree of approval of the Public Safety National Strategy, the LGSNSP (2019), the LGN (2019), the LNRD (National Law of arrest records for its acronym in Spanish) (2019) and the LNUF (2019).

In itself, this seemed problematic for the democratic order since, as it has been previously reported, the military corporation intervention in security tasks has significantly increased deaths. It has not solved the insecurity issue that, in reality, has been getting worse with the pass of time. Between 2008 and 2020, the CNDH (The National Human Rights Commission for its acronym in Spanish) issued the Army and the Navy 367 recommendations for its actions on security operations. Out of which, 53 pertain to extrajudicial executions, 3 of which were done under the current administration. Under López Obrador's rule, the figure of 108 thousand 209 homicides has been reached, out of which 102 thousand 904 have been malicious (SESNSP, executive secretariat of the national public security system for its acronym in Spanish, 2021).

Besides, the lethal force monitor reported a critical level of security officers' casualties during security corporations' interventions through 2017. In comparative terms, Mexico has the most considerable casualty rate during operations among studied Latin American countries, mainly due to the criminal's force capacity; violent combat does not seem to be the most effective route. While Brazil's casualty rate for each 100 thousand officers is 0.1 and Colombia 1.3, Mexico reached 0.5. Just in 2017, out of 536 recorded killed officers in the five studied countries, 251 were Mexican (Vital Signals, 2020).

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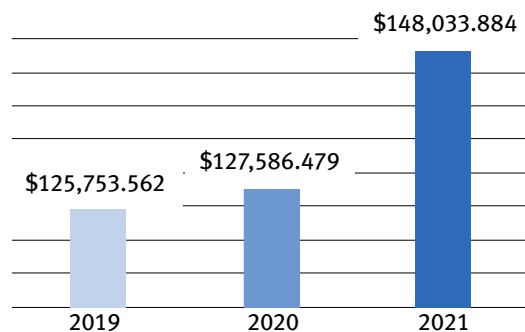
TABLE 3. CNDH ISSUED RECOMMENDATIONS TO THE ARMY AND THE NAVY

YEAR	PERTAINING EXTRAJUDICIAL EXECUTIONS	ENFORCED DISAPPEARANCE	SEVERE BREACHES TO HUMAN RIGHTS	ARBITRARY ARRESTS	MEDICAL MALPRACTICE	FREEDOM AND SECURITY	OTHER
2020	1	0	1	1	1	0	1
2019	2	0	4	1	0	2	2
2018	2	0	8	5	1	5	4
2017	2	2	5	5	1	2	2
2016	2	1	10	8	0	3	3
2015	0	0	2	2	0	0	0
2014	1	0	2	1	0	0	1
2013	1	0	8	9	0	2	1
2012	8	2	16	13	1	2	5
2011	15	3	18	13	1	3	4
2010	10	0	18	5	1	2	3
2009	3	1	22	20	5	21	0
2008	6	0	8	5	3	8	5
TOTAL	53	9	122	88	14	50	31

Source: In-house elaboration with information from CNDH (2008-2020).

Even so, the federal government went beyond and decided to make the Army and the Navy its most prominent allies. It granted them an important number of resources and tasks that correspond to civilian institutions, appointing military men and navy men in public administration positions, and subordinating institutions, created to be civilians, to military command. All this combined constitutes a gradual and emergent militaristic onset representing a direct threat to the democratic order of the country. The incremental climb trend of the FFAA budget keeps going. In 2019, the military institutions approved resources corresponded to 125 thousand 753 million 562 thousand 602 pesos, by 2020 increased to 127 thousand 586 million 479 thousand 840 pesos and for 2021 reached 148 thousand 33 million 884 thousand 167 pesos, the highest figure ever approved for the military order. The real rise between 2019 and 2021 was 11.08%. It bears to mention that the 2019 FFAA budget suffered a net modification of 19 thousand 859 million 559 thousand 581 pesos.

**GRAPH 1. BUDGET INCREASE
OF THE ARMED FORCES
(MILLION PESOS)**



Source: PEF 2019, 2020, 2021.

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Consequently, the fiscal year of the armed forces was 145 thousand 613 million 122 thousand 183 pesos, a significantly higher figure than the one passed from Congress for that period³. This raise is explained, in part, by the number of tasks entrusted to military corporations by this government. There are at least 43 new tasks the military authorities must perform, all of them civilians. Among which rising above for their extreme disconnection with the national defense are the branch construction of the Banco del Bienestar (Wellbeing Bank), a civilian airport construction, apportionment of social programs, and the Tren Maya (Mayan Train) construction.

Pertaining the active or retired Navy or military appointments in civilian charges on the public administration, the Causa en Común (Common Cause) organization, between 2018 and 2020, identified 55 military elements occupying civilian charges in all the branches of government. The appointment of an army man as head of the National Guard should be added to that figure. Of course, the latter, General Luis Rodríguez Bucio, is the most representative case. This appointment contravenes the National Guard law in spirit, which was approved in 2019, in which it was established that this institution would have a civilian character. The appointment of a military man is, by definition, a transfer of power to the military authorities.

