

CHALLENGES OF THE BRAZILIAN NAVY IN PROMOTING NATIONAL SECURITY: REFLECTIONS OF A MULTIDIMENSIONAL NATIONAL CRISIS

Roberta Lopes da Cruz Antonio¹

ABSTRACT

This article aims to highlight the current challenges faced by the Brazilian Navy in fulfilling its constitutional duties. The first part discusses the consequences of the budget problem for the success of Force missions. With recent defense budget cuts, several projects have been postponed and the navy is reformulating spending planning to maintain its proper functioning. Next, we address the second issue, related to the routine use of naval military personnel in law and order enforcement operations. Despite the existence of a constitutional authorization for the use of the Armed Forces in public security contexts, such a situation should be the exception rather than the rule. Finally, suggestions are made — the development of a pro-defense mentality among Brazilians and the need for the government to put into practice what is written and, at least theoretically, in force.

Keywords: Brazilian Navy. Challenges. Budget. Guarantee of Law and Order. Pro-Defense Mentality.

¹ Master's degree. Pontifical Catholic University of Sao Paulo (PUC/SP), São Paulo, SP, Brazil, and Georgetown University, Washington, DC, United States of America. robertadacruz@gmail.com

LEGAL CONTEXT

The Brazilian Armed Forces (Navy, Army and Air Force) are intended “for the defense of the Homeland, the guarantee of constitutional powers and, at the initiative of either of them, of law and order”². In line with the provisions of the Major Law, the Brazilian Navy describes as its mission: “to prepare and employ Naval Power³ in order to contribute to the Defense of the Homeland; for the guarantee of constitutional powers and, at the initiative of either of them, of law and order; for the fulfillment of the subsidiary attributions provided by Law; and for foreign policy support”⁴.

In 2005 and 2008, respectively, the Brazilian Government published the documents that establish the guidelines that must be followed in order to guide the Defense in Brazil: the Política Nacional de Defesa (PND - National Defense Policy) and Estratégia Nacional de Defesa (END - National Defense Strategy). Both were revised in 2012 (currently in force) and the draft of a new version awaits consideration by the National Congress and subsequent approval by Presidential Decree. While the NDP sets National Defense objectives and directs the State to achieve them, the NDE indicates how the NDP should be implemented.

In common, the documents pave the way for the construction of the Defense that Brazil aims for. [...] the [joint] edition of the Policy and Strategy also seeks to meet one of the main objectives of National Defense: to make Brazilian society aware of the importance of the sector’s themes for the country. Therefore, the texts start from a common assumption: that defense should not be a matter restricted to the military or the government. Rather, it must be a concern of the whole society.⁵

² BRASIL. Constituição (1988). Constituição da República Federativa do Brasil, art. 142. Available at <http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm>. Access on: Sep. 12, 2017.

³ “Naval Power is one of the components of the military expression of the National Power and part of the Maritime Power, capable of acting at sea; inland waters and certain limited land areas of interest to naval operations, including overlying airspace, to contribute to the achievement and maintenance of the National Defense Objectives, identified in the National Defense Policy (NDP), in accordance with the guidelines established by the National Defense Strategy (END). Naval Power comprises naval, aeronaval and marine means; support infrastructures; and the command and control, logistics and administrative structures.” BRASIL. Marinha do Brasil. Doutrina Militar Naval (EMA-305), Capítulo 1, item 1.3. Rev.2, 13 set. 2017.

⁴ BRASIL. Marinha do Brasil. Plano Estratégico da Marinha (EMA-300), Capítulo 2, item 2.2.2. Rev. 3, 22 jun. 2017.

⁵ BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.7. Available

As pointed out by the END, “it is not evident for a country that has had little dealings with war to be convinced of the need to defend itself in order to build itself.” This extract shows how the Brazilian historical context compromises the proper understanding about the importance of having well-structured Armed Forces.

In Brazil, especially today, the greatest security concern is related to internal violence (resulting from social inequality versus inability of effective public policies that guarantee a dignified existence for all citizens; organized crime; disputes over the control of trafficking drugs in certain areas, among other factors). While Brazilian citizens and their rulers commemorate the Army and Navy operations in Rio de Janeiro to “pacify the favelas” that were dominated by organized crime, restoring order, they completely forget to evaluate the readiness of these forces to fulfill their primary mission.

TRADITIONAL AND NEW THREATS TO NATIONAL SECURITY FOR THE BRAZILIAN NAVY

The length of the Brazilian coast is equivalent to 7,491 km (the 16th largest national coast area in the world)⁶ and the maritime means of transport accounts for over 95% of the country’s foreign trade⁷. Thus, “important shipping routes cross the Brazilian maritime area, over the Atlantic Ocean, vital for the national economy. There, are the Brazilian pre-salt reserves, with high economic, political and strategic significance⁸.” In summary, it is up to the Brazilian Navy to perform a complex action related to national security.

In order to fulfill its mission, the Brazilian Navy faces several challenges, either in combating conventional threats or preventing the occurrence of so-called “new threats.”⁹ In this sense, it is strategically

at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Aug. 29, 2017.

⁶ CIA. The World Factbook 2013-14. Washington, DC: Central Intelligence Agency, 2013.

⁷ BRASIL. Marinha do Brasil. Amazônia Azul. Available at <<https://www.marinha.mil.br/content/amazonia-azul-0>>. Access on: Oct. 29, 2016.

⁸ BRASIL. Livro Branco de Defesa Nacional (2012), p.221. Available at: http://www.defense.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 03, 2017.

⁹ In this regard, Rear Admiral Antonio Ruy de Almeida Silva states that: “Following

important to conceive a Navy prepared to face the most diverse situations at sea, especially due to the fact that the Navy has the mission of protecting the country in an area where borders are not visible, also considering that the United Nations Convention on the Law of the Sea, to which Brazil is a signatory,

increased maritime areas under the national jurisdiction of coastal states with the creation of the Exclusive Economic Zone (EEZ) and rights on the Continental Shelf. Similarly, globalization has markedly increased the flow of world trade across the seas, the security of which is fundamental to the world economy. [...] In parallel, an increase in marine pollution and use of the seas is expected by organized crime and terrorist organizations.¹⁰

Reflecting on the issue, Vice Admiral Armando Amorim Ferreira Vidigal emphasized Brazil's high vulnerability to new threats (such as terrorism and piracy), whose repression, in his view, was "associated with a broad system involving the jurisdictional waters"¹¹.

The White Book on National Defense also addresses the issue in the same direction, pointing out that, in the 21st century, "the geopolitical complexity of the country and the importance of the sea to Brazil's development lead to multiple scenarios for the Naval Force to act. These, added to the huge maritime extensions, bring great challenges to the fulfillment of the mission of the Brazilian Navy"¹².

the terrorist attacks of September 11, 2001 against the United States of America (US), the international agenda has given greater importance to the so-called 'new threats', commonly identified as terrorism, illegal trafficking in arms, drugs and people, and piracy. These activities affect the security of the seas and have been the subject of actions in the international field, promoted mainly by the USA, which, directly involved in the "Global War on Terrorism", has been leading the movement to increase international maritime cooperation, with the purpose of making the oceans safer.

SILVA, Antonio Ruy de Almeida. "As novas ameaças" e a Marinha do Brasil. Available at: <https://www.egn.mar.mil.br/arquivos/cepe/marinhaNovasAmeacas.pdf>. Access on: Sep. 03, 2017.

