

Filing Country Conditions Evidence for your Asylum Case

Evidence about your home country can help you win your asylum case. This type of evidence is called “country conditions” evidence. Country conditions evidence can help show the Immigration Court why you are afraid to go back to your home country and help you to tell your story. They also help to show the Immigration Court why other people in your situation would fear returning to their home country, and to show the Immigration Court the danger and lack of protection which exists in your home country. Country conditions evidence can be **filed at the same time or after** filing your Form I-589 Application for Asylum.

Make sure you file your Country Conditions Packet by the deadline set by the Immigration Judge: IF NO OTHER DATE SET, SUBMIT AT LEAST 15 DAYS BEFORE YOUR HEARING!

Step by Step Instructions:

- (1) Download a Country Conditions Packet that has information about your country and why you and others in your situation are afraid to return to your home country;**
- (2) Make sure you know where your court is, who your judge is, and when your hearing date is, which you can find by clicking the link below and entering your A Number:**
 - a. EOIR Portal Link: <https://acis.eoir.justice.gov/en/>
- (3) On the first page of your Country Conditions Packet, you will need to:**
 - a. Write your complete name, A Number, and the complete names and A Numbers of any family members who are part of the case, such as your spouse or children; and
 - b. Write the city and state of the Immigration Court, the name of the judge, and the time and date of your Individual Hearing (which you can check at the EOIR Portal link above).
- (4) On the last page of your Country Conditions Packet, you will need to:**
 - a. Write your name, the date that you are filing your Country Conditions Packet, and the address of the ICE Attorney’s office (OPLA) who has jurisdiction over your case, which can be found by looking through the OPLA directory at: <https://www.ice.gov/contact/field-offices?office=12>; and

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- b. Sign the line at the bottom of the page – this is an important step, as it proves to the Immigration Court that you are also mailing a copy to the ICE Attorney!

(5) Print (3) copies of your Country Conditions Packet: you will need 1 copy for Immigration Court, 1 copy for ICE, and 1 copy for yourself;

(6) Filing with Immigration Court:

- a. Submit the first copy of your Country Conditions Packet directly to the Immigration Court that has your case, which you can find by clicking the link below and entering your A Number: EOIR Portal Link: <https://acis.eoir.justice.gov/en/>. This can be submitted in person to the Immigration Court or by mail.
 - i. If file in-person, ask the court clerk to also stamp your copy – this is your proof that you submitted your country conditions packet!
 - ii. If you file by mail, make sure you mail the packet via USPS certified mail and keep proof of your tracking number.
 - iii. The court closes at 4pm – if you have arrived in line to submit your packet before 4pm, the court has to accept it that same day!

(7) Filing with ICE:

- a. Mail your second copy to the ICE Attorney at their OPLA office address
 - i. This will be the same address that you have written on the last page of the Country Conditions Packet (which can be found at the OPLA directory link above).

(8) Your copy:

- a. Keep the third copy, your copy, stamped by the Immigration Court, as your proof that you submitted your country conditions packet and to have at your Individual Hearing. This is important because you will need to bring this to your final hearing, which is called an “Individual Hearing.”

(9) The Individual Hearing:

- a. If asked by the Immigration Judge whether you have submitted “country conditions” or “evidence” to support your case, say YES, and show them your stamped copy of the packet as proof!

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PRO SE

NON-DETAINED

Name/Nombre: _____

Address/Direccion: _____

Phone/Telefono: _____

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT**

(City, State of Immigration Court/Ciudad, Estado de Corte de Inmigracion)

In the Matter of:)
)

(Name/Nombre))

(Name/Nombre))

(Name/Nombre))

)
)

)
The Respondent(s))

)

File No. A: _____
(A Number/Numero A)

File No. A: _____
(A Number/Numero A)

File No. A: _____
(A Number/Numero A)

IN REMOVAL PROCEEDINGS

Immigration Judge: _____
(Name of Judge/Nombre del Juez)

Hearing Date: _____
(Hearing Date/Fecha de la Proxima Audiencia)

**PRO SE RESPONDENT'S EVIDENCE IN SUPPORT OF APPLICATION FOR
ASYLUM AND FOR WITHHOLDING OF REMOVAL**

**APPENDIX OF COUNTRY CONDITIONS IN SUPPORT OF APPLICATION FOR
ASYLUM AND WITHHOLDING OF REMOVAL ON FORM I-589**

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	GENERAL COUNTRY CONDITIONS REGARDING POLITICAL VIOLENCE AND PERSECUTION IN COLOMBIA		
2023	<p><u>Colombia 2022 Human Rights Report</u> <i>U.S. Department of State</i></p> <p>Available at: https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/colombia/</p> <p>“As of August 25, the Inspector General’s Office reported 351 disciplinary investigations of police for alleged human rights abuses committed in the context of the 2021 national protests. Of these cases, 341 cases were in the investigation stage and 10 cases were in trial, pending disciplinary decisions.”</p> <p>“Illegal armed groups, including the National Liberation Army (ELN), committed numerous unlawful killings, in some cases politically motivated, and usually in areas without a strong government presence.”</p> <p>“On April 7, the [Special Jurisdiction for Peace] stated that state agents and paramilitaries killed or disappeared 5,733 candidates and other persons affiliated with the leftwing political party <i>Union Patriótica</i> (Patriotic Union) between 1984 and 2016.”</p> <p>“The government declared it did not hold political prisoners; nevertheless, authorities held some members of human rights advocacy groups on charges of conspiracy, rebellion, or terrorism, which the groups described as government harassment of human rights advocates. According to [the National Prison Institute], the government held 115 persons on charges of rebellion or of aiding and promoting insurgency and convicted 38 of them. The government provided the International Committee of the Red Cross with regular access to these prisoners.”</p>	A	1-43

<p>2023</p>	<p><u>World Report 2023 – Events of 2022: Colombia</u> <i>Human Rights Watch</i></p> <p>Available at: https://www.hrw.org/world-report/2023/country-chapters/colombia</p> <p>“Police have committed serious human rights violations in response to largely peaceful protests across Colombia since 2019. Efforts to investigate and prosecute them have been limited.”</p> <p>“In 2021, Human Rights Watch reviewed evidence linking police to 25 killings of protesters and bystanders, as well as dozens of injuries and arbitrary arrests, in the context of peaceful demonstrations. As of October, four officers had been charged and five others indicted in connection with homicides. Nobody had been charged for the injuries or arbitrary arrests.”</p> <p>“There have been limited reforms to improve accountability and prevent future violations.”</p>	<p>B</p>	<p>44-54</p>
<p>2023</p>	<p><u>Freedom in the World 2023: Colombia</u> <i>Freedom House</i></p> <p>Available at: https://freedomhouse.org/country/colombia/freedom-world/2023</p> <p>“Nonetheless, Colombia faces enormous challenges in consolidating peace and guaranteeing political rights and civil liberties outside of major urban areas.”</p> <p>“After decades of political violence and insecurity around elections, the 2018 and 2022 elections were peaceful and safe for most voters. In limited areas, however, and despite the peace accord with the FARC, activity by the smaller ELN leftist guerrilla group, the successors of previously disbanded right-wing paramilitary groups, so-called “dissident” FARC members, and criminal gangs has continued to impair the ability of citizens to participate freely in the political process.”</p> <p>“Individual expression is generally protected in major urban centers, but it remains inhibited in more remote areas where the state, insurgents, and criminals vie for control.”</p> <p>“Although provided for in the constitution, freedom of assembly is restricted in practice by violence. A wave of protests, dubbed the national strike, swept the country between April and June 2021, inspired by a</p>	<p>C</p>	<p>55-74</p>

	range of grievances, including a government-proposed tax plan, economic despair, and police brutality.”		
2023	<p><u>Colombia: Misuse of counter-terrorism measures to prosecute protesters threatens human rights, say UN experts</u> <i>United Nations</i></p> <p>Available at: https://www.ohchr.org/en/press-releases/2023/03/colombia-misuse-counter-terrorism-measures-prosecute-protesters-threatens</p> <p>“UN experts today called on Colombia to stop misusing counter-terrorism measures and serious criminal offences, such as terrorism, to prosecute individuals for taking part in protests against government policies.”</p> <p>“The use of such egregious charges to prosecute violent conduct during protests poses a serious threat to the promotion and protection of human rights and fundamental freedoms and to the legitimacy of international counter-terrorism frameworks and laws,’ the experts said. ‘It has a chilling effect and encourages vilification campaigns against protest movements in the country.’”</p>	D	75-80
2022	<p><u>Situation of Human Rights in Colombia: Report of the United Nations High Commissioner for Human Rights</u> <i>United Nations</i></p> <p>Available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/advance-version/A-HRC-52-25-Unofficial-translation-EN.pdf</p> <p>“During 2021, OHCHR received 100 allegations of arbitrary deprivations of life; of these, 54 have been verified, 17 are still being verified and 29 were deemed inconclusive. Responsibility allegedly lay with members of the National Police in 44 of the verified cases, with military officials in 5 of the verified cases, and with off-duty officials from the technical investigation corps of the Attorney General’s Office in 2 of the verified cases. The remaining three cases reportedly occurred during joint operations between the Armed Forces and the National Police. <u>Among the verified cases, OHCHR documented 29 incidents involving unnecessary or disproportionate use of force during protests,</u> 13 that occurred during law enforcement activities, 2 that occurred during</p>	E	81-95

