

FIGHTING TERRORISM WHILE PROMOTING DEMOCRACY: COMPETING PRIORITIES IN U.S. DEFENSE POLICY TOWARD LATIN AMERICA

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INTRODUCTION

The argument that Latin American militaries remain important political players is undisputed. Even as civilian governments replaced military dictatorships throughout the 1980s and the end of the Cold War removed the overt threat of communism, the armed forces in most countries retained significant political roles and influence. The United States gradually responded to the process of democratization in the 1990s by creating, among other things, programs intended to increase civilian expertise in defense issues and promote civil-military dialogue. The attacks of September 11, 2001, however, immediately brought security back into the spotlight, as fighting terrorism became the central defense priority for the United States. By examining the executive, legislative, and judicial branches of Latin American governments, the ways in which U.S. defense policy affects the already slow process of democratizing civil-military relations will be made clear. In short, the policy emphasis on encouraging Latin American militaries to participate in the “war on terror” has a negative effect on the democratization of defense institutions.

There has been considerable analysis of the negative effects of U.S. defense policies on civil-military relations in Latin America. Over forty years ago, one of the pioneering works on that topic made an argument that, in a variety of forms, has been repeated many times (though, unfortunately, not often incorporated into U.S. policy): “a reduction of the current emphasis upon military considerations and programs can be particularly helpful to our long-range security interests if it contributes, as it should, to a decline in of militarism in Latin America.”¹ Of central concern is U.S. encouragement of expansive roles for the armed forces, especially in internal security, which undermines democratic rule of law and, in the past, has at times been a precursor to military coups d’etat and repression.

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Many instructors and scholars involved in training and education programs for Latin American militaries respond that U.S. engagement with and training of Latin American soldiers has a positive impact both on democratization and protection of human rights, even when teaching counterinsurgency, urban warfare, psychological operations, and other skills aimed at internal enemies. From that perspective, U.S. defense policy was central to *curbing* human rights abuses in Central America during the 1980s through its training, increasing Latin American exposure to democracy in the United States, and creating a cadre of educated officers who may even become “civil-military visionaries” when they return home by virtue of what they have learned.² Such arguments rest on the assumption that U.S. defense policy simply suffers from bad public relations due to overzealous critics. Very little, however, has been written about how U.S. defense policy can affect the long-term struggle to strengthen civil-military institutions more specifically.

With regard to U.S. policy, we must begin with two questions. First, what are the stated goals of defense policy toward Latin America, as articulated by public statements and documents? Second, how compatible are these goals—and their associated strategies—with the Latin American effort to democratize the institutions most related to civil-military relations? Of course, U.S. policies are neither omnipotent nor omnipresent. However, the ability of the United States to provide training, technology, weapons, intelligence capabilities, as well as to send signals of approval, means that it must be acknowledged.

The emphasis on terrorism therefore must also be taken into account. In general, U.S. policy makers frame anti-terrorism as positive for democracy, just as fighting communism was during the Cold War. However, this article posits that the militarized nature of those efforts has a negative effect on all Latin American civil-military institutions, which are currently seeking to overcome many years of persistent belief within the armed forces that civilian politicians are inherently incapable.³ Militarization poses an obstacle to democracy, and U.S. policy after September 11, 2001 has veered toward the former. As such, the stated policy goal of democratization in the area of defense is being undermined.

UNITED STATES DEFENSE POLICY: CONFLICTING GOALS?

The first Defense Ministerial in Williamsburg, Virginia produced the 1995 *United States Regional Security Report of the Americas*. Responding to the spread of civilian rule in Latin America, the “Williamsburg Principles” included a commitment to democracy while acknowledging the role of the armed forces in preserving sovereignty, subordination of the military to

democratic authority, transparency in defense issues, peaceful dispute resolution, participation in UN-sanctioned peacekeeping operations, and a supportive role in the fight against narcotrafficking.⁴ Subsequent ministerial meetings reiterated these points, at least until September 11, 2001.

Although the United States has mouthed the word “democracy” for well over a century, the new foreign policy objective of democratizing institutions related to defense and civil-military relations represented a potentially substantive change in direction. For the first time, U.S. policy makers were starting to address the dilemma of how to foster civil-military harmony in daily interactions that take place within defense establishments, whereas in the past military intervention was generally viewed as the norm, an unavoidable aspect of the tumult of Latin American politics. Whatever positive shift had occurred, however, was soon undercut.

It should be noted that the United States has not simply been working unilaterally in its “war on terror.” The Organization of American States moved quickly to support U.S. efforts at fighting terrorism. On September 21, 2001 a meeting of the Ministers of Foreign Affairs of member states passed a resolution condemning the attacks and called on member states to “take effective measures” against terrorists, while also emphasizing the need to protect human rights, democracy and civil liberties.⁵ The mechanisms for addressing the threat of terrorism already existed, such as the Inter-American Committee Against Terrorism, established in 1999.

