



## **THE DEMILITARIZATION OF PANAMA AND CHALLENGES FOR THE FUTURE**

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The Republic of Panama initiated its demilitarization program after the American invasion on the 20th of December, 1989.

Panama had been experimenting with a military style government since 1968. The militarization of Panamanian political life involved institutions being subordinate to military decisions. As many other Latin-American countries, the country adopted the doctrine of national security. Under this doctrine, security is conceptualized as a series of inter-related factors that are necessary to achieve well-balanced economic growth and is subject to national objectives outlined by the government via public policies. These national objectives represent the nation's vital interests, since they constitute "national aspirations". Therefore, the national objectives must be safeguarded by the State from any disruptions or disturbances. This particular function falls under the purview of the military, which also determines the specific nature of the nation's vital interests and is also responsible for dealing with any factors contrary to these interests, be they from within or outside the Nation.

The opposition parties may be perceived as one of the factors contrary to the nation's vital interests, particularly when it represents actions or ideals that jeopardize the State's initiatives towards attaining the national objectives. As such, the State may deem it necessary to use its power to remove the opposition parties, be it via peaceful or violent means.

Panama was delineated within the doctrine of national security, and this doctrine was institutionalized in diverse legal documents, including the 1972 National Constitution and Law 20 of 1983, which regulated the National Defense Forces.

As an illustration of how military components pervade political institutions, Article 2 of the 1972 Constitution indicated that state power emanates from the People and is exercised via the Judicial, Executive, and Legislative branches in collaboration with the National Guard.

The military dictatorship in Panama was put to an end by two factors: the deterioration of political life under military rule (1987-89) and the American invasion in 1989. The end of military rule gave way to the establishment of a democratically elected civilian government body. The country dismantled its military political structure and began the process of transition from a monolithic and military-style to a pluralistic and police force-based public security.

## **The events of December 20, 1989**

Following a December 1989 Resolution proclaimed by a de facto Assembly of County Representatives, General Manuel Antonio Noriega declared war against the United States of America. This event, in conjunction with the murder of an American soldier and countless affronts towards others, triggered a military intervention in Panama ordered by then president George Bush and carried out by the American military troops based in the former Canal Zone.

The country was then occupied by American troops, which engendered the need to establish a new civilian Panamanian government. This responsibility fell to then presidential candidate and winner of the May 1989 elections, Guillermo Endara Galimany, and his vice-presidents Ricardo Arias Calderón and Guillermo Ford. Noriega had denied the electoral results.

A series of confrontations, which involved more desertion and disbandment than armed combat, concluded with the extinction of the Panamanian Defense Forces. This required that the new government establish some type of national defense and security organization that would safeguard the life and livelihood of all citizens and foreign residents. The American armed forces did not foresee the need to protect the lives, goods, and properties of the Panamanian population. Hence, during the first days of the invasion, the country, in particular Panama city and Colon city, experienced widespread rioting and looting.

In terms of national security, the first decision made by the new government was to openly request that members of the former Defense Forces actively participate in the creation of a new entity denominated Public Forces. The open request was made on December 22, 1989 and it was a success. Former members of the Defense Forces that were not detained or imprisoned by the American military voluntarily signed up to form part of the new Public Forces. Panama city and Colon city started to resume its normal day-to-day activities and all random and sporadic acts of violence ceased entirely.

Within this context, the new government had to determine the type of organization that needed to be created in order to fulfill the requirements of internal security and national defense. In the ensuing discussion, American army personnel played a fundamental role. They suggested the creation of a security organization with dual functions, similar to a National Guard, with primarily internal security functions but also with some military functions and capabilities.

On the other hand, both members of the government and of the population at large, undoubtedly influenced by the traumatic experience of the Panamanian crisis of 1987-89, rejected the notion of establishing a new military force. The national government made the significant and historical decision to abolish all military forces in Panama, and stated that the only security organization the country needed was a police force.

The decision to abolish the military was widely accepted by all sectors of Panamanian society. However, there were mixed opinions regarding the incorporation of former military members into the new police force. Important sectors of Panamanian society, along with individuals who influenced public opinion, did not wish for the new police force to include former members of the military. They did not consider that former

military members would be capable of assimilating the newly constructed democratic political reality.

The processes of organizing the police force were initiated and the first laws governing its functions were proclaimed via Cabinet Decree 38 of February 10, 1990 and Decree 42 of February 17, 1990. Both cabinet decrees distribute the functions of national security to several independent entities. These entities were then annexed to the Ministry of Government and Justice, the National Police, the Air Service, and the National Maritime Service, and its functions were limited exclusively to the sphere of police duties.