	<p>operations tackling organized crime, and 2 that arose from the failure to protect the victim during police detention.”</p> <p>“Colombia has a robust legal framework protecting the right to peaceful assembly. However, the repression of the protests and the manner in which force was used against peaceful demonstrators during the strike demonstrated the need to improve the democratic management of protests. OHCHR documented cases of unnecessary or disproportionate use of force resulting in arbitrary deprivations of life and violations of personal integrity and security, as well as arbitrary detention, sexual and gender-based violence and acts of discrimination and racism.”</p> <p>“OHCHR is concerned about the approach taken in the Civil Security Act, which sets out, inter alia, increased and more severe penalties for behaviours in which protesters might engage, potentially leading to the criminalization of protest. Although there are regulations on the conditions in the centres that are used during protection-related transfers, the broadening of the grounds on which the Act can be applied and the greater discretion granted to the police in that connection could increase the risk of this measure of deprivation of liberty being used arbitrarily.”</p>		
2023	<p><u>Colombia 2022</u> <i>Amnesty International</i></p> <p>Available at: https://www.amnesty.org/en/location/americas/south-america/colombia/report-colombia/</p> <p>“In June, civil society platform Campaña Defender la Libertad criticized ESMAD’s excessive use of force against protesters, which resulted in one person sustaining eye trauma at Distrital University in Bogotá. Protesters were calling for more resources and improved infrastructure for the university.”</p> <p>“According to <i>Campaña Defender la Libertad</i>, arbitrary detentions by state security forces increased between March and June, in the context of the upcoming elections.”</p> <p>“According to the human rights NGO Attorneys Collective José Alvear Restrepo (CAJAR), on 28 March, 11 people were extrajudicially executed during a military incursion in the Puerto Leguízamo municipality, Putumayo department.”</p> <p>“On 5 May, the AGC imposed a four-day curfew across 10 departments in northern Colombia, following the announcement of the decision to</p>	F	96-106

	<p>extradite its commander “Otoniel” to the USA. During this so-called armed strike, at least 127 acts of violence were reported in 73 municipalities, including four killings, five death threats, 36 cases of restriction of movement and one case of torture and another of kidnapping.”</p>		
<p>2021</p>	<p><u>Observations and Recommendations: Working Visit to Colombia</u> <i>Inter-American Commission on Human Rights</i></p> <p>Available at: https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf</p> <p>“During the visit, the IACHR verified the existence of a climate of polarization that is directly related to structural ethnic-racial and gender discrimination, as well as to political factors. This phenomenon is present across social sectors and manifests itself in the form of stigmatizing speech that has accelerated the deterioration of the public discourse. The Inter-American Commission finds such speech especially concerning when it comes from government authorities.”</p> <p>“In its 2020 Annual Report, the Commission noted the concern expressed by civil society regarding the concentration of authority in the Executive Branch, as well as at the potential impacts to the system of checks and balances due to connections between members of the executive branch and the persons chosen for investigation and oversight bodies. These concerns were raised once again at the hearing on the ‘human rights situation in Colombia,’ held during the 178th period of sessions, as well as during the Commission's visit.”</p> <p>“Regarding guarantees of the right to protest in Colombia, the exercise of which is not yet regulated by a statutory law as required by the Political Constitution, the Commission was informed of judgment STC 7641-2020 of the Supreme Court of Justice, dated September 22, 2020. This judicial decision described a nationwide issue of violent, arbitrary, and disproportionate intervention by security forces during several citizen demonstrations. In this judgment, the Civil Cassation Chamber found that the security forces, especially the Mobile Antiriot Squad of the National Police (ESMAD), pose ‘a serious and present threat to those seeking to go out and demonstrate to peacefully express their opinions, as its actions, far from being isolated, are consistent and reflect ongoing and identifiable aggression during protests.’ The Civil Cassation Chamber also found that security forces agents harbored deep-seated stereotypes about the protests and their participants, reflected in,</p>	<p>G</p>	<p>107-151</p>

among other things, a willingness to permit violations of individual guarantees.”

“According to the information provided by the Office of the Attorney General of the Nation, between April 28 and June 5, **51 deaths were documented**. Of these deaths, 21 took place during protests, 11 incidents are undergoing the verification process, and 19 took place over the course of the national strike but not during protests. The Presidential Council for Human Rights and International Affairs reported that, between April 28 and June 13, **1,113 civilians were injured**. The Office of the Ombudsperson documented 18 cases of eye injuries.”

“However, the IACHR has been able to verify that on several occasions, and in multiple regions of the country, the State’s response has been characterized by the excessive and disproportionate use of force, including lethal force in many cases.”

“In particular, the Commission received multiple reports indicating that, from the start of the social protests, a considerable portion of the actions of security forces were aimed at discouraging participation in them.”

“According to information from the Presidential Council for Human Rights and International Affairs, in the framework of the protests, more than 7,020 people were detained on the legal grounds of ‘protective transfers’ (*traslado de protección*), established in article 155 of the National Police Code. The declared purpose of such detentions is to protect the lives and safety of persons or third parties when they are at risk or in danger and only if the transfer is the sole available means of doing so. According to the information provided by the State in its response, the protective transfer is not a punishment, and the person being transferred must be provided all necessary guarantees. . . The IACHR also received **complaints of situations of violence and even of cruel, inhuman, and degrading treatment that could amount to torture and that took place during the protective transfers**. Specifically, the persons interviewed informed the IACHR that the victims were constantly beaten and abused during the transfers. In some cases, they were threatened with being disappeared for participating in the protests. The testimony collected is consistent in indicating that **the protective transfers are being used in multiple cases as a form of punishment or as a means of discouraging protest**. In the Commission's view, it is especially grave that these transfers, as designed, lack judicial oversight, meaning they amount to a restriction on liberty that depends solely on the judgments of the police officer implementing it.”

	<p>“The IACHR received allegations of persons reported as disappeared in the framework of the protest. According to information provided by the Office of the Attorney General the Nation, as of June 15, the Urgent Search Mechanism was still active with respect to 84 cases. Additionally, the Commission received with extreme concern reports that some persons initially reported as disappeared have been found dead.”</p>		
<p>2023</p>	<p><u>The Situation of Human Rights in Colombia, 2018 – 2022</u> <i>Ad hoc coalition of 67 international organizations, coordinated by the International Human Rights Office – Action Colombia</i></p> <p>Available at: https://reliefweb.int/report/colombia/situation-human-rights-colombia-2018-2022-report-international-coordination-groups-and-organizations-universal-periodic-review-colombia-2023</p> <p>“Between 2019 and 2021, Colombia experienced the largest citizen mobilizations in four decades. Repressive and militarized responses and serious violations of freedom of assembly and expression by state agents were reported. According to the United Nations and the Inter-American Commission on Human Rights (IACHR), the security forces resorted in a generalized, arbitrary, indiscriminate and disproportionate manner in their use of force against demonstrators, including the premeditated use of firearms.</p> <p>“Excessive violence against demonstrators during protests between 2019 and 2021 resulted in 133 killings, 5,379 arbitrary arrests⁷⁶ and 2,607 injuries, as well as hundreds of cases of torture, enforced disappearance, gender-based violence and attacks against journalists and human rights defenders. The high rate of injuries caused by the systematic use of ‘potentially lethal’ weapons fired at pointblank range is of concern.”</p> <p>“It is worrying that legal provisions restricting freedom of assembly remain in place. The concept of ‘transfer for protection’ enshrined in the Citizen Security Law has been used as a pretext for arbitrary arrests. The ‘military assistance’ established in the Police Code extends the powers of the Military Forces to social protests that constitutionally fall within the competence of the police.”</p> <p>“More than 90 percent of law enforcement abuses remain unpunished. Likewise, neither the 2020 Supreme Court ruling that ordered substantial reforms of the guidelines for the use of force during</p>	<p>H</p>	<p>152-177</p>