That committee met several times in 2001 and 2002, culminating in the adoption of the OAS Convention Against Terrorism in 2003, the purpose of which was to “prevent, punish, and eliminate terrorism.” It outlined the ways that states could cooperate in sharing information, freezing assets, denying asylum, transferring suspects, tightening borders, and prosecuting money laundering.⁶ As a consequence, in principle Latin American countries (with the obvious exception of Cuba) have agreed with the United States that fighting terrorism is a legitimate and necessary policy. Yet within the OAS there is very little discussion about how prominent a role should be played by the militaries of the region, and the OAS is rarely mentioned by U.S. military leaders when discussing U.S.-Latin American military relations.⁷

MILITARIZING POLICY: THE WAR ON TERROR

Until September 11, 2001, for U.S. policy makers “terrorism” in the western hemisphere referred primarily to drug traffickers in the Andean region and the relatively few remaining cells of anti-imperialist and/or Marxist groups such as the Shining Path in Peru or the FARC and ELN in Colombia. Since the

attacks on the United States, the focus has expanded considerably. For the United States, the list of terrorist activity soon comprised a broad gamut of activities by organizations with wide ranging agendas. Aside from outright attacks (e.g. kidnapping, murder, destruction of property), these activities include money laundering, drug trafficking, arms trafficking, illegal immigration, counterfeiting, and state-sponsored terrorism (referring to Cuba).

As Table 1 demonstrates, the United States has identified terrorist threats in every Latin American country, and although drug trafficking has remained the most prominent threat since the 1980s, the issue of Middle Eastern terrorist cells is rapidly becoming more salient for the U.S. In particular, General James T. Hill, the Commander in Chief of the United States Southern Command (until his retirement in 2004, when he was replaced by General Bantz J. Craddock, who has taken a similarly active role), argued in 2003 that on the Venezuelan Margarita Island money laundering, arms deals, and drug trafficking were occurring and funding Hamas, Hezbollah, and Islamiyya al Gammat, and he noted suspicious activity by Venezuela's Arab population.⁸ This perception of an all-encompassing menace increases the likelihood that a militarized response will be a priority for the United States beyond the already problematic Andean ridge. Such a response has gradually increased, with initial signs also coming from the southern cone of South America.

The identification of terrorist threats has been accompanied by calls by the United States—through both civilian and military channels—for Latin America to become more involved in what the U.S. has framed as a global war on terrorism. The proposed solutions to the problem of terrorism are framed almost exclusively in terms of military action. Specifically, the U.S. emphasis is on intelligence sharing, border control, law enforcement, and freezing of assets. In Latin America, the first three have, with some variation, traditionally involved a significant military presence.

The 2002 National Security Strategy of the United States outlined the manner in which alliances would serve to combat terrorist threats:

We will continue to encourage our regional partners to take up a coordinated effort that isolates the terrorists. Once the regional campaign localizes the threat to a particular state, we will help ensure the state has the military, law enforcement, political and financial tools necessary to finish the task.⁹

Table 1 – U.S.- Identified Terrorist Threats in Latin America, 2001-2005

Country	Threat
Argentina	Middle Eastern terrorist cells (tri-border area)
Bolivia	Drug trafficking
Brazil	Middle Eastern terrorist cells (tri-border area)
Chile	Drug trafficking; money laundering for Hezbollah
Colombia	Drug trafficking; FARC (including ties to the IRA and ETA), ELN, AUC; kidnapping; Hezbollah cells
Costa Rica	Drug trafficking
Cuba	Drug trafficking; "state sponsored" terrorist nation (primarily for harboring terrorist fugitives)
Dom Rep	Drug trafficking, illegal immigration (from Haiti to the U.S.)
Ecuador	Drug trafficking; kidnapping; weapons transshipments; Middle Eastern terrorist cells
El Salvador	Drug trafficking
Guatemala	Drug trafficking, illegal immigration
Honduras	Drug trafficking, money laundering, illegal immigration
Mexico	Drug trafficking; kidnapping; illegal immigration
Nicaragua	Drug trafficking, illegal immigration
Panama	Drug trafficking; Hezbollah cells
Paraguay	Middle Eastern terrorist cells (tri-border area)
Peru	Drug trafficking; Shining Path guerrillas
Uruguay	Middle Eastern terrorist cells (especially Brazilian border)
Venezuela	Attacks on oil pipelines; links to FARC and ELN; Middle Eastern terrorist cells

Table Constructed From the Following Sources: "The Western Hemisphere's Response to the September 11, 2001 Terrorist Attack on the United States." Hearing before the Subcommittee on the Western Hemisphere, Committee on International Relations, 107th Congress, 1st Session, Serial No. 107-43; "Patterns of Global Terrorism 2003," United States Department of State, Office of Counterterrorism (April 29, 2004); United States Department of State, Bureau of Western Hemisphere Affairs, *Country Information*, <http://www.state.gov/p/wha/> (last accessed May 27, 2005)

With regard to Latin America, the document remained vague, referring to Colombia and the problem of "regional conflict," but the references to "defeating" terrorism and armed groups, "defending" democracy, and an "active" strategy were primarily military in nature.