¹⁰SILVA, Antonio Ruy de Almeida. "As novas ameaças" e a Marinha do Brasil. Available at: <https://www.egn.mar.mil.br/arquivos/cepe/marinhaNovasAmeacas.pdf>. Access on: Sep. 03, 2017.

¹¹VIDIGAL, Armando Amorim Ferreira. Consequências Estratégicas para uma Marinha de Águas Marrons. Revista da Escola de Guerra Naval. Rio de Janeiro, n. 16. 2010. p. 13.

¹²BRASIL. Livro Branco de Defesa Nacional (2012), p.82. Available at: http://www.defense.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 13, 2017.

New threats have caused growing concern for various countries around the world regarding their preparedness. However, investments from awareness of this reality cannot underestimate the continuing need to protect against traditional threats. In order to fulfill its mission regarding the promotion of national security, the Brazilian Navy faces several challenges, two of which require special analysis in the current scenario.

THE BUDGETARY PROBLEM

*The proper functioning of the defense sector, in turn, requires adequate budgetary resources as well as efficient management.*¹³

One of today's major concerns is pecuniary in nature. The Armed Forces, in order to achieve their future objectives — commonly referred to as the “vision of the future”¹⁴ —, require greater investments. Brazil, as the ninth largest economy in the world¹⁵, requires a defense budget commensurate with its magnitude and relevance. However, the country is going through a critical moment in its economy and politics, with reflection in several sectors, and the conception of Brazil as a “peaceful nation” is a common argument used by those who support the sequential defense budget cuts. Such logic is at least naive. Given the importance of maritime transport in Brazil for foreign trade, it is not difficult to imagine the impact on the national economy if one of these vital routes were hampered by any of the new or traditional threats.

Despite inflation of around 6% in 2014 and 2016 and 10% in 2015¹⁶, the Armed Forces budget has been reduced over the past three years.

¹³ BRASIL. Livro Branco de Defesa Nacional (2012), p. 221. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf>. Access on: Sep. 09, 2017.

¹⁴ The Brazilian Navy indicates as its “Future Vision”: “The Brazilian Navy will be a modern force, well-balanced, and should have naval, naval air, and marines compatible with the political and strategic insertion of our country in the international arena and in line with the desires of Brazilian society, will be permanently ready to act at sea and on inland waters, natural or jointly, in order to meet the purposes defined in its mission.” BRASIL. Marinha do Brasil. Missão e visão de futuro da Marinha. Available at: <https://www.navy.mil.br/content/missao-e-vision-de-futuro-da-marinha>. Access on: October, 02, 2017.

¹⁵ Position in 2016, according to World Bank Group indicators. World Bank Group. Gross Domestic Product 2016. Available at: <<http://databank.worldbank.org/data/download/GDP.pdf>>. Access on: Sep. 23, 2017.

¹⁶ GLOBAL Rates. Tabelas - IPC Brasil atuais e histórico. Histórico de números de inflação. Available at: <http://pt.global-rates.com/estatisticas-economicas/inflacao/indice-de-precosao-consumidor/ipc/brasil.aspx>. Access on: Nov. 07, 2017.

In 2014, the Armed Forces budget totaled US\$ 25,201,000,000.00; in 2015, US\$ 24,618,000,000.00; and in 2016, US\$ 22,839,000,000.00¹⁷. Obviously, this paradoxical scenario negatively affects the preparation of the Brazilian Navy, compromising the proper maintenance of vessels, the structure of installations (such as military organizations on land) and the ability to develop new technologies.

Recent defense budget cuts also contradict the principles set out in the National Defense Strategy by pointing out that a strong development project must pursue, among other requirements, “national independence achieved by autonomous technological capacity, including in strategic space, cyber and nuclear sectors. **One who has no mastery of sensitive technologies, both for defense and for development, is not independent**”¹⁸[emphasis added].

According to former Defense Minister Aldo Rebelo — at a public hearing held on April 7, 2016 — the Armed Forces have been doubly affected by budget constraints. Not only do they suffer from the cuts imposed on the Defense, but these cuts also represent the development of a downward trend in these investments when compared to Gross Domestic Product (GDP)¹⁹.

Brazil’s average investment in its Armed Forces has been lower than that of other BRICS members²⁰, as well as other South American countries. According to research released by the Stockholm International Peace Research Institute (SIPRI, Stockholm, Sweden), entitled “Military expenditure by country as a percentage of GDP, 2003-2016”²¹, it can be concluded that, in 2014 and 2015, Brazil invested only 1.4% of its GDP in

¹⁷ Stockholm International Peace Research Institute (SIPRI 2017). Military expenditure by country, in constant (2015) US\$ m., 2007-2016. Available at: <https://www.sipri.org/sites/default/files/Milex-constant-2015-USD.pdf>. Access on Oct. 1, 2017.

¹⁸ BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.44. Available at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Sep. 03, 2017.

¹⁹ MAGALHÃES, Marcos. Forças Armadas são ‘duplamente atingidas’ por cortes orçamentários, adverte Aldo Rebelo. Agência Senado. (last modification April 7, 2016, 5:39 p.m.). Available at: <http://www12.senado.leg.br/noticias/materias/2016/04/07/Armed-forces-are-twice-hit-by-budget-cuts-warns-ald-rebelo>. Access on: Aug. 27, 2017.

²⁰ BRICS member countries: Brazil, Russia, India, China and South Africa. Stockholm International Peace Research Institute (SIPRI 2017). Military expenditure by country as percentage of gross domestic product, 2003-2016. Available at: <https://www.sipri.org/sites/default/files/Milex-share-of-GDP.pdf>. Access on: Sept. 29, 2017.

²¹ Stockholm International Peace Research Institute (SIPRI 2017). Military expenditure by country as percentage of gross domestic product, 2003-2016. Available at: <https://www.sipri.org/sites/default/files/Milex-share-of-GDP.pdf>. Access on: Sept. 29, 2017.

defense; and in 2016, only 1.3%, data that reflect the lowest percentages of the entire period covered by the study (that is, since 2003).

CIA (Central Intelligence Agency) data on countries' military spending as a percentage of their GDPs²² show that Brazil ranks 65th out of 132 nations in the ranking. In this context, it is possible to verify the disparity between Brazil's position as economy — 9th largest GDP — and its investments in Defense.

For example, "in 2011, total expenditures on investment and costing for the refit and training of Forces was 10.8%"²³ of the total resources allocated to the Ministry of Defense.

It is therefore a very big challenge (not to say impossible) to develop strategic programs and maintain the Armed Forces' expenditures in this scenario. Unfortunately, the reality of the Armed Forces in Brazil contradicts the legislator's intention in conceiving their fundamental needs. Accordingly, Article 14 of Complementary Law No. 97/99 (which establishes the general rules for the organization, preparation and employment of the Armed Forces) catalogs the basic parameters that guide the preparation of the Armed Forces:

- I — permanent singular operational efficiency and in different interdependent employment modalities
- II — **the pursuit of increasing national autonomy through continuous nationalization of its means, including research and development and the strengthening of national industry;**
- III — **correct use of the national potential, through carefully planned mobilization²⁴ (emphasis added).**

In 2012, the year in which the White Book on National Defense was published, the Brazilian Navy had 60,000 troops. The document states that the Force "intends to gradually increase it by 2030, in order to adapt to the developments of the National Defense Strategy, with priority given to meeting the Defense Articulation and Equipment Plan (PAED), in particular, Navy Nuclear (PNM), Submarine Development (PROSUB)

²² CIA. The World Factbook 2013-14. Washington, DC: Central Intelligence Agency, 2013.