	<p>social protests, nor the recommendations of the United Nations and the IACHR to counter police violence have been implemented.”</p> <p>“Between 2018 and 2022, reports of illegal intelligence operations persisted: According to the 2020 <i>Archivos Secretos</i> report, 130 people were victims of profiling and monitoring by the National Army, in order to prepare reports on their professional and private lives: this list included international and national journalists, human rights defenders, trade unionists, judges, and opposition parliamentarians.”</p>		
2021	<p><u>Shoots on Sight: Eye Trauma in the Context of the National Strike</u> <i>Amnesty International</i></p> <p>Available at: https://www.amnesty.org/en/documents/amr23/5005/2021/en/</p> <p>“In the first 20 years of ESMAD’s existence, its use of lethal force has left at least 34 people dead.”</p> <p>“Currently, there are no consolidated public official records of the number of cases of eye injuries caused by ESMAD since its creation. However, numerous complaints of excessive violence by its officials have been reported by civil society organizations such as the <i>Campaña Defender la Libertad es Asunto de Todas</i> and <i>Temblores</i>. During the social unrest that began in April 2021, these reports have reached alarming levels, with more than 100 victims of this type of violence throughout the country.”</p> <p>“Amnesty International has on numerous occasions denounced human rights violations and even crimes under international law committed by ESMAD officials in the context of social protests. In November 2019, the organization verified at least five incidents where human rights violations were committed by ESMAD in its response to social protests. Likewise, in September 2020, the organization highlighted its excessive and disproportionate use of force, including crimes under international law, such as torture and cruel, inhuman or degrading treatment.”</p> <p>“During the months of the 2021 National Strike in Colombia, there was a serious human rights crisis, widely documented by PAIIS, <i>Temblores</i> and Amnesty International, as well as other national and international organizations. Highlighted among the reports received were hundreds</p>	I	178-242

	<p>of complaints from victims of police violence, some of them with serious eye trauma.”</p> <p>“The Information System on Eye Attacks In Social Protest (<i>Sistema de Información de Agresiones Oculares a la Protesta Social</i>, SIAP) of <i>Campaña Defender la Libertad</i>, recorded 12 eye injuries in the context of protests between 10 October and 22 November 2019. In other words, in 44 days of demonstrations, there was one case of eye injury every 3.6 days. By comparison, <i>Temblores’</i> GRITA Platform recorded that between January and July 2021, at least 103 cases of eye injuries occurred; that is, one such injury every 0.81 days in the context of the National Strike.”</p> <p>“In several videos and photos it was also possible to identify the disproportionate use of potentially lethal weapons, such as truncheons, which should be used in limited situations to respond to an imminent danger. However, the audiovisual evidence collected suggests that police officers in Colombia used them to beat protesters, targeting the head and neck, which clearly carries a high risk of causing serious injuries, including eye trauma. The indiscriminate use of these weapons in cases in which it is not possible to determine a situation of serious threat, is conduct contrary to international law.”</p> <p>“Several of the victims whose statements are cited in this report, said that the eye trauma sustained has had a major impact on their decisions about exercising their right to social protest in the future. The eye trauma has created a sense of fear and insecurity related to the marches which makes it difficult to participate again.”</p>		
2021	<p><u>Colombia: Egregious Police Abuses Against Protesters</u> <i>Human Rights Watch</i></p> <p>Available at: https://www.hrw.org/news/2021/06/09/colombia-egregious-police-abuses-against-protesters</p> <p>“Members of the Colombian National Police have committed egregious abuses against mostly peaceful demonstrators in protests that began in April 2021, Human Rights Watch said today.”</p> <p>“On April 28, thousands of people took to the streets in dozens of cities across Colombia to protest proposed tax changes. The government withdrew the proposal days later, but demonstrations about a range of issues – including economic inequality, police violence, unemployment, and poor public services – have continued. Police officers have responded by repeatedly and arbitrarily dispersing peaceful</p>	J	243-262

demonstrations and using excessive, often brutal, force, including live ammunition. Human Rights Watch has documented multiple killings by police, as well as beatings, sexual abuse, and arbitrary detention of demonstrators and bystanders.”

“So far, Human Rights Watch has confirmed that 34 deaths occurred in the context of the protests, including those of 2 police officers, 1 criminal investigator, and 31 demonstrators or bystanders, at least 20 of whom appear to have been killed by the police. Armed people in civilian clothes have attacked protesters, killing at least five.”

“Over 1,100 protesters and bystanders have been injured since April 28, according to the Ministry of Defense, though the total number is most likely higher as many cases have not been reported to authorities.”

“On May 14, the Ombudsperson’s Office reported **2 cases of rape, 14 cases of sexual assault, and 71 other cases of gender-based violence by police officers**, including slapping and verbal abuse. Colombian rights groups have reported additional cases. Human Rights Watch documented two cases of sexual violence by police officers against protesters.

“Human Rights Watch also documented **17 beatings, often with police truncheons**. One victim, Elvis Vivas, 24, died in a hospital after a brutal beating by police officers.”

“At least 419 people have been reported missing since the protests began. On June 4, the Attorney General’s Office said that it had found 304 of them. In some cases, the people who reported them missing were not aware that they had been detained.”

“Human Rights Watch documented 16 cases in which the police appear to have killed unarmed protesters or bystanders with live ammunition. In at least 15 of those cases, the victims had gunshot wounds in vital organs: 7 were shot in the thorax, 6 in the head, and 2 in the abdomen. Those injuries are consistent with an intent to kill, justice sector authorities told Human Rights Watch.”

“Separately, **armed people in civilian clothes have engaged in violence against protesters.** In Pereira, Risaralda state, a group of people in civilian clothes appeared when Lucas Villa, a protester and social leader, was delivering a speech against the government during a protest on May 5. One of them shot and killed him, a witness who was also severely wounded told Human Rights Watch. **Justice sector officials familiar with the case said that the evidence indicates local drug trafficking groups may be responsible.**”

	<p>“The police disciplinary system lacks independence, Human Rights Watch found. There is no separate career for disciplinary investigators, the police chief said. This means that there are no safeguards to ensure that investigators do not end up working alongside, or under the command of officers they previously investigated. Colombian law also allows the police chief to revoke any disciplinary decision.”</p>		
<p>2021</p>	<p><u>Cali – In the Epicenter of Repression: Human Rights Violations During the 2021 National Strike in Cali, Colombia</u> <i>Amnesty International</i></p> <p>Available at: https://www.amnesty.org/en/documents/amr23/4405/2021/en/</p> <p>“Human rights organizations have reported that at least 28 people were killed between 28 April and 28 June 2021 as a result of the unlawful actions of the security forces. In addition, they have documented at least 90 cases of eye injuries and 28 cases of sexual violence in the context of the demonstrations. The number of arbitrary detentions reported by the organizations consulted by Amnesty International stands at approximately 2,000. These organizations also reported that more than 300 people were believed to have disappeared in the framework of the protests, at least two are known to have died in circumstances that have yet to be clarified¹⁰ and the whereabouts of the remainder remain unknown.”</p> <p>“<i>Temblores ONG, Indepaz and the Los Andes University Action Programme for Equality and Social Inclusion (Programa de Acción por la Igualdad y la Inclusión Social, PAIS)</i> have criticized the systematic violence of the security forces in the context of the 2021 demonstrations. According to a report presented to the IACHR, these include: (i) the indiscriminate, excessive and disproportionate use of firearms against demonstrators by the security forces; (ii) less lethal weapons fired at the bodies of demonstrators to disperse peaceful protests; (iii) firing of shots horizontally using long-range Venom weapons in residential areas and at protesters; (iv) the firing of tear gas and stun grenades into homes and in residential neighbourhoods; (v) the violation of the principle of making public police procedures; (vi) the imposition of conditions and paralegal measures on people arbitrarily detained by the National Police in exchange for their release; (vii) sexual and gender-based violence</p>	<p>K</p>	<p>264-311</p>

against protesters; (viii) inflicting eye trauma on protesters; and (ix) the enforced disappearance of protesters.”

“*The Campaña Defender la Libertad: Asunto de Tod@s* – a network of civil society, student, cultural, community and human rights organizations – reported in its latest bulletin of 30 June,⁴² that since 28 April there had **been 84 deaths in the context of the National Strike, of which 28 were allegedly attributable to the security forces and seven to armed civilians and 16 of which were pending verification of their relationship with social protest. The Campaña reported that 1,790 people had been injured as a result of the disproportionate actions of ESMAD and unidentified armed civilians.**”

“Temblores ONG, Indepaz and PAIIS recorded **90 cases of eye trauma**, 42 of which were reported in Bogotá.”