The fifth and sixth Conferences of Ministers of Defense of the Americas, held in 2002 and 2004, also reinforced the emphasis on terrorism. By that time, the United States was initiating plans to increase military funding to Latin America, bolster intelligence capabilities, and generally to utilize the armed forces of the region to protect "ungoverned spaces," referring to remote areas, jungles, borders, and even cyberspace.¹⁰

At the 2002 meetings, U.S. Secretary of Defense Donald Rumsfeld stated that the United States offered two initiatives. The first was strengthening

Latin American navies while simultaneously improving systems for intelligence sharing, and the second was to strengthen regional peacekeeping cooperation capabilities.¹¹ Coordination between security forces of different countries remained a U.S. priority for the 2004 meetings, as the only way to close the "seams" in hemispheric security.¹²

Explaining some of the skepticism in Latin America is the fact that the final declaration in 2004 did not mention intelligence, "ungoverned spaces," or "seams," and couched all references to coordination in terms of transparency, although there are phrases such as "new type of risk factor" and "multidimensional threats."¹³ Further, reactions within Latin America have not been uniform. Central American militaries have been very receptive, while there is more variation in South America, with the most military support in Bolivia, Chile, Colombia, Paraguay, Peru, and Uruguay, and less in Argentina, Brazil, Ecuador, and Venezuela. There has, however, been a widely positive response (among both officers and civilians) to the sharing of intelligence between militaries of different countries.

The U.S. portrays its proposed anti-terrorist policies as harmonious with democratization. The reasoning is simple. Democracy can thrive only when the state is not threatened by violence, and if such violent groups do exist, then democracy will suffer if they are not eliminated. As the Acting Assistant Secretary of State for Western Hemisphere Affairs stated, "Without security, you cannot have economic development, you cannot have good governance, and you cannot have political progress if people are afraid."¹⁴ And, of course, fighting terrorism in Latin America (or anywhere) is also beneficial to U.S. security. In these rationale we find a strong echo of the arguments made by U.S. policy makers during the Cold War, who believed that instability—caused in large part by communist security threats—was a threat to the United States, and that Latin American democracy would be embattled until those security threats were eliminated by military force.¹⁵

For example, the Bush administration sought to increase military funding for Colombia, which meant an explicit change of policy that in the past had allowed military aid for fighting drug traffickers but not guerrillas. The administration argued that both were terrorist groups and therefore no distinction should be made between them. Although this announcement did not change the situation on the ground significantly (since the line had always been blurred) it did mark a new and public commitment to funding the fight on both fronts. Military and police aid to Colombia rose from \$225 million in 2001, to \$372 million in 2002, and up to \$605 million in 2003, where it has since remained steady.¹⁶

Increasingly, however, the military emphasis has been applied to the rest of the region as well. For example, in October 2002, General Hill traveled to South America to emphasize the regional nature of terrorist threats, and

specifically to suggest that the armed forces of Argentina, Brazil, and Uruguay should play a role. Immediately upon his departure, the commander in chief of the Uruguayan army announced that the army was preparing to combat terrorism by creating rapid response teams in every unit and to increase security in places such as airports and bus stations where explosives could potentially be transported.¹⁷ The government, which had not been previously notified of the new measures, was forced to respond, with the Minister of Defense denying that any terrorist threat existed in the country.¹⁸ Ultimately, the army's new elite anti-terrorist force would purchase new equipment for its training.¹⁹ General Hill traveled on a constant basis to Latin America, with 78 trips between August 2002 and July 2004, meeting with officers and civilian defense officials, emphasizing the importance of using Latin American militaries to address "ungoverned spaces," at a time when visits by civilian administration officials have been more limited.²⁰ An examination of defense institutions demonstrates the effects of this policy shift.

EXECUTIVE BRANCH

Within the executive branch, the Ministry of Defense is the institution where the majority of civil-military interaction takes place. Based on directives from the president, it defines the role of the armed forces, literally on a daily basis. The ministry structures the power relationships between civilians and the military, serves as the primary medium for the division of tasks and responsibilities, and attempts to maximize the effectiveness of the employment of the military as well as the use of resources.²¹ Nonetheless, only very slowly are scholars beginning to address the role of the defense ministry in a democracy and, in fact, there is debate about whether an effective ministry is necessary for democratic civil-military relations to flourish.

For example, Pion-Berlin asserts that in Argentina, the Ministry of Defense has utterly failed to fulfill its institutional obligations, but the Ministry of Economics, Works, and Public Services (with its authority over budgets) and the Ministry of Foreign Relations (which, through international agreements, has changed the military's perceptions of threats) have filled the institutional void.²² As a result, the Defense Ministry's weakness has not damaged efforts toward civilian supremacy over the armed forces. The importance of promoting democratic civil-military institutions for democratic civil-military relations is therefore taking center stage, both in academia and among policy makers. In particular, can democracy and civilian supremacy over the armed forces be advanced even when defense institutions are weak?