²³ BRASIL. Livro Branco de Defesa Nacional (2012), p.224. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 09, 2017.

²⁴ BRASIL. Lei Complementar nº 97, de 9 de junho de 1999, art. 14, Diário Oficial da União [D.O.U.] de 10.6.1999.

and Navy Refit (PRM) programs.” However, the difficulty of the Navy in increasing its quantity in the face of a constant budget reduction must be acknowledged.

The establishment of a “Defense Articulation and Equipment Plan” is intended to gather detailed plans for the rebuilding of the Armed Forces’ operational capacity. The priorities selected by the Brazilian Navy are as follows: “1. Recovery of Operational Capacity (ROC); 2. Navy Nuclear Program (NNP); 3. Construction of the Naval Power Nucleus; 4. Blue Amazon Management System (SisGAAz); 5. 2nd Squadron/2nd Marine Corps Force Naval Complex (2nd FFE); 6. Personnel; 7. Navigation Safety”²⁵.

However, these budget cuts lead to the postponement of projects that should be developed, as well as the delay of those already underway. The project for the construction of a nuclear submarine was expected to be concluded by 2025, but, at the moment, its completion is postponed indefinitely. This is an example of the damage experienced by the Brazilian Navy, considering that the nuclear-powered submarine will provide “more ability and agility to patrol and defend the country’s coastal zone.”²⁶ It would be the first nuclear-powered submarine in the Southern Hemisphere.

In this line of reasoning, it is worth mentioning another sensitive problem arising from the budget constraint: the ability of the Brazilian Navy to satisfactorily protect the vast Brazilian coast against the numerous threat species. Accordingly, the intensification of relative monitoring of offshore oil exploration — especially the pre-salt key-region — was also impacted. The force had to readjust to this new reality to be able to maintain adequate patrol in the area, as the plan for the construction of twenty-seven vessels had to be postponed.²⁷

²⁵ BRASIL. Livro Branco de Defesa Nacional (2012), p.195. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep 07, 2017.

²⁶ BALBINO, Fernanda. Corte no orçamento prejudica projetos da Marinha do Brasil. Poder Naval. (November 4, 2015). Available at: <http://www.naval.com.br/blog/2015/11/04/cut-on-budget-harms-projects-navy-do-brazil/>. Access on: Sep. 30, 2017.

²⁷ This situation clearly contradicts the precepts set out in the White Book on National Defense: “An efficient National Defense system requires large and long-term investments, such as those applied to submarines, armored vehicles and aircraft. These equipments have a certain useful life, considering the natural degradation and technological advances. Therefore, they need to be renewed periodically and preferably on pre-scheduled dates. Accordingly, the allocation of resources to the Defense sector should ideally comply with the following three principles: [...] regularity — disbursement of resources should take

The Brazilian Navy has developed a project known by the acronym SisGAAz, meaning Blue Amazon Management System, and set as one of its priorities (as mentioned above). Such a program was designed to function as a

monitoring and control system related to the international concept of maritime safety and to the protection of the Brazilian coast. It was designed to become the navy's main command and control system and provides for the management of sea-related activities involving surveillance, monitoring, pollution prevention, natural resources, among others.²⁸

It is evident that budget cuts also impact this project and hamper Navy plans to “increase knowledge of the maritime environment and position, if necessary, the available operating means, to respond promptly to crises or emergencies occurring on the Brazilian coast²⁹.”

However, the main risk arising from such restrictions is their impact on the “deterrent capacity” of the Navy. The main purpose of having a Force commensurate with the relevance of its country concerns its ability to prevent adventurers (whether state or non-state actors) wishing to cause any harm to Brazil (its citizens and resources) from carrying out their plans.

The message of former President Dilma Rousseff, who was leading the Presidency of the Republic on the occasion of the promulgation of the White Book on National Defense, reinforces the mismatch between theory and practice. In her words, “a fully developed Brazil with an increasing external presence will need adequate deterrent military capability. Committed to building a more peaceful and prosperous global order, **Brazil cannot neglect defense**”³⁰ (emphasis added). The same logic is expressed in the National Defense Strategy, by setting as one of its guidelines the development of “military and national mobilization potential to ensure the deterrent and operational capability of the Armed Forces. [...] Brazil

place systematically, enabling schedules to be met as planned.” BRASIL. Livro Branco de Defesa Nacional (2012), p.73/74. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf>. Access: Sep. 08, 2017.

²⁸ Idem.

²⁹ Ibidem., p. 74.

³⁰ BRASIL. Livro Branco de Defesa Nacional (2012), p.11. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf>. Access on: Sep. 12, 2017.

and its Armed Forces should be ready to take measures to safeguard the territory, maritime trade lines and oil rigs³¹."

The reflexes in the Defense Sector of the political and economic crisis experienced by Brazil seem obvious. Instead of increasing its investment and maintenance expenses, the Brazilian Navy suffers from budget constraints and is prevented from meeting the targets set in 2011 in the White Book on National Defense³².

It should also be considered that this is an especially delicate time to better develop a Defense mindset among Brazilian citizens. There are numerous areas in which Brazil does not meet minimum requirements to ensure a decent existence: the Health and Education sectors are a good example of this (as well as public safety)³³. Despite the premise that each sector has its own priorities and challenges, and the impossibility of establishing a hierarchy between them, the problem is that Brazilians suffer daily from the consequences of ineffective (and sometimes nonexistent) public policies related to education and health. In contrast, they do not see the effects of a weak Defense structure on a daily basis: this is what gives rise to the aforementioned mistaken thinking that Brazil would not need to invest in Defense because it is a peaceful nation or there are other sectors that need more urgent intervention. The truth is that, as stated, there is no hierarchy between the different sectors of government, and the results of a poorly prepared navy can have disastrous and inevitable consequences if any threat knocks on the door before we are properly prepared to face it.³⁴

³¹ BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.60. Available at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Sep. 02, 2017.

³² "In order to carry out the transformation of Defense within the indicated areas, there is a need to increase investment spending. Costs should also increase due to higher maintenance demands with the acquisition of new equipment." BRASIL. Livro Branco de Defesa Nacional (2012), p.229. Available at: http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 08, 2017.

³³ It should be noted that, in 2014, Brazil recorded 59,627 homicides, the highest number in its history (29.1 homicides per group of 100 thousand inhabitants). In 2015, the total fell to 59,080 homicides. BRASIL. Ministério do Planejamento, Orçamento e Gestão. Atlas da Violência 2016. Instituto de Pesquisa Econômica Aplicada. (March 2016). Available at: http://www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/160322_nt_17_atlas_da_violencia_2016_finalizado.pdf. Access on: Sep. 27, 2017.