In addition, Technical Judicial Police was annexed to the Nation's Attorney General Office and Institutional Escort Police was annexed to Presidential Ministry Protection Service (which is an armed escort force in charge of protecting the President and high-ranking national and foreign dignitaries).

In addition, the National Penitentiary System was reorganized so that its functions would fall outside the purview of the national security agencies. The Civil Protection System was also reorganized to coordinate assistance efforts during natural disasters.

Finally, a National Security and Defense Council was adjoined to the Presidency. This was to be an intelligence organization, composed entirely of unarmed civil personnel, whose function was to compile information relevant to national security, the protection of constitutional order, and the defense of democracy.

The demilitarization process also involved the transfer of assets belonging to the former Defense Forces, which included several military bases. This process was overseen by an Inter-ministerial Commission.

### **From Military to Police**

What are the differences? What are the country's needs? How to avoid militarization in the future.

The functions of the police force needed to be defined and it was determined that security organizations would have the following responsibilities: to protect the life, livelihood, and goods of those individuals who fall under its jurisdiction; to guarantee the exercise of individual rights and liberties; to prevent delinquent acts; to maintain and re-establish public order; to offer aid during accidents or public catastrophes; to watch over and protect natural resources, including the installations of the Canal (which is not to be confused with its defense against external aggressors); to guard land, air, and sea borders from contraband, illegal immigration, illegal fishing activities, and drug trafficking; and to defend the democratic constitutional order.

The Panamanian public had a great distrust of the potential rise of any movement that would drive the country back towards militarization. In order to avoid a centralization of power within the security organizations, it was established that the power structures of police entities would always remain separate and pluralistic. This goal was accomplished by:

The subordination of police entities to civilian authority, thus avoiding the possibility of any autonomy that would keep them isolated from civilian government decisions.

The training of former military units in their new police functions and in human rights, the constitution, and penal law.

The first steps put into place included: the dismantling of military structures, the training of military units in their new police functions, and the structuring of police entities within the framework of civilian control and subordination. Along the way, it was necessary to depose of any parties that were not willing to accept these changes.

All these transformations were accomplished with overwhelming public support for the elimination of the military. The entire country was convinced that it did not need a military army. Based on past events, it was thought that mere creation of a military force would ultimately result in it imposing its authority above that of democratic institutions and undermining civil and political rights.

For three years the restructuring of police entities was implemented with a tight civilian control.

The final step was accomplished by the National Assembly in 1994, which after two sessions approved the constitutional amendment that abolished the military. It is important to note that there was a political party change in Panama in 1994, with the electoral triumph of President Ernesto Pérez Balladares, who was also the Secretary General of the Revolutionary Democratic Party (which is the political party that aligned itself with the dictatorship). A second National Assembly, controlled by this political party, was responsible to approving the proposed constitutional amendment. This transcendental act illustrates a clear national consensus regarding the issue of abolishing the military.

## **Title XII of the Constitution remained as follows: Public Forces**

**Article 310** – The Republic of Panama will not have a military army. All Panamanians are obligated to take up arms and defend the national independence and the territorial integrity of the State. For the conservation of public order, the protection of life, livelihood, and goods of those who fall under the jurisdiction of the State, for the prevention of delinquent acts, the Law will organize the necessary police services, with separate rank and commands. In the face of external aggressors, temporary special police forces will be organized for the purpose of protecting the borders and jurisdiction of the Republic. The President of the Republic is the chief of all the security services established in this Title; and these, as agents of the authorities, are subordinate to civilian power; therefore, they will follow the orders discharged by the national, provincial, or municipal authorities in the exercise of their legal functions.

**Article 311** – The police services are not deliberative and its members may not engage in manifestations or political declarations in either individual or collective form. They may not intervene in partisan politics, with the exception of casting an electoral vote. Defiance of this rule will be sanctioned with the immediate dismissal from one's charge, in addition to any sanctions established by the Law.

**Article 312** – Only the Government may possess weapons and other elements for war. For its manufacturing and export, a special permit from the Executive branch will be required. The Law will define which weapons are not to be considered for war and will regulate their import, fabrication, and use.

The process of demilitarization and the abolition of the military have gained strength over the years. There is no particular model that is being followed; instead, the process has developed based on the specific and idiosyncratic features of Panamanian reality. To date, the Panamanian model has specifically aligned itself with the mission to guarantee public and national security.

The process has had its ups and down, but it has always evolved within a framework of open, national discussion.