“According to a report presented to the IACHR, by *Campaña Defender la Libertad, Sisma Mujer, Humanas Colombia, Ruta Pacifica de las Mujeres*, Women’s Link Worldwide and the *Corporación Casa de la Mujer*, among others, between 28 April and 2 June, 491 cases of police violence against women in the context of the demonstrations were recorded. *Temblores ONG* reported in its bulletin that 28 women had been the victims of sexual violence by the security forces as of 26 June. In a joint report presented to the IACHR, the organizations *Caribe Afirmativo, Colombia Diversa* and the *Fundación GAAT*, among other organizations, reported five cases of violence against LGBTIQ+ people who participated in the demonstrations.”

“The Working Group on Enforced Disappearance reported that 775 people were disappeared, there whereabouts of 327 of whom remained unknown.”

“The Foundation for Press Freedom (*Fundación para la Libertad de Prensa*, FLIP) reported that, between 28 April and 26 June, 91 physical attacks were reported against journalists covering National Strike demonstrations. They also reported 42 threats, nine arbitrary detentions and 14 acts of destruction of journalistic material.”

<p>2019</p>	<p><u>Colombia: Authorities Must Impartially Investigate the Repression of Protests</u> <i>Amnesty International</i></p> <p>Available at: https://www.amnesty.org/en/latest/news/2019/11/colombia-autoridades-deben-investigar-represion-de-protestas-2/</p> <p>“Amnesty International has verified the authenticity of video evidence confirming the excessive, disproportionate and unnecessary use of force by the Colombian security forces, which constitutes a violation of human rights by the authorities. The organization verified a video showing a member of the riot police, the <i>Escuadrón Móvil Antidisturbios</i> (ESMAD), intentionally kicking a demonstrator in the face. The organization has verified many videos showing the security forces firing teargas directly at demonstrators. In one, for example, ESMAD fires teargas at demonstrators who have their hands up and who are shouting ‘no to violence’.”</p> <p>“The Inter-American Commission on Human Rights (IACHR) has denounced the detention of at least 112 demonstrators and injuries to 40 people caused by ESMAD’s excessive use of force.”</p> <p>“The Working Group on Enforced Disappearance reported that 775 people were disappeared, there whereabouts of 327 of whom remained unknown.”</p>	<p>L</p>	<p>312-316</p>
<p>2017</p>	<p><u>Colombia: Violence Against Protestors in Buenaventura Civic Strike Must Stop</u> <i>Amnesty International</i></p> <p>Available at: https://www.amnesty.org/en/latest/news/2017/06/colombia-hechos-violentos-en-el-marco-del-paro-civico-de-buenaventura-deben-parar</p> <p>“Local NGO <i>Proceso de Comunidades Negras</i> (PCN) has reported the unjustified use of tear gas against peaceful demonstrators, including children and elderly and disabled people.</p> <p>“Reports indicate that the security forces have detained around 80 people and injured more than a dozen. Yesterday, there were reports that some people had been wounded by firearms at the <i>Sabrosura</i> meeting point in the R9 neighbourhood.”</p>	<p>M</p>	<p>317-321</p>

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COLOMBIA 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Colombia is a constitutional, multiparty republic. Presidential and legislative elections were held in 2022. Voters elected Gustavo Petro president in a second round of elections that observers considered free and fair and the most peaceful in decades. President Petro was inaugurated on August 7.

The Colombian National Police force is responsible for internal law enforcement and is under the jurisdiction of the Ministry of Defense. The Migration Directorate, part of the Ministry of Foreign Affairs, is the immigration authority. The Colombian National Police shares law enforcement investigatory duties with the Attorney General's Corps of Technical Investigators. In addition to its responsibility to defend the country against external threats, the army shares limited responsibility for law enforcement and maintenance of order within the country. For example, military units sometimes provided logistical support and security for criminal investigators to collect evidence in high-conflict or remote areas. Civilian authorities generally maintained effective control over security forces. There were reports that members of the security forces committed some abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings; torture and arbitrary detention by government security forces and armed groups; serious abuses in a conflict; criminalization of libel; serious government corruption; violence against and forced displacement of Afro-Colombian and Indigenous persons; violence against lesbian, gay, bisexual, transgender, queer, and intersex persons; and killings of and other violence against trade unionists.

The government generally took steps to investigate, prosecute, and punish officials who committed human rights abuses, although most cases experienced long delays. Many investigations included cases stemming from throughout the armed conflict in the country starting in the 1960s. The government generally implemented laws criminalizing official corruption.

Armed groups, including dissidents of the former Revolutionary Armed Forces of Colombia, National Liberation Army, and drug-trafficking gangs, continued to operate. Armed groups, as well as narcotics traffickers, were reported as significant perpetrators of human rights abuses and violent crimes, including acts of extrajudicial and unlawful killings, extortion, and other abuses or crimes, such as kidnapping, torture, human trafficking, bombings, restrictions on freedom of movement, sexual violence, unlawful recruitment and use of child soldiers, and threats of violence against journalists, women, human rights defenders, and religious leaders. The government generally investigated these actions and prosecuted those responsible.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports that the government or its agents committed arbitrary or unlawful killings. According to the nongovernmental organization (NGO) Temblores, from January 1 through August 31, there were 18 homicides of civilians by police. According to the NGO Center for Research and Education of the Populace (CINEP), from January 1 through June 30, there were 21 intentional homicides committed by the military.

On July 25, in the municipality of Sampues, Sucre Department, three men were allegedly abused and subsequently died in police custody. Ten police officers were arrested by the Attorney General's Office on suspicion of involvement in these three homicides. The National Police and the Attorney General's Office reported that they opened investigations into all allegations of police violence and excessive use of force. NGOs and other entities continued to request investigations of allegations.

As of August 25, the Inspector General's Office reported 351 disciplinary investigations of police for alleged human rights abuses committed in the context of the 2021 national protests. Of these cases, 341 cases were in the investigation stage and 10 cases were in trial, pending disciplinary decisions.

As of August, the Attorney General's Office reported it had opened 20 investigations against 24 police officers for alleged homicides committed during the 2021 protests. Charges included homicide, torture, kidnapping, and inflicting personal injuries, among other crimes. As of August, the Attorney General's Office reported there had not been any convictions of police officers for crimes committed in the national protests. Authorities disciplined police officers for excessive use of force during the 2021 protests.

Illegal armed groups, including the National Liberation Army (ELN), committed numerous unlawful killings, in some cases politically motivated, and usually in areas without a strong government presence (see section 1.g.).

Investigations of past killings proceeded, albeit slowly due to the high workload of judges, prosecutors, and law enforcement investigators. From January 1 through August 1, the Attorney General's Office registered five new cases of alleged aggravated homicide by state agents. During the same period, authorities reported that they obtained sentences against 11 members of the security forces for cases that took place in prior years.

Efforts continued to hold officials accountable in so-called false-positive extrajudicial killings during which, per court records, 6,402 civilians were killed and falsely presented as guerrilla combatants from 2002 to 2008. The Special Jurisdiction for Peace (JEP) was the transitional justice tribunal created by the 2016 peace accord to investigate serious crimes committed during the 52-year internal armed conflict with the Revolutionary Armed Forces of Colombia (FARC). The JEP continued to promote reconciliation and to take steps to hold accountable the perpetrators of violence during the armed conflict. As of October 1, the JEP reported that 3,482 members of the armed forces voluntarily accepted JEP jurisdiction for legal proceedings related to false positives, and that 508 members gave testimony in the false-positives case known as "overarching case 03."

On April 26-27, as part of its effort to establish truth, reconciliation, and nonrepetition of prior actions, the JEP facilitated the first "recognition of responsibility" event in Ocana, Norte de Santander. At the event, 10 members of the army, including a general and four colonels, as well as a third-party civilian,

recognized their responsibility for extrajudicial killings and forced disappearances and apologized to victims' families. The persons testifying included members of Brigade 30, Mobile Brigade 15, and Infantry Battalion 15 ("General Francisco de Paula Santander"), indicted in 2021 for 120 extrajudicial killings.

In JEP proceedings on July 18-19, 12 members of Artillery Battalion Number Two ("La Popa"), which the JEP charged with committing 127 extrajudicial killings in Cesar and La Guajira between 2002 and 2005, publicly acknowledged responsibility for extrajudicial killings. These 12 persons participated in a ceremony with victims' families and leaders of the Kanukuamo and Wiwa Indigenous communities they targeted. Three additional individuals indicted in conjunction with the killings declined to accept responsibility and were to face adversarial prosecution, including retired colonels Publio Hernan Mejia Gutierrez and Juan Carlos Figueroa Suarez.