³⁴ "The risks of non-preparedness for defense may entail higher costs. Despite its peaceful tradition, Brazil cannot be seen as a defenseless and unarmed nation. National Defense represents the "insurance" that the Brazilian State must permanently renew [itself], with stability, regularity and predictability, in order to guarantee an environment favorable to full economic and social development." BRASIL. Livro Branco de Defesa Nacional (2012), p.235. Available at: http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/

With the approval of Constitutional Amendment 95/2016 (originated by PEC 241 of the House of Representatives), the situation got even worse, as the CA sets an annual limit on public spending for the next twenty years, so that spending cannot increase beyond last year's inflation. Of course, in view of the generalized and widespread crisis experienced by sectors such as Health and Education, others — in this case, Defense — will suffer even more the consequences of this measure. This is because the Amendment provides for the possibility of a sector's budget rising beyond inflation as long as the global ceiling is respected. In other words, it will be possible to increase health and education spending as long as the government spends less on other sectors. The idea encourages sectors to degrade in defending their own priorities (so that they can justify spending higher than inflation), valuing their needs and underestimating those of others.

At the same time, this unwanted environment also facilitates fatalities. Thus, situations may arise where the Navy is unable to react in the desired time and infrastructure, due to the recurring need for the Force to adapt to this constrained reality. In its coastal patrol activity, for example, it is possible to glimpse possible negative consequences, considering the right of citizens to request from the State a certain positive benefit aimed at protecting their life and integrity (the so-called second-generation fundamental rights). When their reasonable expectations are not met, people may resort to the Judiciary to claim from the Union compensation for any damage suffered as a result of an omission in the Navy's responsibility to ensure their safety. In this case, if the State's omission is proven, in addition to the impact on the treasury (since, instead of earmarking the Force's training, it will pay for the reparation of damages suffered as a result of its omission), there are still the intangible effects experienced by the Force regarding the concussion caused in its credibility and image.

How could the Navy protect itself against this kind of situation? Is there anything the Force can do to avoid being held responsible for negligence when it lacked the means to prevent an unwanted event?

Various adjustments have been made to suit the navy to the current budgetary conditions while ensuring the protection of Brazilian waters. However, there is no way to resist the cuts unscathed, that is, without increasing vulnerabilities related to Defense efficiency.

As we can see, the reality of defense investments is diametrically

opposed to the dictates of the various existing legislations³⁵ and the expectations of the Sector Authorities. All these words are of no use if the country does not strive to implement its provisions. Brazil needs to be aware of its defense needs. Army General Carlos Alberto Pinto Silva, commenting on the budget pill, used Argentina as an analogy: “An Argentine colonel told me that they learned in the Falklands War that if there is no minimum capacity to respond, there is no time to acquire it”³⁶.

This is the mindset that the Brazilian Government, as well as its citizens, must develop: the idea that, because Brazil has not collected wars

³⁵ For example, the main objectives of these legislations regarding the Defense Industrial Base are as follows: “**National Defense Policy - PND (2012)**: to stimulate state investment in advanced technology sectors; to promote the permanent updating and deployment of the Armed Forces with an emphasis on supporting science and technology for IDB development; **to develop the IDB to achieve autonomy of indispensable technologies**; ensure that the industrial sector contributes to ensuring that meeting the needs of **defense products is supported by technology under national domination**; to ensure IDB capacity, including mastery of dual-use technology, to reach defense supplies; and promote the integration of the South American defense industry as the object of measures that foster mutual development as well as technological empowerment and autonomy. **National Defense Strategy - END (2012)**: To strengthen three sectors of strategic importance: space, cyber and nuclear; **and to enable the defense industry to gain autonomy in technologies indispensable to Defense**. **National Defense Industry Policy - PNID (2005)**: to strengthen the Defense Industrial Base; to raise awareness in society as to the need for the country **to have a strong Industrial Defense Base; progressively reduce external dependence on strategic defense products by developing and producing them internally**; to expand the capacity for the acquisition of strategic defense products of national industry by the Armed Forces; to improve the technological quality of strategic defense products; to increase the competitiveness of the Brazilian Defense Industrial Base to expand exportation; and to improve the industrial mobilization capacity at the Defense Industrial Base. **Productive Development Policy - PDP (2008) Greater Brazil Plan (2001)**: to exempt investments and exports; expand and simplify investment and export financing; increase resources for innovation; improve the regulatory framework for innovation; stimulate the growth of small and micro businesses; strengthen trade defense; create special regimes for adding value and technology in supply chains; and regulate the government procurement law **to stimulate production and innovation in the country**.” (emphasis added). BRASIL. Livro Branco de Defesa Nacional (2012), p.217. Available at: http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 11, 2017. The same idea can be found in Article 14 of **Complementary Law No. 97/99**, which establishes the general rules for the organization, preparation and employment of the Armed Forces: “Art. 14. The preparation of the Armed Forces is guided by the following basic parameters: [...] II - **the search for increasing national autonomy, through continuous nationalization of its means, including research and development and the strengthening of the national industry**” (emphasis added). BRASIL. Lei Complementar nº 97, de 9 de junho de 1999, art. 14, Diário Oficial da União [D.O.U.] de 10.6.1999.

³⁶ STOCHERO, Tathiane. Sucateado, Exército não teria como responder a guerra, dizem generais. G1. (last modified August 21, 2012, 3:49 p.m.). Available at: <http://g1.globo.com/brasil/noticia/2012/08/sucateado-exercito-notia-as-responder-guerradizem-generais.html>. Access on Oct. 06, 2017.

in its recent history, there is no threat, should be transformed into the notion that the country must be prepared to face any threats that may arise. Brazil — as discussed in the Introduction to the National Defense Strategy — is expected to maintain its peaceful profile over time. However, even in this scenario, the need to have well-structured and equipped Armed Forces to address threats — which we hope will never happen — must be a constant.

EMPLOYMENT OF NAVY MILITARY IN PUBLIC SAFETY ACTIVITIES

[The] typical day-to-day police patrol of public security is not strictly in line with the rationale behind the Armed Forces, which is naturally directed at actions against the enemy, and not at the control of the people of their own country.³⁷

Another downside is the misuse of the Navy and their armored vehicles — regularly — in the fight against organized crime. The Magna Carta allows the use of the Armed Forces in public security activities only exceptionally and for a limited period, considering that the function originally belongs to the Auxiliary Forces. However, such a requirement has not been properly observed, and the Navy (as well as the Army and Air Force) has to deal with the employment of part of its personnel in activities that do not reflect its core functions.

The Federal Constitution establishes, in its article 144, the attributions of the Public Security Bodies, stating that public security “is exercised for the preservation of public order and the safety of people and their heritage³⁸.”

This activity is performed by the agencies listed in the same article, namely: the federal police; the federal road police; the federal railway police; the civil police; the military police and military fire brigades. In this scenario, “the uninterrupted performance of the six permanent public security organs, [...] and even the performance of the municipal optional body of the Municipal Guards, are the shield and sword of society in the fight against crime in general and, in particular, against organized crime³⁹.”

³⁷ FLOWERS, Mario Cesar. *Lógica Militar*. Estadão. (October 9, 2016). Available at: <http://opinio.estadao.com.br/noticias/geral,logica-militar,10000081045>. Access on: Sep. 11, 2017.

³⁸ BRASIL. Constituição (1988). Constituição da República Federativa do Brasil, art. 142. Available at <http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm>. Access on: Sep. 19, 2017.