When in 1994 the possibility of having a military was abolished via the Constitution, the country was going through a transition of the jurisdiction of American military bases and the operation, administration, and control of the Panama Canal, as stipulated in the Canal treaties of 1977.

In conformity with the terms of the Panama Canal treaties, the transition to Panamanian jurisdiction would occur in stages. By 1994, several military bases and the administration of the Panama Canal remained under American control.

In the light of public opinion it would seem a contradiction to abolish the national military and to continue to have a foreign military presence in the country. But this incongruence had a reason for existing, and it was limited to the protection and defense of the Canal.

The government of the United States of America, in faithful observance of the treaties, transferred the control and operation of the Panama Canal to Panamanian authorities on the 31<sup>st</sup> of December of 1999. On that date, the last remnants of American military forever left Panamanian soil.

On January 1<sup>st</sup> of 2000, the sun rose on a Panama with no military presence, be it national or foreign. Article 310 of the National Constitution could finally be put into effect without conditions or reservations.

But the simple fact of abolishing the military did not exempt the country from the issues of foreign threats. The Panamanian model had some pending matters to attend to with regard to this particular topic.

Panama needed to develop a National Security Policy to face any potential future threats or challenges. The responsibility of delineating these policies, based on the new Panamanian reality, fell upon the Ministry of Foreign Affairs, the Ministry of Government and Justice, and the National Security and Defense Council.

The policies against foreign threats must be formulated in conformity with certain challenges the country currently faces in the following areas:

- Relations with Colombia

- Relations with Costa Rica
- The matter of the security and protection of the Canal since December 31, 1999

While it is true that Panama does not have current conflicts with Colombia or Costa Rica, in order to reformulate a policy of National Security, we must diminish or eliminate any causes for tension or conflict that could potentially exist with each neighboring country. It is necessary to study and strengthen the relationships with our neighboring countries, to find mutual agreement and cooperation on security issues that affect both, and to simultaneously increase the costs of tensions that may originate due to a lack of bilateral agreement.

### **Relations with Colombia**

Panama obtained its independence from Colombia on November 3, 1903. While it is true that the independence was facilitated by the participation of American troops and the Trans-isthmian Railroad Company, the Panamanian separatist movement had existed for quite some time. The causes for separation were many, including Colombia's disregard for Panamanian aspirations, the lack of a common goal or destiny between Panama and Colombia, and the constant internal conflicts that plagued Colombia during the entire period of integration.

Colombia's claims to Panama were redeemed by the Urrutia-Thompson treaty, which was signed by Colombia and the United States in 1914. Colombia's benefits regarding transit through the Panama Canal, granted by the United States, were later reaffirmed by the Monteria Treaty of 1979. This treaty was entered into by Panama and Colombia after the new Panama Canal treaties were ratified.

In terms of border disputes with Colombia, there are no pending bilateral issues or challenges. However, it must be noted that the border between Panama and Colombia represents a large, tropical rainforest region without a land-based communication or transportation infrastructure. The Pan-American highway is interrupted in this region of Central America, and so the area is referred to as the Darien Gap.

The difficulties Colombia is currently experiencing, as a result of drug trafficking and the guerilla's uprising, have made the region of Darien a natural means for the movement of the guerrilla towards Panamanian bordering areas, as well as the movement of drugs and illegal immigration.

Both countries have recognized the need to jointly resolve the border-related issues and problems that these activities give rise to, and have signed a series of agreements of bilateral cooperation. In addition, the Panamanian-Colombian Commission has been created to foster neighborly cooperation for mutual development, with the main objectives of resolving border-related problems and developing commercial and cultural activities.

Illegal activities in the areas bordering Colombia represent a significant national concern, particularly during time periods of institutional and democratic instability in Colombia.

On this subject we must recognize that there is still some work to be done. The Ministry of Foreign Affairs must organize a department that keeps up-to-date with Colombian political reality; that establishes relationships and communication with various Colombian entities; and that fosters open, direct, and constant communication between both countries' presidents.

In terms of each countries' intelligence operations, there must be close communication between Panama's National Security and Defense Council and the various Colombian intelligence entities, in order to exercise greater control over movements in the bordering areas, particularly movements involving drug trafficking, illegal immigration, and guerrilla.

### **Relations with Costa Rica**

Panama does not have any border security issues with Costa Rica. The border disputes that resulted in the War of Coto were satisfactorily resolved in 1941 with the border treaty known in Panama as the Arias-Guardia Treaty.