In that regard, Pion-Berlin challenges conventional wisdom. As he notes, Samuel Huntington referred to "ministerial control" as a central element

for democratic civil-military relations, and “[g]enerations of scholars since have echoed his concerns.”²³ In his “unified theory” of civil-military relations, Bland argues the following:

[T]he examination of ministries of defense can provide an indirect view of national civil-military relations, and this indirect perspective might be the only reliable way to assess the actual functioning of relations and to gauge the degree of collaboration and conflict between military and civilian leaders.²⁴

That sentiment is echoed in other general theoretical treatments of civil-military relations, and remains convincing. Defense ministries represent the most important element in “defense establishments,” since in their halls the vast majority of daily civil-military interactions take place. Ministers are charged with the task of conveying back and forth the concerns, ideas, and suggestions of the civilian and military leadership on the entire range of issues that affect the military, from budgets and international threats, to internal threats, military training, education, and economic development projects. Even though defense ministries are weak in Latin America, they are a prime avenue for civil-military interaction, and reforming them has been a high priority for civilian policy makers in the post-Cold War period.

This assessment has ample empirical evidence in Latin America. Certainly, the political role of the military (whether “behind the scenes” or more overt) is never due to a single factor, but weak defense ministries have often contributed to civil-military crisis. In general, these ministries have fallen into two categories: civilian-led but weak, or military-dominated. A militarized policy toward terrorism will lead to the latter, since decisions will be made more by senior officers, and an emphasis on secrecy will widen the civil-military gap.

The mere fact of having a civilian as minister does not make the ministry itself a relevant political institution.²⁵ In Argentina before 1976, both civilians and officers viewed the ministry as irrelevant; therefore it played no role in mediating (or helping to prevent) the civil-military crises between 1983 and 1990. The Uruguayan ministry is similarly irrelevant, as the military often ignores the ministers, who have boasted no prior defense experience. In Chile between 1932 and 1973, a period that many analysts have labeled “democratic,” civilian presidents allowed the military leadership to make essential decisions with minimal ministerial oversight. That lack of direction meant that by 1973, civilian policy makers were unaware of the doctrinal directions the military had been taking. In Brazil, the absence of a ministry of defense until 1998 made civilian control even more challenging until military

reticence over the very existence of a ministry was finally overcome. The same was true of Peru, where a ministry was formed in 1987 but has been largely army-dominated.

In Ecuador, Guatemala, Mexico and Nicaragua military dominance of the ministry (including a general as minister) has made it a bastion of military influence as opposed to a vehicle for civilian control. Between 1958 and 1990, the Colombian armed forces chose the minister from among their own, a situation that changed only in 1991 as a result of constitutional reform. Like their Brazilian counterparts, Colombian officials have been struggling to establish a strong chain of command through the ministry. All over the region, there are variations on these same themes.

Consequently, any discussion of institutional effectiveness and defense democratization must take into account the strength of the defense ministry. In Latin America, the military leadership has generally dominated the ministry. For years, civilians left military matters alone, so few had the knowledge necessary to work well with senior officers. Ministerial staffs have therefore been small and under-funded, and so they have leaned heavily on military officers to advise them. The military believed, correctly, that civilians were not capable of developing budgets, connecting military doctrine to specific policy goals, or performing the myriad other technical issues that defense ministries face. So the ministries remained politically hobbled and hollow. Renewing the military's role in facing putative terrorist threats will not serve to strengthen the ability of civilian staff to more closely direct military actions.

There are several programs in the United States intended to provide education and training to Latin American civilians and officers in areas where civilians in particular have traditionally been weak, such as defense budgeting, defense policy planning, and defense ministry management.²⁶ From the civilian standpoint, such programs would increase the number of trained civilians necessary to effectively staff ministries and to gradually change the military's perception that civilians are inept.

The primary locations for these programs are the Center for Hemispheric Defense Studies (CHDS) in Washington, DC, created in 1997; the Western Hemisphere Institute for Security Cooperation (WHINSEC) at Fort Benning, Georgia, created in 2001 (formerly called the United States Army School of the Americas); and the Inter-American Air Force Academy, originally established in 1943 and located in the Panama Canal Zone until moved to the United States in 1989. In addition, the Inter-American Defense College was created in 1962 to promote regional security. Under the auspices of the Organization of American States, its emphasis is more on international military relations, for senior officers. Finally, the Naval Postgraduate School

offers postgraduate degrees (e.g. in International Security and Civil-Military Relations) to international students, though not focusing exclusively on Latin America.

The first two schools are geared most specifically to bringing civilians and officers into the same classrooms. The CHDS emerged directly out of the second defense ministerial meetings. It focuses on officers at the Lieutenant Colonel rank and above, has no operational component, and is intended primarily to address the issue of weak defense institutions in the hemisphere. Its mission is "to develop academic programs for educating primarily civilians in defense and security planning and management; to familiarize civilians with the military profession and military affairs; and for studying the defense policy-making process in general."²⁷ By bringing civilians together with officers (in some cases for the first time) and then offering courses on the nuts and bolts of the formulation of national defense policies, the program's intent is to foster the hitherto missing element of civil-military trust and mutual respect.