³⁹ ROTH, Ronaldo João. O crime organizado e a conexão com o crime militar: estruturas e

Another body, however, also plays this role of public security: the National Force of Public Security, a national military corps. The National Public Security Force, created in 2004, is made up of military police, military firefighters, civilian police and forensic experts⁴⁰. Its main task is to respond to the emergency needs of states, in cases requiring more incisive interference from public authorities or when an urgent increase in security is required. It is an elite troop, made up of the best military police officers and military firefighters, who undergo rigorous and specific training⁴¹.

As already noted, Article 142 of the Constitution, in prescribing the attributions of the Armed Forces, added that, on the initiative of either constitutional power, such Forces could be employed in the guarantee of law and order (expression commonly represented by the acronym GLO). Other laws also address the issue⁴², and specifically in order to regulate this

estratégias. Crime Organizado. São Paulo: Saraiva, 2012. p. 441-461.

⁴⁰ The National Force of Public Security is subordinate to the National Secretariat of Public Security, which belongs to the Ministry of Justice.

⁴¹ BRASIL. Ministério da Defesa. Garantia da Lei e da Ordem. Agência Brasil. Available at: <http://www.defesa.gov.br/exercicios-e-operacoes/garantia-da-lei-e-da-ordem>. Access on: Oct. 02, 2017.

⁴² For example, Guideline No. 17 of the National Defense Strategy provides for the preparation of "personnel for the fulfillment of law and order assurance missions under Constitution. The country is careful to prevent the military from playing a police role. Carrying out internal operations in the interests of law and order, when the constituted powers fail to guarantee public peace and one of the Chiefs of the three Powers requires it, is part of the constitutional responsibilities of the Armed Forces. The legitimation of such responsibilities presupposes, however, legislation that orders and supports the specific conditions and federative procedures that give rise to such operations, with the protection of their members (our emphasis). BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.58. Available at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Sep. 12, 2017. In addition, the Ministry of Defense Publication regulating the GLO (MD33-M-10) defines the following: in order to facilitate understanding from the outset, the following concepts stand out: Guarantee of Law and Order Operation (Op GLO) is a military operation conducted by the Armed Forces, in an episodic manner, in a previously established area and for a limited time, aimed at preserving public order and the safety of people and property in situations of depletion of instruments provided for in art. 144 of the Constitution or in others in which a disturbance of order is presumed possible (emphasis added). BRASIL. Ministério da Defesa. MD33-M-10 (2013). Available at: http://www.defesa.gov.br/arquivos/File/doctrinamilitar/listadepublicacoesEMD/md33_m_10_glo_1_ed2013.pdf. Access on: Oct. 07, 2017. The White Book on National Defense also addresses the issue of GLO: "The use of the Armed Forces to guarantee law and order is the responsibility of the President of the Republic, pursuant to art. 15 of Complementary Law No. 97/1999. The Law specifies that, following a message from the President, the Armed Forces operational organs will be activated, which will develop, in a pre-established area and for a limited time, the preventive and repressive actions necessary to ensure the desired result" (emphasis added). BRASIL. Livro Branco de Defesa Nacional (2012), p.156. Available at: http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 21, 2017.

general rule, Decree 3.897/2001 was created.

Article 15 of Complementary Law No. 97/99 postulates that “[the] use of the Armed Forces in defense of the Homeland and in the guarantee of constitutional powers, law and order, and participation in peace operations, is the responsibility of the President of the Republic, which will determine to the Minister of Defense the activation of operational organs [...]”⁴³.

The paragraphs following this legal provision explain how, when, and why such supplementary use occurs. The first paragraph clarifies that the use of the Armed Forces in GLO is the sole decision of the President, on his/her own initiative or at the request of any of the constitutional powers (“through the Presidents of the Supreme Court, the Federal Senate or the Chamber of Deputies”)⁴⁴. The second paragraph, in turn, evidences that such employment should only occur “after the instruments destined to the preservation of public order and the safety of persons and property listed in Article 144 of the Constitution” are exhausted⁴⁵, which are intended for the preservation of public order and the security of property. Such instruments are considered exhausted, pursuant to paragraph 3, when, at any given moment, they are recognized by the respective President of the Federal or State Executive Branch as unavailable, non-existent or insufficient to the regular performance of their constitutional mission (paragraph 3). Paragraph four emphasizes that, in the event of the employment of the Armed Forces in GLO, their respective operational organs will be activated following a message from the President of the Republic, who “**will develop, in an episodic manner, in a previously established area and for a limited time**, the actions of preventive and repressive nature necessary to ensure the result of operations in the guarantee of law and order”⁴⁶.

Decree 3.897/2001 sets out guidelines for the use of the Armed Forces. A significant part of the rule merely reiterates what other rules have already made explicit (which is not uncommon in Brazil), uniting in one document all the relevant information pertinent to the subject in a sparse form in the national legal system. All procedures and requirements contemplated herein follow the provisions of CL No. 97/99. However, the

⁴³ BRASIL. Lei Complementar nº 97, de 9 de junho de 1999, art. 15, Diário Oficial da União [D.O.U.] de 10.6.1999.

⁴⁴ Idem.

⁴⁵ Idem.

⁴⁶ Idem.

Decree inaugurates some relevant details: when employed in GLO, the Armed Forces will carry out ostensible, preventive or repressive police actions (Article 3); the use of the Armed Forces in GLO also encompasses other situations of disruption of order, such as public/official events, especially when involving foreign Heads of State and/or Government, or in the case of elections in which support is requested.

It seems evident that GLO operations give the military of the Armed Forces police power so that they can act in such a way until order is restored. The subsidiary nature of this job means that such action cannot become a regular measure for the preservation or restoration of order⁴⁷. Its occurrence should only materialize after the exhaustion of all regular instruments. In other words, it should only occur when one of the States recognizes to the Presidency (or when the Presidency personally decides on the necessity of employment, *sponte propria* or upon provocation of the Supreme Court, Senate or House of Representatives through their respective Presidents) the incapacity of their organs to confront — in their territory — a certain threat to order (considering such organs unavailable, nonexistent or insufficient).

These rules aim to prevent the indiscriminate use of the Armed Forces in the context of public security. Unfortunately, this is not what has

⁴⁷ In order for the use of the Armed Forces in GLO operations to proceed correctly, several steps must be followed. By way of argument, the following are examples: “1. Beginning of a public safety crisis; 2. Request by the Governor of State to the Minister of Justice, by formal act, to send NPSF federal troops; 3. At the request of the Governor of State, the MJ authorizes the use of federal public security troops (NPSF/MJ); 4 Intensification of the crisis with the exhaustion of the instruments provided for in art. 144 of CF/88 intended for the preservation of public order; 5. Declaration by the Governor of State of the unavailability, insufficiency or inexistence of means of the OSP; 6. Request by the Governor of State to the President of the Republic, by formal act, to send troops from the AF; 7. GSI/MD Explanatory Memorandum (EMI) to the President of the Republic, justifying the use of AF troops; 8. Guideline of the President of the Republic, through Notice of GSI/PR, to the MD and MJ, with the decision of employment of the AF. The GSI/PR articulates with the State Government the transfer of control; 9. MD issues Guidance for Armed Forces employment and activates operational agencies. The Forces employ their operational resources. Operation Command takes control; 10. The MD requests required resources from MPOG and MF. Keeps the MRE informed. The AGU will provide the MD with the necessary legal assistance; 11. The action of the AF will be through preventive and repressive actions, through the adoption of: a) ostensive patrol; b) search of people, land vehicles, vessels and aircraft; and 12. The MD, by monitoring the evolution of events, should advise the PR regarding the deactivation of the operation and determine the demobilization of the means employed.” BRASIL. Ministério da Defesa. *Atuação das Forças Armadas na Garantia da Lei e da Ordem*. Universidade da Amazônia - VIII Curso de Extensão em Defesa Nacional. Available at: http://www.defesa.gov.br/arquivos/ensino_e_pesquisa/defesa_academia/cedn/viii_cedn/ffaagloviicedn.pdf. Access on: Sep. 28, 2017.

been observed. It is public and notorious that, in Brazil, federal support to states must be primarily provided by the National Force for Public Security⁴⁸. However, the practice has departed from theory, and the use of military personnel in the public security activity has become the norm.