On July 25, the JEP indicted 22 members of the army as well as one former intelligence official and two civilians for 303 false-positive killings in Casarane. Among those indicted were former leaders of Brigade 16, including retired General Henry William Torres Escalante. On July 27, the JEP indicted 10 former members of the army, including three colonels, for disappearances and extrajudicial killings in Dabeiba and Ituango (Antioquia). Those implicated belonged to the Counter-guerrilla Battalion 26 ("Arhuacos"), Counter-guerrilla Battalion 79 ("Hernando Combita Salazar"), and Mobile Brigade 11. The JEP reported that the testimony of 24 former soldiers and officers to the JEP implicated retired army commander General Mario Montoya Uribe in relation to the false-positive cases. In his testimony in September, Montoya denied responsibility for the false-positive killings.

As of August 30, the Attorney General's Office reported that since 2008 the government convicted 1,438 members of the security forces in cases related to false-positive cases, one more than in 2021. Many of those convicted in the ordinary and military justice systems were granted conditional release from prisons and military detention centers upon agreeing to submit to the jurisdiction of the JEP. The military justice system developed a protocol to monitor the whereabouts of prisoners on conditional release; it was responsible for reporting any anomalies to the JEP for appropriate action.

The Attorney General's Office reported that as of August 1, there were open investigations of eight retired and active-duty generals related to false-positive killings. The Attorney General's Office also reported that as of August 31, there were 2,408 open investigations related to false-positive killings or other extrajudicial killings, of which 2,028 investigations were at the investigation stage and 414 investigations had gone to trial.

Human rights organizations, victims, and government investigators accused some members of government security forces of collaborating with or tolerating the activities of criminal gangs, which included some former paramilitary members. According to the Attorney General's Office, between January and August 31, four police officials were formally accused of having ties with illegal armed groups.

The UN Office of the High Commissioner for Human Rights (OHCHR) reported that between January 1 and June 30, it received 114 allegations of homicides of human rights defenders. Of those allegations, 67 remained under review, 22 deaths had been confirmed as being related to the individual's actions defending human rights, and 25 cases had been determined to be inconclusive. The OHCHR reported that three victims were Afro-Colombians and eight were Indigenous. According to the OHCHR, 1,116 human rights defenders and social leaders received death threats in 2021. The OHCHR reported an increase in threats against human rights defenders during the electoral period in the first half of the year. On October 28, the ombudsman announced that 157 homicides of social leaders occurred through end of September. NGOs using different methodologies and definitions reported differing numbers of homicides of social leaders and human rights defenders, which often included environmental activists. The NGO Indepaz reported 144 homicides of social leaders through October 12.

According to the Attorney General's Office, in the cases related to more than 1,000 killings of human rights defenders from January 2016 to August 2022, the government obtained 109 convictions. The motives for the killings varied, and it was often difficult to determine the primary motive in individual cases. For example, on June 8, armed groups killed Jesusita Moreno Mosquera in Cali, Valle de Cauca. Mosquera was a human rights defender from the department of Choco. She also advocated for environmental rights and opposed the presence of armed groups in her community. She had previously notified authorities about receiving

threats from armed groups. Police immediately opened an investigation into the killing.

The government's Commission of the Timely Action Plan for Prevention and Protection for Human Rights Defenders, Social and Communal Leaders, and Journalists worked to investigate and prevent attacks against social leaders and human rights defenders. Four units – an elite Colombian National Police (CNP) corps, a specialized subdirectorate of the National Protection Unit (NPU), a special investigation unit of the Attorney General's Office responsible for dismantling criminal organizations and enterprises, and a unified command post – shared responsibility for protecting human rights defenders from attacks and investigating and prosecuting these cases.

By law the Attorney General's Office is the primary entity responsible for investigating allegations of human rights abuses committed by security forces, except for conflict-related crimes, which are under the jurisdiction of the JEP (see section 1.c. for additional information regarding investigations and impunity).

b. Disappearance

According to the Attorney General's Office, there were no formal complaints of forced disappearance from January 1 through August 1. The Office of the Ombudsman reported receiving notifications of 121 cases of forced displacement from January 1 through August 31. As of August 25, the National Institute of Forensic and Legal Medicine registered 34,420 cases of forced disappearance since the beginning of the country's armed conflict in the early 1960s. Of those cases, the National Institute of Forensic and Legal medicine registered 1,012 cases between January 1 and August 25. According to the Attorney General's Office, as of August, there were no convictions in connection with forced disappearances.

The Special Unit for the Search for Disappeared Persons, launched in 2018, continued to investigate disappearances that occurred during the conflict. The Search Unit reported that as of June 30 it had helped locate seven missing persons and recover 506 bodies of victims of forced disappearance related to the conflict. The Truth Commission reported 121,768 persons were victims of forced disappearance during the conflict.

On April 7, the JEP stated that state agents and paramilitaries killed or disappeared 5,733 candidates and other persons affiliated with the leftwing political party Union Patriótica (Patriotic Union) between 1984 and 2016 (see section 3).

The JEP proceedings in the false-positives case involved forced disappearances in addition to extrajudicial killings (see section 1.a. above).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

Although the law prohibits such practices, there were reports government officials used these methods of abuse. CINEP reported that through August, security forces were allegedly involved in eight cases of abuse and inhuman treatment involving 12 victims. Members of the military and police accused of torture generally were tried in civilian rather than military courts. The NGO Temblores reported that police beat and sexually assaulted demonstrators in 17 cases between January 1 and May 31. The Attorney General's Office and the Inspector General's Office stated they launched internal investigations of all allegations of excessive use of force.

The Attorney General's Office reported it convicted no members of the military or police of torture between January and August 1. Investigations into torture allegations continued, however. The Attorney General's Office reported they formally charged 43 police and 27 members of the military for alleged acts of torture, 31 cases of which took place in previous years.

CINEP reported criminal organizations and armed groups were responsible for three documented cases of torture involving three victims through June 30.

According to NGOs monitoring prison conditions, there were numerous allegations of sexual and physical violence committed by guards and other inmates, including gender-based violence.

The Attorney General's Office is the primary entity responsible for investigating allegations of human rights abuses committed by security forces, except for conflict-related crimes, which are within the jurisdiction of the JEP. The JEP continued investigations in its seven prioritized thematic cases focusing on

incidents within a certain region, incidents by specific actors, and incidents against certain categories of victims.

The government made improvements in investigating and trying abuse cases, but claims of impunity for security force members continued. This was due in some cases to obstruction of justice and opacity in the process by which cases were investigated and prosecuted in the military justice system. Some NGOs complained that military investigators, not members of the Attorney General's Office, were sometimes the first responders in cases of deaths resulting from actions of security forces. Some NGOs cautioned that this situation may bias investigations against finding possibly illegal conduct by security forces. Inadequate protection of witnesses and investigators, delay tactics by defense attorneys, the judiciary's failure to exert appropriate controls over dockets and case progress, and inadequate coordination among government entities that sometimes allowed statutes of limitations to expire, resulting in a defendant's release from jail before trial, were also significant obstacles.

Transition to a new system of military justice continued slowly. The military did not develop a strategy for recruiting, hiring, or training the investigators, crime scene technicians, or forensic specialists required under the new accusatory system. As a result, the military justice system did not exercise criminal investigative authority; all new criminal investigation duties were conducted by judicial police investigators from the CNP and the Attorney General's Corps of Technical Investigators.

Prison and Detention Center Conditions

Most conditions in prisons and detention centers were harsh and life threatening due to overcrowding, inadequate sanitary conditions, poor health care, and lack of other basic services. Poor training of officials remained a problem throughout the prison system.

Abusive Physical Conditions: Overcrowding existed in both men's and women's prisons. The National Prison Institute (INPEC), which operated the national prisons and oversaw the jails, estimated the prisons and jails were approximately 20 percent over capacity. The law dictates that local governments are responsible

for funding and operating pretrial detention facilities. The law prohibits holding pretrial detainees with convicted prisoners, but often this law was not followed. The Superior Judiciary Council stated the maximum time a person may remain in judicial detention facilities is three days. The same rules apply to jails located inside police stations. Police, local governments, and prison authorities often violated this guidance.