Meanwhile, WHINSEC's origins are better known, since its predecessor was the United States Army School of the Americas. In the National Defense Authorization Act for fiscal year 2001, the School of the Americas officially disappeared and the Institute was created. Despite the change of name, the location, faculty, and many of the classroom readings remain the same.²⁸ There is, however, greater attention paid to human rights, which have become a component of every course at the institute. Courses intended for civilians include Civil-Military Operations, Democratic Sustainment, and Departmental Resource Management.²⁹

Although some U.S. programs may bear some fruit in the future in terms of civilian expertise, if anti-terrorist policies remain militarized, the effectiveness of the ministries will suffer. The anti-terrorist policy priority will tend to edge out the competing priority of strengthening civil-military institutions. This is not to argue that U.S. policy will make or break ministries, but rather that it can serve either to facilitate civilian initiatives or it can send a message to the armed forces (and their civilian allies) that fighting terrorism is a higher priority. Civilians are already struggling to establish their authority, and placing more power over anti-terrorist missions in the hands of the military will stall or reverse those efforts, as will the secrecy involved with military intelligence gathering.

LEGISLATIVE BRANCH

There is no body of literature outlining the role of the legislature in Latin American civil-military relations, although it is commonly noted anecdotally. A recent example is Ruhl's analysis of Guatemala, in which he notes the problems of secrecy rules, lack of civilian expertise, and general

inability to obtain information about military activities.³⁰ Across the region, it is clear that legislatures' participation in the area of defense has been minimal. The region's long history of strong presidential government, combined with periods of dictatorial rule, has left legislators unused to and in some cases unable to assert themselves. In a number of countries Congress has limited scope to make decisions on military budgets and procurement, thus making it easy for both the executive branch and the military leadership to ignore congressional concerns.

For example, in both Argentina and Chile, Congress can only vote yes or no on the budget as a whole without the power of amendment. In Peru, members of Congress have more budgetary control but by law the budget itself is classified and therefore not open to public scrutiny. Throughout much of Central America, even though military budgets have been cut in the past decade, congressional leaders have generally been pressured to accept the budget as prepared by the executive branch and so public debate is often limited.³¹ Even in Brazil, where the 1988 constitution granted Congress greater amendment power over military budgets, there has been virtually no oversight of military intelligence and many pet projects have been retained, to the point that one recent analysis concludes that intelligence agencies represent "the persistence of some degree of military authoritarianism."³² This, of course, will be a serious problem in terms of anti-terror policy.

These circumstances have also led to the same dilemma as with the ministries of defense, namely there is often no permanent staff with extensive knowledge of defense issues. Therefore, even when legislators have the constitutional capacity to play a role in defense, they are compelled to rely heavily on military testimony when making decisions.

An important aspect of long-term trust and predictability revolves around strengthening those institutions that make binding decisions about defense and military policy. Even when budgetary powers are restricted, the military needs to view Congress as a legitimate political actor, and to work with members of Congress to forge consensus about strategic goals. Measuring Congress' effectiveness involves determining its influence over the formulation of military budgets, the ability of congressional committees to bring defense legislation to the floor, and the degree to which legislators have access to civilian expertise. These are all weak in Latin America.

As part of the 2000 National Security Strategy, the U.S. Department of Defense laid out the goals of effective legislative oversight and transparency of budgets as well as the need to increase civilian expertise in that area. The CHDS was a part of that effort, especially in terms of offering courses on military budgeting. Roughly half of those accepted into the CHDS fellowship program are government civilians. For the most part, however, they do not

reflect congressional staff, but rather ministerial officials.

An emphasis on intelligence, however, ignores the problematic history of intelligence agencies, which have been shrouded in both secrecy and infamy. Any U.S. policy calling for increased intelligence work will not be contributing either to oversight or transparency. Efforts at increasing civilian control over intelligence have run into military resistance, and have usually resulted in continued military autonomy over its own intelligence services, with scant civilian oversight and laws that preclude a strong congressional role.³³ In Chile, for example, a new intelligence agency created in 2004 reinforced extensive military control over spying, a move lauded by the armed forces as effective for fighting terrorism.³⁴ By 2004, the Uruguayan Ministry of the Interior had also developed initial plans to create an intelligence agency, though its details have yet to be elaborated. In 2005, the Paraguayan president announced plans for a National Security Secretariat, to increase internal surveillance, and new legislation to utilize the armed forces for internal security.³⁵ In Central America, high ranking officials from the armies of El Salvador, Honduras, and Guatemala met in 2005 to discuss sharing intelligence, noting that they could not reject the idea that al-Qaeda might be operating in the region.³⁶

The U.S. Southern Command also organized the 2004 "anti-terrorist Olympics" in San Salvador and, in the case of Bolivia, a group of soldiers attended without consulting Congress, which has the constitutional mandate to approve troops leaving the country.³⁷ The Ministry of Defense had not been informed either.

For the most part, the congressional role in Latin America is still nascent, though growing. Policy is forged and negotiations are hammered out largely within the executive branch. Greater militarization, however, has an adverse effect on congressional oversight, especially given the emphasis on secrecy. In particular, most countries have been making strides to rein in independent military intelligence services. Given U.S. defense policy that directly strengthens those services, the congressional role is weakened even further.