By way of illustration, it is worth mentioning recent occasions (post 2010) when the Armed Forces acted in the context of GLO: 1. Pacification Force at the Complexo da Penha e do Alemão⁴⁹ (employment of 148 Navy military personnel) in 2010; 2. Operation Ágata⁵⁰ (total of 27,389 military of the Armed Forces, highlighting the use of 7 ships and 57 vessels in different stages of the operation), in 2011 and 2012; 3. Operation São Francisco for the Pacification of the “Complexo da Mare” in 2014; 4. State Public Security Officers Strike - Maranhão (November 2011), Rondônia (December 2011), Ceará (December 2011) and Bahia (January 2012); 5. Operation Campo de Libra, in October 25, 2013; 6. Operation Tucuruí, in 2016.

In addition to the events described above — where order was sought to be restored in crime-related contexts —, another spectrum of GLO operations is applied to maintaining order in elections and large events. Within this range of responsibility, other events may be highlighted, such as: 7. FIFA World Cup in 2014; 8. Rio 2016 Olympics; 9. Elections 2012 (929 Navy military personnel participated)⁵¹; 10. Pope Francis’ visit to Aparecida during World Youth Day in 2013; 11. United Nations Convention on Sustainable Development (Rio +20) in 2012; 12. FIFA Confederations Cup in 2013; 13. Prison Rebellions in Brazil in late 2016 and early 2017 (President Michel Temer’s Decree, published January 18, 2017, authorized for up to 12 months the use of the Armed Forces in GLO operations aimed at weapons, mobile communication devices, drugs and other illicit materials)⁵²; 14. Operation to contain acts of vandalism and violence in demonstrations in the federal capital against the buildings of

⁴⁸ FLOWERS, Mario Cesar. *Lógica Militar*. Estadão. (October 9, 2016). Available at: <http://opinio.estadao.com.br/noticias/geral,logica-militar,10000081045>. Access on: Sep. 11, 2017.

⁴⁹ BRASIL. *Livro Branco de Defesa Nacional* (2012), p.166. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf>. Access on: October 16, 2017.

⁵⁰ Idem.

⁵¹ BRASIL. Ministério da Defesa. *Atuação das Forças Armadas na Garantia da Lei e da Ordem*. Universidade da Amazônia - VIII Curso de Extensão em Defesa Nacional. Available at: <http://www.defesa.gov.br/arquivos/ensino_e_pesquisa/defesa_academia/cedn/viii_cedn/ffaagloviicedn.pdf>. Access on: Sep. 30, 2017.

⁵² BRASIL. Decreto de 17 de Janeiro de 2017. *Diário Oficial da União [D.O.U.]* 18.1.2017. Available at: <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=1&pagina=1&data=18/01/2017>. Access on: Oct. 15, 2017.

the ministries of National Integration, Labor and Agriculture, in 2017; 15. Operation in the Favela da Rocinha in 2017 (550 military personnel from the Armed Forces participated). In summary, according to the website of the Presidency of the Republic, there were twenty-nine GLO Operations between 2010 and 2017.⁵³

Given this scenario, should the frequency of such interventions be considered reasonable? Is it normal that, on so many occasions, are public security agencies deemed unable to fulfill their duties? Wouldn't it be the case to rethink this routine incapacity (unavailability, insufficiency or nonexistence)?

A rule designed to be an exception cannot be accepted as a rule. Moreover, this ordinary intervention by the Armed Forces carries risks that, at first glance, go unnoticed. Former Navy Minister Admiral Mario Cesar Flores highlights two problems: the first would be a cultural risk, while the second — complement to the first — would be “the tendency to complacency with the restrictions surrounding military preparation national defense, obviously unwillingly in the Forces.” Regarding cultural risk, the author highlights:

People and politicians tend to see the Forces (again, especially the Army) more — the less informed people, even — as an instrument of public security than of classical national defense. This tendency is transparent in the media: the participation of the Armed Forces in the police sphere is frequently referred to, approving it or criticizing eventual failures. **The convenience of participation is never in doubt. The pitfalls of national defense preparedness rarely deserve attention. It is the media reflecting the concern of the people with the level of public insecurity currently prevailing in the country and their lack of concern with the defense**⁵⁴. (our emphasis)

In addition to such dangers, it is possible to cite yet another. The distorted routine use of military personnel in situations that do not reflect their core activity distances them from the military organizations in which

⁵³ BRASIL. Planalto. Presidência da República. Entenda como funciona a operação de Garantia da Lei e da Ordem. (last modification: 05/25/17, 5:30 p.m.). Available at: <http://www2.planalto.gov.br/acompanhe-planalto/noticias/2017/05/entenda-como-funcionaa-operacao-de-garantia-da-lei-e-da-ordem>. Access on: Oct. 11, 2017.

⁵⁴ FLOWERS, Mario Cesar. Lógica Militar. Estadão. (October 9, 2016). Available at: <http://opiniao.estadao.com.br/noticias/geral,logica-militar,10000081045>. Access on: Sep. 11, 2017.

they serve, not only compromising the enhancement of their functional practice, but requiring from those who remain there additional efforts in the accumulation tasks to maintain the smooth running of the work. Both sides lose: those employed in an activity other than the one they have chosen to perform (to perform the police's job) and for which they have been prepared and trained suffer, as well as those who are forced to perform their own activities and those left by military personnel employed at GLO. In the long run, this scenario may give rise to demotivation among the military of the Armed Forces.

There was also a fourth problem – of legal and military helplessness – recently corrected by Law No. 13.491/2017⁵⁵. Said legislation amends Article 9 of the Military Criminal Code and confers on the Military Justice the power to prosecute malicious crimes committed by military personnel against civilians, in the context of specific military operations (among them, GLO operations, according to art. 9º, §2º, III, CPM). Until then, there was no peaceful jurisprudence regarding the nature of such crimes, despite the fact that §7th of Article 15 of Complementary Law 97/99 is clear in the sense that the action of the military of the Armed Forces in operations to guarantee law and order is considered military activity for the purposes of jurisdiction of the Military Justice. In addition, Publication MD33-M-10 (Ministry of Defense publication regulating GLO operations) also had the same logic⁵⁶, defining GLO as a military operation. However, the Federal Supreme Court had two-way rulings: recognizing the competence of military justice at one time, and denying it at another, on the grounds that when performing public security activities, the military of the Armed Forces would not be performing military activity. The newly sanctioned legislation puts an end to the discussion, reinforcing the effectiveness of existing rules dealing with the subject.