The practice of preventive detention, in combination with inefficiencies in the judicial system, resulted in overcrowding. Physical abuse by prison guards, prisoner-on-prisoner violence, and authorities' failure to maintain control were problems. INPEC's Office of Disciplinary Control investigated allegations that some prison guards routinely used excessive force and treated inmates brutally. Between January 1 and August 20, INPEC reported 36 new disciplinary investigations against prison guards for physical abuse and inflicting personal injuries. Additionally, the Inspector General's Office reported that between January 1 and August 25, officials opened 21 disciplinary investigations related to cases of abuse against inmates and persons under temporary detention, in which 11 INPEC guards and 15 police officers were involved.

INPEC reported 221 deaths in prisons, jails, pretrial detention facilities, and other detention centers through August 20. Eight deaths were caused by fights, 60 were due to accidents, and one death was due to intoxication. Of the 60 accidental deaths, 52 stemmed from a June 27 fire in the prison of Tulua, Valle de Cauca, during a fight between inmates. Inmates alleged INPEC guards were negligent in their response to the fire.

Many prisoners faced difficulties receiving adequate medical care. Nutrition and water quality were poor and contributed to the overall poor health of many inmates. Inmates stated authorities routinely rationed water in many facilities; officials attributed this practice to city water shortages.

INPEC's physical structures were generally in poor repair. The Inspector General's Office noted some facilities had poor ventilation and overtaxed sanitary systems. Prisoners in some cold, high-altitude facilities complained of inadequate blankets and warm clothing, while prisoners in tropical facilities complained that overcrowding and insufficient ventilation contributed to high temperatures in

prison cells. Some prisoners slept on floors without mattresses, while others shared cots in overcrowded cells.

Administration: Authorities investigated credible prisoner complaints of mistreatment and inhuman conditions, including complaints of prison guards soliciting bribes from inmates. Some prisoners asserted the investigations were slow. INPEC required a three-day notice before granting consular access. Some NGOs complained that authorities denied them access to visit prisoners without adequate explanation.

Independent Monitoring: The government permitted independent monitoring of prison conditions by local and international human rights groups.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. There were allegations, however, that authorities detained citizens arbitrarily. The NGO Temblores reported 76 cases of arbitrary detention by police involving 145 victims. NGO CINEP reported six cases of arbitrary detention by the army with 14 victims, and seven cases of arbitrary detention by the Attorney General's Office with 41 victims.

Arrest Procedures and Treatment of Detainees

To ensure the detention is valid, officials must bring detained persons before a judge within 36 hours of arrest, bring formal charges within 30 days, and start a trial within 90 days of the initial detention. Public defenders contracted by the Office of the Ombudsman assisted indigent defendants but were overloaded with cases. Detainees received prompt access to legal counsel and family members, as provided by law. Bail was generally available except for serious crimes such as murder, rebellion, or narcotics trafficking. Authorities generally respected these rights.

Arbitrary Arrest: Even though the law prohibits arbitrary arrest and detention, this law was not always respected. NGOs described some arrests as arbitrary detentions. These included arrests based allegedly on tips from informants of

persons linked to guerrilla activities, detentions by members of security forces without judicial orders, detentions based on administrative authority, detentions during military operations or at roadblocks, large-scale detentions, and detentions of persons who were “exercising their fundamental rights.” Multiple NGOs alleged that police misused a temporary protection mechanism to arbitrarily detain protestors.

Pretrial Detention: The judicial process moved slowly, and the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Approximately 25 percent of prison detainees were in pretrial detention. The failure of many jail supervisors to keep mandatory detention records or follow notification procedures made it difficult to account for all detainees. In some cases, detainees were released without a trial because they had already served more than one-third of the maximum sentence for their charges. Civil society groups complained that authorities subjected some community leaders to extended pretrial detention.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Much of the judicial system was overburdened and inefficient. Subornation, corruption, and the intimidation of judges, prosecutors, and witnesses hindered the independence of the judiciary.

Trial Procedures

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right. The government began implementing an accusatory system of justice in 2005, but the use of delay tactics by defense lawyers, prosecutors’ heavy caseloads, and other negative factors diminished the efficiencies and other benefits of adopting the accusatory system. Under the accusatory system, the prosecutor presents an accusation and evidence before an impartial judge at an oral, public trial.

Crimes committed before 2005 are processed under the prior written inquisitorial system in which the prosecutor investigates, determines evidence, and makes a finding of guilt or innocence. In those cases, the prosecutor presents evidence and

the finding of guilt or innocence to a judge who then ratifies or rejects the finding.

In the military justice system, military judges preside over courts-martial. Counsel may represent the accused and call witnesses, but most fact finding takes place during the investigative stage. Military trial judges are required to issue rulings within eight days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at a court-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatory systems.

Political Prisoners and Detainees

The government declared it did not hold political prisoners; nevertheless, authorities held some members of human rights advocacy groups on charges of conspiracy, rebellion, or terrorism, which the groups described as government harassment of human rights advocates. According to INPEC, the government held 115 persons on charges of rebellion or of aiding and promoting insurgency and convicted 38 of them. The government provided the International Committee of the Red Cross with regular access to these prisoners.

Civil Judicial Procedures and Remedies

Citizens and organizations may sue a government agent or entity in the Administrative Court of Litigation for damages resulting from a human rights violation. Although critics complained of delays in the process, the court generally was considered impartial and effective. Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights. The Inter-American Court of Human Rights may order civil remedies, including fair compensation to the injured individual.

Property Seizure and Restitution

The law provides a legal basis for assistance and reparations to victims of the conflict, including victims of government abuses, but the government

acknowledged that the pace of restitution was slow.

The Land Restitution Unit, a semiautonomous entity in the Ministry of Agriculture, is responsible for returning land to displaced victims of conflict.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, but there were allegations that the government sometimes failed to respect these prohibitions. Government authorities generally need a judicial order to intercept mail or email or to monitor telephone conversations, including in prisons. Government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; the law bars evidence obtained in this manner from being used in court.

NGOs continued to accuse domestic intelligence or security entities of illegally monitoring lawyers and human rights defenders.

g. Conflict-related Abuses

The government and the FARC, formerly the country's largest guerrilla insurgency group, continued to implement the 2016 peace accord. In 2017 the FARC completed its disarmament, and as of July nearly 13,000 former members were engaged in reincorporation activities, including the formation of a political party. An estimated 800 to 1,500 FARC dissidents did not participate in the peace process from the outset. As of October, NGOs estimated FARC dissident numbers had grown to approximately 5,200 due to new recruitment and some former combatants who returned to arms. A significant percentage of FARC dissidents were unarmed members of support networks that facilitated illicit economies. Some members of the FARC who participated in the peace process alleged the government had not fully complied with its commitments, including ensuring the security of demobilized former combatants or facilitating their reintegration. The government alleged the FARC had not met its full commitments to cooperate on counternarcotics efforts and other peace accord commitments.

Following the signing of the 2016 peace accord, three transitional justice

mechanisms were established and were operational throughout the year: the Commission for the Clarification of Truth, Coexistence, and Nonrepetition (the Truth Commission); the Special Unit for the Search for Disappeared Persons; and the JEP.

On February 18, the JEP announced that it would open three new thematic cases in addition to the seven original cases. These included an overarching thematic case concerning serious crimes committed by the former FARC; an overarching thematic case concerning serious crimes committed by the armed forces or other state agents on their own or in partnership with third-party civilians or paramilitaries; and an overarching thematic case covering crimes committed against ethnic communities. The Truth Commission issued its final report and recommendations on June 28. The report documented significant human rights violations committed by government institutions and illegal armed groups during the conflict, with a disproportionate impact on Afro-Colombian, Indigenous, and other racial and ethnic minority communities.

The ELN continued to commit crimes and acts of terror throughout the country, including bombings, violence against civilian populations, and violent attacks against military and police facilities. Illegal armed groups and drug gangs, such as the Clan del Golfo, also continued to operate.

For example, after announcing on February 22 a series of planned attacks, which the ELN said were aimed to draw attention to President Duque's "poor governance," the ELN conducted 65 attacks in 66 municipalities across 11 departments from February 23 to February 26. According to the Investigation and Accusation Unit of the JEP, one civilian, a social leader, was killed. The campaign included 18 terrorist attacks on electrical and highway infrastructure, bomb threats, 10 burnt vehicles, and explosive devices left in streets. Seven communities reported that the ELN had blocked streets and building access in their towns; 23 transport terminals suspended operations as a result. The ELN marked buildings with graffiti and raised its flag in different cities. According to online media outlet *InsightCrime*, the 65 incidents in this strike surpassed the 27 attacks carried out during a similar strike by the ELN in 2020.