JUDICIAL BRANCH

There is a growing literature on judicial reform in Latin America, which emphasizes the need for greater access, efficiency, transparency, and independence.³⁸ For democratic civil-military relations, the most important factor is judicial independence. The judicial branch is the main civilian source of accountability for members of the armed forces who have committed crimes against civilians. At the same time, it provides due process to the accused, thus ensuring that they receive a fair trial and maintaining the military's faith in the system. To serve in that role, judges must be independent from outside

pressure. It is also necessary for those same soldiers to view the courts as fair and impartial. When the process becomes routinized, then the institution can be considered fully effective.

Measuring the effectiveness of the courts is perhaps the most straightforward. In a study of judicial reform in Latin America, William Prillaman argues that independence can be measured by tracking the willingness of courts to rule against the government.³⁹ However, for cases involving members of the military, independence also means ruling against the military leadership. Have soldiers been tried, convicted, and imprisoned for crimes they have committed? Even further, were judges successful in that regard even in the face of military resistance? Especially in the context of countries emerging from authoritarian rule (and even more so when the dictatorship was highly repressive) judges can be harassed, threatened, or even killed, or the civilian government may accept military demands to be left alone, fearing the political (or perhaps even personal) consequences.

With some exceptions, judicial systems in Latin American countries have not been successful in addressing crimes committed by the armed forces (or the police). Even in some countries—such as Guatemala—where judges have periodically been able to overcome military pressure, court cases have been accompanied by violence or the threat of it. The worst records have been in Central America and the Andean region, whereas in the southern cone notable advances have been made. Especially in Colombia, but also in Ecuador and Peru, intimidation means that many cases are never investigated and judges are reluctant to hear them. Amnesties blocked civilian courts to a significant degree in Brazil, Chile, and Uruguay. In both Argentina and (surprisingly) Chile, the process of routinization is further advanced than elsewhere, so that when officers are called to testify there is less civil-military conflict than in the past, but this remains exceptional in the region. At the 2004 defense meetings in Ecuador, the Mexican Defense Minister spoke of the Mexican military's more "pro-active" stance in the fighting terrorism, which will certainly raise questions about jurisdiction if officers are implicated in abuses.

Apart from interaction on the basis of extradition requests (most prominently in the case of Colombia) the judiciary is not a central issue for U.S. defense policy and it is not raised in the 2000 or 2002 National Security Strategy except for the goal of teaching respect for human rights in U.S. military training programs. Nonetheless, the United States Agency for International Development does provide funding for training and judicial development in general.⁴⁰ There are two important ways in which U.S. defense policy affects the judiciary. First, support for the regimes that commit serious abuses almost certainly contributes to a general sense of impunity. This was, of course, particularly true when dictatorships were the norm in the region.

Second, the militarization of areas deemed havens for terrorism (especially drug traffickers) has increased the number of human rights abuses and, in several countries, has increased pressure on judges not to prosecute (especially in Colombia).

Another dilemma for civilian governments in Latin America is the scope of military justice in Latin America. In many countries, civilians can be brought before military courts for a broad range of offenses and officers can often find protection from prosecution by civilian courts. Reform has been slow and uneven.⁴¹ The Staff Judge Advocate's Office of the United States Southern Command has created programs for military justice, such as in Colombia and Venezuela in 1998.⁴² The main goal for Colombia was to institutionalize the protection of human rights in military courts, whereas the Venezuelan military wished to reform its system of courts martial. Renewed emphasis on anti-terrorism and internal security, however, raises the risk that military judges will try more civilians, who will not enjoy the same rights and privileges as they would in civilian courts. Given the debate over terrorist suspects being held in the United States, Latin American armed forces can easily claim that military courts are more appropriate in the context of the war against terrorism. They can also claim that, given national security concerns, the military should not be held accountable to any courts other than its own. The same arguments were often made during the Cold War.

Finally, just as with the legislative branch, the emphasis on military intelligence gathering as an element of anti-terrorist policy reinforces the military's perceived need for secrecy and a minimum of civilian oversight. Even before the attacks on the United States, analysts were noting the "heightened tension between demands for secrecy and the desire for enhanced civil liberties."⁴³ A return to Cold War-era notions of national security and secrecy represents an obstacle to the development of an effective judicial branch.

In particular, the call for regional sharing of intelligence raises legitimate questions about precisely which judicial bodies would have authority to act in defense of civil liberties. Although leaders—both civilian and military—of numerous Latin American countries have indicated approval of the general idea (and southern cone countries have even broached the issue of a regional military) no specifics have yet been forthcoming. The primary historical parallel would be Operation Condor, the multinational (Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay) intelligence system created in 1975 as a way to consolidate anti-communist dictatorships and eliminate political enemies. Although transitions to civilian rule have long taken place, judiciaries remain ill-equipped to confront what would become complex issues of jurisdiction, human rights, and the role military courts.

CONCLUSION

For civil-military relations to become more democratic in Latin America, it is obviously vital for civilian defense institutions to become stronger. When both civilians and officers view those institutions as legitimate, then the civil-military relationship will become increasingly predictable and differences can be mediated without overt conflict.