In other words, Law No. 13.491/2017 shifts the competence to prosecute and judge intentional crimes committed by military personnel against civilians, in the context of specific military operations, from the Common Justice to the Military Justice, as understood by the legislator, in the

⁵⁵ BRASIL. Lei nº 13.491/2017, de 13 de outubro de 2017. Diário Oficial da União [D.O.U.] de 16. 10 .2017.

⁵⁶ “3.4 Legal and Judicial Assistance [...] With regard to legal contestations or representations arising from Op GLOs, the AF and its members should seek assistance from the AGU in accordance with applicable law. BRASIL. Ministério da Defesa. MD33-M-10 (2013). Available at: http://www.defesa.gov.br/arquivos/File/doutrinamilitar/listadepublicacoesEMD/md33_m_10_glo_1_ed2013.pdf. Access on: Oct. 09, 2017.

case in study, that acts performed by military personnel of the Armed Forces in GLO operations are considered military activity for purposes of application of the Military Penal Code. Despite the controversy surrounding the law, given its recent sanction, it is conceivable that the legislator recognizes the existence of a differentiated object of criminal protection in these hypotheses, which gives rise to the protection of military criminal law.

It follows from this brief analysis that there are several adverse effects arising from the routine employment of military personnel in GLO operations. It is not intended here to exhaust all the negative aspects arising from this misuse, but to provoke the reader's reflection on the issue.

POSSIBLE SOLUTIONS

A. THE NEED FOR A "PARADIGMATIC REVOLUTION"⁵⁷ IN THE BRAZILIAN MIND

Brazilian society must go through a process of mental revolution in order to change the current paradigm — intensified by Constitutional Amendment 95/2016 — regarding the mistaken hierarchization of the country's needs according to sectors, as if the priority given to a given project in one Sector excluded those of others. Several sectors in Brazil lack efficient public policies, but that does not mean that one should be prioritized over the other. Just as areas such as Health and Education require improvement, Defense needs investments that will enable it to continue its mission. Moreover, the lengthy digression dispenses with the realization that there are several more efficient ways for the Union to reorganize its budget, other than merely redirecting funds from one sector to another.

It is essential that citizens are alert to the risks related to the unpreparedness of the Armed Forces. The Armed Forces are, in popular language, "the last resort". The population should be considered as to the importance of making this last resource, if necessary, effective. As mentioned in the National Defense Strategy, "[the] basis of national defense is the identification of the Nation with the Armed Forces and the Armed Forces with the Nation. Such identification requires the nation to

⁵⁷ Analogy to the concept of scientific revolution, developed by Thomas Kuhn, as a way of overcoming an old scientific paradigm before the emergence of a new one. KUHN, Thomas. *A estrutura das revoluções científicas*. V. 115 da Coleção Debates: Ciência. 9^a Ed. São Paulo: Perspectiva, 1997. 260p.

understand that the causes of development and defense are inseparable.⁵⁸

It is important to notice the cataloging, by the White Book on National Defense, of citizens' awareness as one of its objectives: "VIII. make Brazilian society aware of the importance of the country's defense affairs"⁵⁹. The same logic is expressed in the National Defense Strategy: "It is not evident for a country that has had little deal with wars, to be convinced of the need to defend itself in order to build itself [...]. The resources demanded by the defense demand a transformation of consciences, so that it constitutes a defense strategy for Brazil"⁶⁰.

The Brazilian Navy has already developed a program known by the acronym PROMAR, which is a program designed to develop a maritime mentality among the population. It is aimed at

stimulating, through planned, objective and continuous actions, the development of a maritime mentality in the Brazilian population, in line with national interests and aimed at a greater knowledge of the sea and its resources, its importance to Brazil, the responsibility of its rational and sustainable exploitation and awareness of the need to preserve it.⁶¹

The proposal offered in this article, however, would be to emphasize the development of a mindset that pays attention to the importance of investment in defense, including in peaceful nations, especially in order to preserve this state of peace — in the case of the navy, by protecting waters against new and traditional threats. This view is in line with what is stated in the White Book on National Defense: "It is essential that society realizes that defense spending should be seen as an indispensable investment for socioeconomic development, protection of natural resources and guarantee of national sovereignty⁶²."

⁵⁸ BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.107. Available at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Sep. 12, 2017.

⁵⁹ BRASIL. Livro Branco de Defesa Nacional (2012), p.27. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf>. Access on: Sep. 16, 2017.

⁶⁰ BRASIL. Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p.43. Available at <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>. Access on: Sep. 12, 2017.

⁶¹ BRASIL. Marinha do Brasil. Programa de Mentalidade Marítima. Secretaria da Comissão Interministerial para os Recursos do Mar. Available at: <https://www.mar.mil.br/secirm/portugues/promar.html>. Access on: Oct. 11, 2017.

⁶² BRASIL. Livro Branco de Defesa Nacional (2012), p.235. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/END-PND_Optimized.pdf>.

This scenario proposes the dissemination of a mentality — in the midst of society — aware of the risks to which an ineffective Force is exposed and its reflexes to the nation (while emphasizing the importance of deterrence) in order to garner popular support for better defense investments, strengthening ties between the military and the civilian population by developing situational awareness.

A practical solution would be for the Armed Forces to focus on transparency and publicity with regard to intelligence on the Forces, and further publicize actions to prevent and repress threats that are often carried out by their military, which are often completely ignored by the public. Such disclosure would also help in understanding the current defense budget situation, thereby avoiding ignorance of the current landscape of the capabilities of the Navy versus the considerable challenge imposed on it.

B. GOVERNMENT'S NEED TO PRACTICE WHAT IS WRITTEN

The proper functioning of the Defense sector, in turn, requires adequate budgetary resources as well as efficient management⁶³.

As exhaustively shown, several rules point to the need for defense investments, if Brazil intends to act as a protagonist in the international scenario. The extension of its territory plus the abundance of natural resources cannot, by itself, project the country internationally, if there are no means capable of protecting such resources. If Brazil wants to be prepared to face threats that may arise, this is the time to invest in Defense. Reaction is not the best option; Proactivity is indispensable to eliminate risk. Everything is already written and it is necessary to put it into practice.

Therefore, the following priorities should be considered: investment in the refit of the Navy; the proper use of its military in its core activities (making GLO operations effectively episodic and exceptional situations) in order to preserve the continuing qualification of its personnel

gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 19, 2017.

⁶³ BRASIL. Livro Branco de Defesa Nacional (2012), p.221. Available at: <http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf. Access on: Sep. 17, 2017.

and the smooth operation of the force⁶⁴; and, above all, the development of an “Industrial Defense Base” — in order to enable the technical autonomy of the Defense in Brazil, to promote its independence — something that Brazil currently does not have (as is the case, for example, with satellites and weapons systems) — emphasizing the importance of having the ability to develop their own technologies rather than continuing to purchase foreign products. Such a requirement is intrinsically related to the preparation of the Armed Forces.

CONCLUSION

In view of the above, there are many challenges faced by the Brazilian Navy in preserving national security. Conventional and unconventional threats require logistics and training in order to be ready to face diverse contexts. Currently, however, one of the main challenges, not only for the Navy, but for the three Forces — due to the country's economic scenario — concerns the budget, which affects the development of new technologies and the proper maintenance of the means.