Killings: The military was accused of some killings, some of which military

officials stated were “military mistakes” (see section 1.a.). In other cases, military officials stated they believed the victim was fighting on behalf of an armed group, while community members stated the victim was not a combatant. On March 28, in Puerto Leguizamo, Putumayo Department, near the border with Ecuador, the army carried out a military operation intended to target FARC dissidents involved in drug trafficking. The operation left 11 persons dead. The Attorney General’s Office and the Inspector General’s Office were conducting criminal and disciplinary investigations.

Armed groups, notably the ELN, FARC dissidents, and the Clan del Golfo, committed unlawful killings, primarily in areas with illicit economic activities and without a strong government presence. The government reported that between January 1 and July 31, armed groups allegedly killed 98 members of state security forces, including 40 police officers, and wounded 512 other members. Government officials stated that most of the violence was related to narcotics trafficking enterprises.

Independent observers raised concerns that inadequate security guarantees facilitated the killing of former FARC militants. According to the UN Verification Mission (UNVM), 37 former FARC combatants had been killed by September 26, bringing the total to 342 homicides of former combatants since the 2016 accord. The United Nations reported the collective security of former combatants was threatened by the actions of illegal armed groups. The UNVM reported that emergency protection requests had increased from 144 requests in 2021 to 150 from January through August.

The ELN, FARC dissidents, and other groups continued to lay land mines. According to the High Commissioner for Peace, three persons were killed and 71 wounded between January 1 and September 29 as the result of improvised explosive devices and land mines.

Abductions: Criminal organizations, FARC dissidents, the ELN, and common criminals continued to kidnap persons. According to the Ministry of Defense, there were 75 kidnappings from January 1 to July 31. Seventeen of the kidnappings were attributed to the ELN, and the remainder were attributed to other organized armed groups. On July 13 in a rural area of Tame, Arauca Department,

the ELN kidnapped 11 persons, including a former FARC combatant, Indigenous persons, and poor farmers. In August, after the presidential inauguration, the ELN released 15 persons, including five members of the military and one police officer whom they had kidnapped during the year.

Between January 1 and July 31, the Ministry of Defense reported that the armed forces and police released 38 hostages from captivity. The ministry also reported that between January 1 and July 31, four victims of kidnapping died while in captivity. As of August 10, the Attorney General's Office reported seven convictions for kidnapping.

Efforts continued to hold accountable those responsible for pre-peace-accord abductions. In June members of the secretariat of the former FARC publicly acknowledged their responsibility for war crimes and crimes against humanity involving kidnapping and hostage-taking during the armed conflict, as well as for other gross violations of human rights committed in the context of such abductions, including torture and disappearances. They shared a stage with, and apologized to, their victims. The JEP assessed that 21,396 persons in total were victims of FARC violence.

Physical Abuse, Punishment, and Torture: From January through August, CINEP reported the ELN and criminal organizations were responsible for four documented cases of serious abuse that included seven victims.

Child Soldiers: Illegal armed groups and criminal organizations continued to forcibly recruit and use child soldiers for armed conflict and exploit them in forced labor and sex trafficking.

Other Conflict-related Abuse: Reports of other human rights abuses occurred in the context of the conflict and narcotics trafficking. Drug traffickers and armed groups continued to displace predominantly poor and rural populations (see section 2.f., Status and Treatment of Internally Displaced Persons). Armed groups, particularly in the departments of Cauca, Choco, Cordoba, Narino, and Norte de Santander, exploited children, including Venezuelan, Indigenous, and Afro-Colombian youth, in human trafficking by forcibly recruiting them to serve as combatants and informants, to harvest illicit crops, and to be exploited in sex

trafficking.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The law provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. NGOs and journalists alleged increased harassment and threats from state officials, including police, during coverage of the nationwide protests. Violence and harassment, as well as the criminalization of libel, inhibited freedom of the press. The government frequently influenced the press, in part through its large advertising budgets. The independent media were active and expressed a wide variety of views without restriction.

Violence and Harassment: According to the domestic NGO Fundacion para la Libertad de Prensa (FLIP), from January 1 to September 2, there were 385 incidents of violence and harassment against journalists, and six journalists were illegally detained. In the same period, FLIP reported 139 threats against journalists, some involving more than one target. These threats were made by both governmental and nongovernmental actors.

According to FLIP, the electoral period between January and July was the most violent for journalists and the traditional media in the last 10 years. During this period, FLIP reported that journalists were victims of threats and stigmatization from politicians. For example, President Petro called columnist David Ghitis from *Noticiero RCN* a “neonazi.” During the presidential inauguration, journalists from *Revista Semana* and *Noticiero RCN* were called “fascists” by a group of inauguration attendees, according to media reports.

From January 1 through August 1, the Attorney General’s Office investigated 20 cases of homicide of journalists and obtained four convictions. These included cases from prior years. It reported no investigations involving alleged threats or harassment against journalists.

On August 28, two journalists, Dilia Contreras and Leiner Montero, were killed

while covering a religious festival in Magdalena Department. According to FLIP investigations, Montero had previously received threats. FLIP asked the Attorney General's Office to investigate the killings as crimes targeting journalists. Four days after the killings, Magdalena authorities captured a man accused of participating in the killing of the two journalists, but authorities were investigating whether the incident was related to their profession as journalists.

As of September 1, the NPU provided protection services to 162 journalists, including new protection measures issued this year for 15 journalists. Some NGOs raised concerns regarding perceived shortcomings in the NPU, such as delays in granting protection and the appropriateness of measures for addressing specific threats.

On October 16, Rafael Moreno Garavito became the third journalist killed in the year following an attack in Montelibano, Cordoba.

Censorship or Content Restrictions for Members of the Press and Other Media, including Online Media: FLIP alleged some journalists practiced self-censorship due to fear of being sued under libel laws or of being physically attacked, mostly by nongovernment actors. FLIP asserted the high degree of impunity for those who committed aggressions against journalists was a factor in self-censorship. In addition, individuals living in high-violence areas practiced self-censorship due to their fear of attacks.

Libel/Slander Laws: By law, slander and libel are crimes. The government did not use prosecution to prevent media outlets from criticizing government policies or public officials. Political candidates, businesspersons, and others, however, publicly threatened to sue journalists for expressing opinions, alleging defamation or libel. FLIP reported that through September 6, there were five cases of judicial harassment affecting journalists.

Nongovernmental Impact: Members of armed groups inhibited freedom of expression by intimidating, threatening, kidnapping, and killing journalists. National and international NGOs reported media regularly practiced self-censorship because of threats of violence from armed groups.

Internet Freedom

The government reported it did not restrict or disrupt access to the internet or censor online content, including during the national protests. Internet service providers, however, reported the social networking site Tumblr was temporarily blocked by “order of the competent authorities” in January. The reason for the block was unclear, and inquiries made by civil society groups to the government were not successful in gaining further clarity.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, but the government did not always respect these rights.

Freedom of Peaceful Assembly

Protesters and NGOs continued to allege that police used excessive force to curb demonstrations during the 2021 nationwide protests. Some of the protests were violent, including attacks on police and police stations, looting, and burning government buildings and public transportation. Protesters also erected thousands of roadblocks, impeding the delivery of food, supplies, and emergency services.

From January 1 to August 1, the Attorney General’s Office reported that 20 members of the police were under active investigation for alleged homicide during the 2021 protests. The attorney general also charged an additional 24 members of the security forces with crimes related to the protests.

Freedom of Association

The law provides for the freedom of association, and the government generally respected this right. Freedom of association was limited, however, by threats and acts of violence committed by armed groups against NGOs, Indigenous groups, and labor unions.

Although the government does not prohibit membership in most political organizations, membership in organizations that engaged in rebellion against the government, espoused violence, or carried out acts of violence, such as the FARC, the ELN, and other armed groups, was against the law.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these related rights, although there were exceptions. Military operations and insecurity in certain rural areas restricted freedom of movement.

In-country Movement: The government required asylum seekers and individuals without regularized migration status to have a *salvoconducto* (safe passage document) to travel throughout the country; however, humanitarian legal assistance organizations reported extensive delays in receiving these documents. Armed groups established checkpoints on rural roads and set their own curfews, which restricted movement and expanded the groups' territorial control.

International and civil society organizations reported that armed groups restricted movement of rural communities through roadblocks, curfews, car bombs at egress routes, and improvised explosive devices in areas where illicit crop cultivation and narcotics trafficking persisted. By July, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA), 69,000 persons lived in communities that suffered restricted movement due to armed incidents and geographical factors, limiting their access to essential goods and services.

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, or asylum seekers, as well as other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing long-term protection to refugees.

While the government generally provided access to the asylum process for persons who requested international protection, many opted for alternative migration status such as Temporary Protective Status. The government continued to grant citizenship to Venezuelan children born in Colombia on or after August 19, 2015.