The way in which Costa Rica has managed its National Security, after the elimination of its military, requires further study from Panamanians. It is relevant for Panama to know Costa Rica's response in the face of the threat posed by Nicaragua during the periods of the Somoza dictatorship and the period of the Sandinista Revolution. Costa Rica was able to successfully manage the tension that resulted from political instability in Nicaragua, and it would be relevant to know which security strategies were employed by its government during the aforementioned tense time periods.

Panama and Costa Rica need to coordinate their positions regarding various security issues in Central America, Latin America, and internationally. Panamanian demilitarization was possible, in large part, due to having a neighboring country without a military of its own. Both countries' agenda should include a discussion of joint coordination on matters of security. Maintaining a consensus on matters of security would strengthen the process of integration and would concurrently allow us to extend the prospect of demilitarization to other countries in the Central American region. It would be appropriate to formalize said consensus in bilateral legal agreements.

### **The Matter of the Security and Protection of the Canal**

Panama assumed complete control over the administration of the Panama Canal on December 31<sup>st</sup>, 1999. The American military presence also ended on that date. The legal document that currently guarantees free transit of vessels through the Canal is the Neutrality Treaty signed on September 7, 1977. In line with this treaty, the United States of America has the right to intervene and act against any aggressor or any threat directed towards the Canal or towards the peaceful transit of vessels through the Canal. The United States is also granted the right to take any measures it considers necessary, including the use of military force, in order to re-open the Canal or re-establish its operations in case it is ever closed or its functioning is ever interfered with. One of the signing parties in that treaty, Ex-president Jimmy Carter, recognized that this right can only be exercised by the United States as long as it consented to by the Republic of Panama.

According to the Neutrality Treaty, the United States military is not meant to defend Panamanian territorial integrity. This function is the sole responsibility of the Panamanian government. The rights ascribed to the United States military are limited only to the protection and defense of an international maritime transit route.

If we accept the international nature of the Panama Canal, there would not seem to be any incongruence between the elimination of the Panamanian military and the right granted to the United States to protect and defend the free transit of vessels through the transatlantic Canal.

After the departure of American military troops from Panamanian soil, the national government, with the consensus of all political parties, developed the fundamentals of Panamanian national security policy. These were represented in Cabinet decree no. 34 of June 21<sup>st</sup> of 2000.

This document establishes that the prevention of external threats to Panamanian peace and security is a basic function of Panamanian foreign policy. To this end, the Ministry of Foreign Affairs is responsible for taking the necessary steps to systematically prepare a foreign policy that conforms to active neutrality, and will participate in international forums and organizations in a manner that is in concordance with this responsibility.

In the face of a threat of external aggression, the National Government, in addition to exercising the defense mechanisms outlined in the Law, will appeal to all the mechanisms and institutions outlined in the United Nations Charter and the Charter of the Organization of American States.

In addition, the Panamanian state will remain committed to the active promotion of preventive diplomacy and of preventive disarmament in the region, in line with the agreements and initiatives for regional de-nuclearization; for eliminating the illegal trafficking of toxic substances and weapons of a toxic, radioactive, nuclear, or mass destruction nature; for the fight against the illicit trafficking of conventional weapons; for the reduction of military forces along borders; for the establishment of security measures and trust among country involved in conflicts, and for the promotion of demilitarization.

The national interest in eliminating military institutions was a byproduct of the harm done by the Defense Forces and the people's conviction that the military is an institution that impedes the development and consolidation of democratic institutions. For Panamanians, the military was a useless institution that only negatively meddled with national political life. Its elimination stands as a guarantee that this history will never be repeated.

The public policies developed in government documents establish an obligation to promote mechanisms for disarmament, the demilitarization, and the search for alternative strategies to solve conflicts or disagreements among States.



**Conclusions:**

The process of abolishing the military was initiated in Panama as a negative reaction towards an institution that ended up taking control of the government and of human rights and freedoms.

The policy of demilitarization has permeated the population to such a degree that it reacts against any attempt on behalf of law enforcement or other security agencies that to transcend their normative police functions.

The Republic of Panama trusts in the various mechanisms available to face external threats, including international conventions, organizations such as the UN and the OEA, and its policy of active neutrality.

The lack of any territorial conflicts with its neighboring countries has greatly fostered the possibility of renouncing war as a way to resolve disputes.

National policies regarding internal security and external threats must be constantly reviewed in order to adapt or modify them, as necessary, to keep up to date with shifting realities.

Over the past twenty years, since Panama abolished the military, there has been no cause or need for its restoration in either a temporary or permanent form.

We expect that this constitutional proposal will be permanently maintained as a symbol of the fact that Panama coexists in peace with its neighbors and within the international community.