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³ The net budget modifications are comprised of the difference between the extensions and the liquid reductions. The 2019 public account shows that the Army had a net modification of 17 thousand 948 million 17 thousand 443 pesos, and the Navy 1 thousand 911 million 542 thousand 138 pesos.

**TABLE 4. NUMBER OF PEOPLE IN THE ARMY AND THE NAVY
OCCUPYING PUBLIC ADMINISTRATION POSITIONS (2018-2020)**

DEPENDENCY/ENTITY	AMOUNT
Port Administration	12
National Migration Institute (INM for its acronym in Spanish)	17
The Institute for Security and Social Services for State Workers (ISSSTE for its acronym in Spanish)	1
The National Intelligence Center	1
State and local governments	24
TOTAL	55

Source: In-house elaboration with data from Causa en Común (2020).

As stated before, the Army has been an important historical source of opacity, reality unmodified during this government. *El Universal* newspaper documented, during Felipe Calderón and Enrique Peña Nieto’s sexenniums, the Army built, through a direct administration model, 851 projects with a total cost of 33 thousand 681 million pesos. In each case, SEDENA subcontracted companies (many considered ghosts by SAT) to provide services. Furthermore, almost no contract was transparent, arguing that it is information that could risk national security. The Santa Lucía airport is in the same situation, budgeted in 82 thousand 136 million pesos and entrusted to the FFAA. Information about this project is reserved until the end of the sexennium. This act breaches the right to information of the Mexican people.



Image: Photo Economía Hoy
at <https://tinyurl.com/5f4ra4h4>

In the National Guard Law is established that the head and the logic of this institution are civilian. However, orders coming from military bodies have been documented.

Finally, during this federal management, explicit subordination of different institutions to the Armed Forces has been observed. Of course, the National Guard is again the most paradigmatic example. The safety task coordination body comprises the Secretary of Defense, the Secretary of the Navy, the National Guard commander (a retired military man), and the Secretary of Security.



Luis Crescencio Sandoval
Secretary of Defense



José Rafael Ojeda Durán
Secretary of Navy



Luis Rodrigo Bucio
National Guard Commander



Rosa Icela Rodríguez
Secretary of Security

Images:

<https://tinyurl.com/ywuzu-4bw>

Photo: Cuartoscuro, Milenio
at: <https://tinyurl.com/4trc-n8ea>

<https://tinyurl.com/3wb-m37e4>

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In other words, military vision is dominant. Besides, even if the National Guard Law is established that the head and the logic of this institution are civilian, orders coming from military bodies have been documented. It is known that recruitment and construction of the National Guard headquarters are entrusted to Armed Forces, and the state of the force of the GN was created and nurtured mainly from elements coming from the Army, the Navy, and the Federal Police. The latter, being the one contributing fewer members, barely 18 thousand 240 of 96 thousand elements (National Guard Observatory, 2020). The Navy and the Military police were the corporations contributing with more members to create the GN. Until April 2020, 51 thousand 249 elements came from SEDENA

and 10 thousand 306 from SEMAR. They had been functionally separated from those institutions, while 54 thousand 314 military and 1600 navy kept performing security tasks in an auxiliary manner (Human Rights Mexican Observatory, 2020). It bears to mention that the military elements transferred to the GN keep their posts and benefits within SEDENA and SEMAR (National Guard Observatory, 2020).

An additional element that strengthens the idea that Mexico is in an accelerated militarism process is providing justice to military people. The most critical case pertains to the general and ex-Secretary of national defense, Salvador Cienfuegos. Beyond the general's alleged innocence or guilt, the procedures followed for his Mexican return and subsequent exemption leaves a lot to be desired. To start, the agreement between the Attorney's General Office and the Justice Department of the USA covered a follow-up investigation process in Mexico. Marcelo Ebrard himself assured that it would be almost suicidal not to maintain an investigation in Mexico (*El Universal*, 2020). Just 58 days later, the federal prosecution announces there was no element to judge Cienfuegos (*El País*, 2021).



Image: National Guard in Ap-
news.com at <https://tinyurl.com/pk9x9ub9>

In conclusion, Mexico has come from an acute militarization process that delivered abysmal results in security matters to an emerging militaristic phenomenon. That threatens the democratic system of the country. This democratic system, with all of its weaknesses, managed breakthroughs in the institutional design of the Mexican state, separating capabilities and responsibilities to protect certain rights. It is worth noting that the legal and constitutional modifications will establish difficult acting inertias to revert in the future, even under a moderate government rule. Each time will be more challenging for the military to return to their headquarters and leave the attributions and budget they now enjoy. Human rights, always adrift in Mexico, are unprotected and unguaranteed compared to a long time ago.

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