Should investments in the Defense Sector continue to decline, the country may be unable to face the next threat to national security in a timely and appropriate manner when it arises. Brazilian citizens should become familiar with this scenario (with media playing a vital role in this process of awareness).

Gaining sufficient popular support from this awareness will allow for support in the demand for better investment in the Armed Forces. In this sense, a transformation in the mentality of the population must take place in order to understand that peaceful nations also need to maintain continuous investments in defense if they wish to maintain this condition.

Routine employment of military personnel in public security activities should be carefully reconsidered. What the legislature envisioned as an exception cannot become the rule. A country that needs to distort its conception of the Armed Forces to admit its continued use in situations of police competence demonstrates not only disorganization but the failure

⁶⁴ Problems that give rise to GLO operations should be thoroughly studied so that they are addressed in their essence, rather than continuing to use the Armed Forces as a “continuous-use medicine”. Public policies affecting those commonly forgotten by the state, as well as the adoption of harsher punishments for those who insist on defying law and order, may be some of the solutions that demand an analysis of the Constituted Powers, with a view to reducing violence.

of its internal order-preserving mechanisms. This situation is, therefore, not only detrimental to Brazil's external image but to the Armed Forces themselves.

A well-structured nation must be able to recognize its weaknesses and develop strategies to minimize them quickly and effectively. It must also be able to correct its deficiencies rather than postpone them — until it is too late.

REFERENCES

BALBINO, Fernanda. Corte no orçamento prejudica projetos da Marinha do Brasil. Poder Naval. (4 de Novembro de 2015). Disponível em: <<http://www.naval.com.br/blog/2015/11/04/corte-no-orcamento-prejudica-projetos-da-marinha-do-brasil/>>.

BRASIL. Constituição (1988). Constituição da República Federativa do Brasil, art. 142. Disponível em .

_____. Decreto de 17 de Janeiro de 2017. Diário Oficial da União [D.O.U.] 18.1.2017. Disponível em: <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=1&pagina=1&data=18/01/2017>.

_____. Lei Complementar nº 97, de 9 de junho de 1999, art. 14, Diário Oficial da União [D.O.U.] de 10.6.1999.

_____. Lei nº 13.491/2017, de 13 de outubro de 2017. Diário Oficial da União [D.O.U.] de 16.10.2017.

_____. Livro Branco de Defesa Nacional (2012), p.221. Disponível em: http://www.defesa.gov.br/arquivos/estado_e_defesa/livro_branco/lbdn_2013_ing_net.pdf.

_____. Marinha do Brasil. Amazônia Azul. Disponível em .

_____. Marinha do Brasil. Doutrina Militar Naval (EMA-305), Capítulo 1, item 1.3. Rev.2, 13 set. 2017.

_____. Marinha do Brasil. Missão e visão de futuro da Marinha. Disponível em: <<https://www.marinha.mil.br/content/missao-e-visao-de-futuro-da-marinha>>.

_____. Marinha do Brasil. Plano Estratégico da Marinha (EMA-300), Capítulo 2, item 2.2.2. Rev. 3, 22 jun. 2017.

_____. BRASIL. Marinha do Brasil. Programa de Mentalidade Marítima. Secretaria da Comissão Interministerial para os Recursos do Mar. Disponível em: <https://www.mar.mil.br/secirm/portugues/promar.html>.

_____. Ministério da Defesa. Atuação das Forças Armadas na Garantia da Lei e da Ordem. Universidade da Amazônia - VIII Curso de Extensão em Defesa Nacional. Disponível em: <<http://www.defesa>.

gov.br/arquivos/ensino_e_pesquisa/defesa_academia/cedn/viii_cedn/ffaagloviiiicedn.pdf>.

_____.Ministério da Defesa. MD33-M-10 (2013). Disponível em: <http://www.defesa.gov.br/arquivos/File/doutrinamilitar/listadepublicacoesEMD/md33_m_10_glo_1_ed2013.pdf>.

_____.Ministério do Planejamento, Orçamento e Gestão. Atlas da Violência 2016. Instituto de Pesquisa Econômica Aplicada. (Março de 2016). Disponível em: <http://www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/160322_nt_17_atlas_da_violencia_2016_finalizado.pdf>.

_____. Planalto. Presidência da República. Entenda como funciona a operação de Garantia da Lei e da Ordem. (última modificação: 25/05/2017, 17h30). Disponível em: <<http://www2.planalto.gov.br/acompanhe-planalto/noticias/2017/05/entenda-como-funciona-a-operacao-de-garantia-da-lei-e-da-ordem>>.

_____.Política Nacional de Defesa & Estratégia Nacional de Defesa, 2012, p. 7. Disponível em .

CIA. The World Factbook 2013-14. Washington, DC: Central Intelligence Agency, 2013.

FLORES, Mario Cesar. Lógica Militar. Estadão. (9 de Outubro de 2016). Disponível em: <<http://opinio.estado.com.br/noticias/geral,logica-militar,10000081045>>.

GLOBAL Rates. Tabelas - IPC Brasil actuais e histórico. Histórico de números de inflação. Disponível em: <<http://pt.global-rates.com/estatisticas-economicas/inflacao/indice-de-precos-ao-consumidor/ipc/brasil.aspx>>.

KUHN, Thomas. A estrutura das revoluções científicas. V. 115 da Coleção Debates: Ciência. 9ª Ed. São Paulo: Perspectiva, 1997. 260p.

MAGALHÃES, Marcos. Forças Armadas são ‘duplamente atingidas’ por cortes orçamentários, adverte Aldo Rebelo. Agência Senado. (última modificação 7 de Abril de 2016, 17h39). Disponível em: <<http://www12.senado.leg.br/noticias/materias/2016/04/07/forcas-armadas-sao-duplamente-atingidas-por-cortes-orcamentarios-adverte-aldo-rebelo>>.

ROTH, Ronaldo João. O crime organizado e a conexão com o crime militar: estruturas e estratégias. Crime Organizado. São Paulo: Saraiva, 2012. p. 441-461.

SILVA, Antonio Ruy de Almeida. "As novas ameaças" e a Marinha do Brasil. Disponível em: <https://www.egn.mar.mil.br/arquivos/cepe/marinhaNovasAmeacas.pdf>.

STOCHERO, Tathiane. Sucateado, Exército não teria como responder a guerra, dizem generais. G1. (última modificação em 21 de Agosto de 2012, 15h49). Disponível em: <http://g1.globo.com/brasil/noticia/2012/08/sucateado-exercito-nao-teria-como-responder-guerra-dizem-generais.html>.

Stockholm International Peace Research Institute (SIPRI 2017). Military expenditure by country as percentage of gross domestic product, 2003-2016. Disponível em: <https://www.sipri.org/sites/default/files/Milex-share-of-GDP.pdf>.

_____. Military expenditure by country, in constant (2015) US\$ m., 2007-2016. Disponível em: <https://www.sipri.org/sites/default/files/Milex-constant-2015-USD.pdf>.

VIDIGAL, Armando Amorim Ferreira. Consequências Estratégicas para uma Marinha de Águas Marrons. Revista da Escola de Guerra Naval. Rio de Janeiro, n. 16. 2010. p. 13.

World Bank Group. Gross Domestic Product 2016. Disponível em: <http://databank.worldbank.org/data/download/GDP.pdf>.