Defense institutions provide a structure through which civilians and officers can accept each other's expertise and gradually learn that enmity is not always inevitable. This is an especially difficult process in Latin America, where civil-military discord has historically been the norm. The military's historic skepticism of civilian policy makers has, in most countries, solidified the notion that civilians are incapable of handling national defense, while civilians view the armed forces with a suspicion born of military intervention and dictatorship. Therefore, the task of "civilianizing" those institutions is formidable.

Beginning in the 1990s, the United States developed a defense policy toward Latin America that, for the first time, emphasized the need for greater civilian expertise and oversight in the region, especially in terms of building more democratic civil-military institutions, which had been sorely lacking in the region. The terrorist attacks of 11 September 2001, however, reoriented U.S. defense policy toward encouraging Latin American militaries to become more involved in intelligence gathering, border patrol and domestic law enforcement, roles that civilians had painstakingly been trying to wrest away from military control. These competing policy goals thus send mixed messages about the real priorities of the U.S. government.

Although U.S. policy makers remain focused primarily on the Andean region, it is clear that they view terrorism as a threat in every Latin American country. Furthermore, the main proposed tactic for combating terrorism is increased use of the armed forces in each country, whether it is border patrol, intelligence gathering, fighting guerrillas, or taking over a variety of national police duties. By militarizing policy and emphasizing a largely military response, anti-terrorist initiatives have the strong potential for undermining the stated policy goal of democratizing civil-military institutions in the region. These institutions, which already suffer from a lack of historical effectiveness, have only begun to assert themselves, and these efforts will suffer as a result of a renewed military emphasis on perceived threats to national security.

NOTES

1. Edwin Lieuwen, *Arms and Politics in Latin America* (New York:

- Praeger, 1960): p. 262.
2. E.g. see John T. Fishel and Kimbra L. Fishel, "The Impact of the US Army School of the Americas on Host Nation Militaries: An Effective Instrument of Policy or Merely a Scapegoat?" *Low Intensity Conflict & Law Enforcement* 7, 1 (Summer 1998): pp. 47-70; Russell W. Ramsey, "The Democratic Sustainment Course at the U.S. Army School of the Americas," *Defense Institute of Security Assistance Management* 22, 1 (Fall 1999): pp. 84-88; Russell W. Ramsey and Antonio Raimundo, "Human Rights Instruction at the U.S. Army School of the Americas," *Human Rights Review* 2, 3 (April-June 2001): pp. 92-116.
 3. Brian Loveman argues that even into the twenty-first century, "For most civilians the military institutions, still partly totemic, inspired a combination of fear, reverence, and nationalistic pride. For their part, military leaders continued to doubt the politicians' sincerity, trustworthiness, and competency." Brian Loveman, *For la Patria: Politics and the Armed Forces in Latin America* (Wilmington, DE: SR Books, 1999): p. 280.
 4. Department of Defense, *United States Security Strategy for the Americas*, (Office of the Secretary of Defense, October 2000): p. vi.
 5. Organization of American States, 23rd Meeting of Consultation of Ministers of Foreign Affairs. *Resolution Strengthening Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism* (RC.23/Res.1/01) September 21, 2001.
 6. Organization of American States, *Inter-American Convention Against Terrorism*, Ag/Res. 1840 (XXXII-O/02), June 3, 2002.
 7. For example, in his lengthy statement of military goals in the western hemisphere in March 2002, the Acting Commander in Chief of the United States Southern Command did not mention the OAS at all. United States Senate, 107th Congress, Armed Forces Committee, *Posture Statement of Major General James D. Speer, United States Army, Acting Commander in Chief, United States Southern Command*, March 5, 2002.
 8. Linda Robinson, "Terror Close to Home." *U.S. News and World Report* October 6, 2003.
 9. *The National Security Strategy of the United States of America* (September 2002) p. 6. <http://www.whitehouse.gov/nsc/nss.pdf> (last accessed May 27, 2005).
 10. Although "ungoverned spaces" is not new to Latin American military doctrine, after 9/11 the U.S. government quickly gave it renewed prominence. The general point would subsequently be reiterated by the U.S. Southern Command: "Building coalitions, training,

- equipping forces, and improving capabilities will enable allies to significantly reduce their ungoverned spaces and gain greater control of their borders.” United States House of Representatives, House Armed Services Committee, “Statement by General James T. Hill, United States Army, Commander, United States Southern Command,” March 12, 2003.
11. United States Department of Defense News Transcript, “Secretary Rumsfeld and Gen. Myers Briefing at the Foreign Press Center,” November 26, 2002.
 12. Eric Green, “Rumsfeld Says Nations of the Americas Must Work Together Against Terrorism.” November 17, 2004, U.S. Department of State website, <http://usinfo.state.gov/is/Archive/2004/Nov/17-3276.html> (last accessed May 27, 2005).
 13. “Declaration of Quito,” Sixth Conference of Minister of Defense of the Americas, November 16-21, 2004. Available at <http://vicdmaecuador2004.org/html/index.htm> (last accessed May 27, 2005).
 14. Ambassador Otto Reich, “The Administration’s Four Goals in the Western Hemisphere,” Remarks to the Heritage Foundation, October 31, 2002. United States Department of State Website, <http://www.state.gov/p/wha/rls/rm/14880.htm> (last accessed May 27, 2005).
 15. For an analysis of U.S. policy makers’ view of security threats during the Cold War, see Lars Schoultz, *National Security and United States Policy toward Latin America* (Princeton: Princeton University Press, 1987). As Ronald Reagan put it in his address before a joint session of Congress in 1983, “We do not view security assistance as an end in itself, but as a shield for democratization, economic development, and diplomacy.” Ronald Reagan, *Speaking My Mind* (New York: Simon and Schuster, 1989), p. 157.
 16. Center for International Policy, “Colombia Program.” <http://www.ciponline.org/colombia/aidtable.htm> (accessed May 27, 2005).
 17. “Ejército puso en marcha operativos antiterroristas,” *El Observador* October 16, 2002.
 18. “Fau niega peligro terrorista,” *La República* October 17, 2002.
 19. “Amenaza terrorista en Uruguay,” *El Observador*, August 5, 2004.
 20. “Blurring the Lines: Trends in U.S. Military Programs with Latin America.” Joint Publication from the Latin American Working Group Educational Fund, the Center for Economic Policy and Washington Office on Latin America. September 2004.

- <http://www.ciponline.org/colombia/cipanal.htm> (accessed May 27, 2005).
21. Thomas C. Bruneau, *Ministries of Defense and Democratic Civil-Military Relations*. Partnership for Democratic Governance and Security, Occasional Paper, August 2001.
 22. David Pion-Berlin, "Civil-Military Circumvention: How Argentine State Institutions Compensate for a Weakened Chain of Command." In David Pion-Berlin (ed.). *Civil-Military Relations in Latin America: New Analytical Perspectives* (Chapel Hill: The University of North Carolina Press, 2001), pp. 135-160.
 23. *Ibid.*, p. 135. Douglas L. Bland, "A Unified Theory of Civil-Military Relations," *Armed Forces & Society* 26, 1 (Fall 1999): p. 17. Discussions of the relevance of the defense ministry in different Latin American countries can be found in John Fishel, "El componente orgánico de las relaciones cívico-militares en América Latina: El papel del Ministerio de Defensa," Paper Presented to the 2000 Meetings of the Asociación de Estudios Latinoamericanos, Miami, Florida; Gregory Weeks, "Is the Mold Being Broken? Defense Ministries and Democracy in Latin America," *Journal of Political and Military Sociology* 31, 1 (Summer 2003): pp. 23-37.
 24. There are numerous other facilities located both in the United States and in Latin America that are dedicated solely to technical military training.
 25. Center for Hemispheric Defense Studies website, <http://www3.ndu.edu/chds/index/html> (last accessed May 27, 2005).
 26. See Gregory Weeks, "Fighting the Enemy Within: Terrorism, the School of the Americas, and the Military in Latin America," *Human Rights Review* 5, 1 (October-December 2003): pp. 12-27.
 27. Western Hemisphere Institute for Security Cooperation, *2002-2003 Course Catalog*.
 28. J. Mark Ruhl, "The Guatemalan Military Since the Peace Accords: The Fate of Reform Under Arzú and Portillo," *Latin American Politics and Society* 47, 1 (Spring 2005): 55-85.
 29. For an interesting, though dated, analysis, see Francisco Rojas Aravena (ed.). *Gasto militar en América Latina: procesos de decisiones y actores claves* (Santiago: FLACSO 1994).
 30. Daniel Zirker and Matthew Redinger, "The Military, Intelligence Agencies, Political Scandals, and Democracy in Brazil – 1998-2000." *Journal of Political and Military Sociology* 31, 1 (Summer 2003): p. 52.
 31. For example, see Russell J. Swenson and Susana C. Lemozy (eds.). *Intelligence Professionalism in the Americas*. (Washington, DC:

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32. Gregory Weeks, "The Military and Intelligence Reform in Chile," *Fuerzas Armadas y Sociedad* 18, 3-4 (2004): 245-258.
 33. "Paraguayan President Presents Security Plan to Congress," *BBC Monitoring International Reports*, March 9, 2005.
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 36. For a review, see Michael Dodson, "Assessing Judicial Reform in Latin America." *Latin American Research Review* 37, 2 (2002): pp. 200-220.
 37. William C. Prillaman, *The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law* (Westport, CT: Praeger 2000).
 38. Paul S. Vaky, "The U.S. Agency for International Development." In Edmundo Jarquín and Fernando Carrillo (eds.). *Justice Delayed: Judicial Reform in Latin America* (Washington, DC: Inter-American Development Bank 1998): pp. 137-141.
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 42. Jeffrey F. Addicott and Guy B. Roberts, "Building Democracies with Southern Command's Legal Engagement Strategy," *Parameters* (Spring 2001), pp. 72-84.
 43. Andrés Fontana and Jorge Barraglino, "Secrecy and Civil Liberties in Latin America," *Conflict, Security, and Development* 1, 1 (2001) p. 128.

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