Temporary Protection: The law allows a 10-year Temporary Protective Status. The status provides a pathway to legal residence. Officials reported one million persons were in the process of obtaining the status, while an additional 1.5 million Venezuelans were eligible to request the status. The status allowed authorities to identify Venezuelans with temporary status; grant Venezuelans formal access to work, health, and education; and facilitate participation in the national COVID-19 vaccination plan.

f. Status and Treatment of Internally Displaced Persons

There were approximately 6.7 million internally displaced persons (IDPs) living in the country after 1985, largely because of the armed conflict and continuing violence in rural areas. Threats posed by armed groups created internal displacement in remote areas as well as urban settings. After the 2016 peace accord, FARC withdrawal resulted in a struggle for control by other armed groups, causing violence and additional internal displacement.

The government, international organizations, and civil society groups identified various factors causing displacement, including threats, extortion, and physical, psychological, and sexual violence by armed groups against civilian populations, particularly against women and girls. Other causes of displacement included competition and armed confrontation among and within armed groups for resources and territorial control; confrontations between security forces, guerrillas, and criminal gangs; and forced recruitment of children or threats of forced recruitment. Drug trafficking, illegal mining, and large-scale commercial ventures in rural areas also contributed to displacement.

Local institutions in many areas lacked the capacity to protect the rights of and provide public services to IDPs and communities at risk of displacement. Consequently, the government continued to struggle to provide adequate protection and humanitarian assistance to newly displaced populations.

OCHA reported that 42,800 persons were affected in 105 displacement events between January and September. Departments with the highest rate of mass displacements included Antioquia, Cauca, Choco, Narino, and Norte de Santander.

The Victims' Unit maintained the Single Victims Registry as mandated by law. Despite improvements in the government registration system, IDPs experienced delays in receiving responses to their displacement claims due to a large backlog of claims built up during several months, lack of the unit's presence in rural areas, and other constraints. Government policy provided for an appeal process in the case of refusals of displacement claims.

The ELN and other armed groups continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government. International organizations and civil society expressed concern regarding urban displacement caused by violent territorial disputes between criminal gangs, some of which had links to larger criminal and narcotics trafficking groups.

The Victims' Unit cited extortion, forced recruitment by armed groups, killings, and physical and sexual violence as the primary causes of intraurban displacement. UNHCR reported that displacement disproportionately affected Indigenous and Afro-Colombian groups.

The NGO National Association of Displaced Afro-descendants (AFRODES) stated that threats and violence against Afro-Colombian leaders and communities continued to cause high levels of forced displacement, especially in the Pacific coast region. AFRODES and other local NGOs expressed concern that large-scale economic projects, such as agriculture and mining, contributed to displacement in their communities.

By law, 52 government agencies share responsibility for assisting registered IDPs. Dozens of international organizations; international NGOs; domestic nonprofit groups; and multilateral organizations, including the International Organization for Migration, World Food Program, International Committee of the Red Cross, UNHCR, and Colombian Red Cross, coordinated with the government to provide emergency relief and long-term assistance to displaced populations.

International organizations and NGOs remained concerned regarding the slow and

insufficient institutional response to displacement. Insecurity in communities affected by the conflict, including areas in the departments of Antioquia, Cauca, Choco, Narino, and Norte de Santander, often delayed national and international aid organizations from reaching newly displaced populations. International organizations and civil society reported that a lack of local capacity to accept registrations in high-displacement areas often delayed assistance to persons displaced individually or in smaller groups. Humanitarian organizations attributed the delays to a variety of factors, including lack of personnel, funding, declaration forms, and training. As a result, NGOs took additional measures to provide humanitarian assistance to recently displaced individuals. Many IDPs continued to live in poverty in unhygienic conditions and with limited access to health care, education, shelter, and employment. Following the COVID-19 pandemic, some humanitarian organizations continued health promotion education and the distribution of hygiene supplies.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on nearly universal suffrage. Active-duty members of the armed forces and police may neither vote nor participate in the political process. Civilian public employees are eligible to vote, and they may participate in partisan politics but only during the four months immediately preceding a national election.

Elections and Political Participation

Recent Elections: Legislative and presidential elections were held in March and May, respectively. Because no presidential candidate won more than 50 percent of the vote in the first round, the country held a second round of voting in June, resulting in the election of Gustavo Petro. Observers, including teams from foreign embassies, the Organization of American States, and leading domestic watchdog Electoral Observation Mission, considered the elections free and fair.

Political Parties and Political Participation: Criminal gangs, FARC dissidents, and the ELN continued to threaten and kill government officials (see section 1.g.). As of June 30, the NPU, under the Ministry of Interior, was providing protection to

255 mayors, 16 governors, and 435 other persons, including members of departmental assemblies, council members, judges, municipal human rights officers, and other officials related to national human rights policies. By decree, the CNP's protection program and the NPU share responsibility for protecting municipal and district mayors. On April 7, the JEP ruled that state agents, including military intelligence officers, as well as paramilitaries acting in concert with state agents, killed or disappeared 5,733 candidates and other persons affiliated with the leftwing political party Union Patriótica in a "generalized, systematic" effort to debilitate the party between 1984 and 2016.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively, although officials sometimes engaged in corrupt practices without punishment. There were numerous reports of government corruption during the year, particularly at the local level. Revenues from transnational organized crime, including drug trafficking, exacerbated corruption.

Corruption: In August, press reports alleged that government officials abused their positions to steal hundreds of millions of dollars in peace accord implementation funds meant for some of the country's poorest, most violent, and least governed territories. An investigation by journalists estimated that approximately 12 percent of the 2021 peace resources, estimated at 500 billion pesos (\$115 million) and meant for infrastructure projects, was lost to bribes and kickbacks.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human

Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were typically cooperative and willing to listen to the concerns of local human rights groups.

Retribution Against Human Rights Defenders: UN Special Rapporteur on the Situation of Human Rights Defenders Mary Lawlor expressed concern with the killing on January 14 of Breiner David Cucuname, age 14 human rights and environmental defender, which took place in a rural area of Cauca Department, located in the southwest of the country. Cucuname was shot in an ambush while on patrol with the unarmed Indigenous Guard, an organization that sought to protect Indigenous communities and land. Indigenous authorities condemned the attack and blamed the dissidents of the FARC. Former President Ivan Duque publicly denounced the attack (see also section 6, Indigenous Peoples).

Several human rights-focused NGOs reported receiving threats in the form of emails, mail, telephone calls, false obituaries, and objects related to death, such as coffins and funeral bouquets. The government often condemned the threats and called on the Attorney General's Office to investigate them. On June 7, the JEP issued a statement condemning threats against an NGO representing victims of forced displacement, in particular the unauthorized entry into its offices by an armed individual. Some activists claimed the government did not take the threats seriously, given the delayed responses in risk assessments following previous threats and attacks and slow implementation of the subsequent recommendations.

The government announced progress in the investigations into attacks and killings of human rights defenders, but there were no convictions in cases of threats against human rights defenders during the year. (See section 1.a. for additional information.)

As of June, the NPU provided protection to more than 8,091 individuals. Among the protected persons were 3,595 human rights defenders and social leaders.

Government Human Rights Bodies: The ombudsperson is independent, submits

an annual report to the House of Representatives, and has responsibility for providing for the promotion and exercise of human rights. According to human rights groups, underfunding of the Ombudsperson's Office limited the office's ability to monitor abuses effectively. The ombudsperson, as well as members of the ombudsperson's regional offices, received threats from armed groups through pamphlets, email, and violent actions. The Ombudsperson's Office regularly issued alerts for areas it assessed as at risk of conflict. The government was often slow to implement the recommendations in the alerts.

The National System for Human Rights and International Humanitarian Law – led by a commission of 21 senior government officials, including the vice president – designed, implemented, and evaluated the government's policies on human rights and international humanitarian law. The Office of the Presidential Advisor for Human Rights coordinated national human rights policy and actions taken by the government to promote or protect human rights.

Both the Senate and House of Representatives have human rights committees that served as forums for discussion of human rights problems.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Although prohibited by law, rape of men or women, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 30 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates prison sentences of six months to two years. By law, femicide is punishable with penalties of 21 to 50 years in prison, longer than the minimum sentence of 13 years for homicide. The law augments both imprisonment and fines if a crime causes "transitory or permanent physical disfigurement," such as in the case of acid attacks, which have a penalty of up to 50 years in prison. The government did not always enforce the law effectively.

Violence against women, as well as impunity for perpetrators, was a problem. Members of armed groups continued to rape and sexually abuse women and

children. The law requires the government to provide immediate protection to survivors of domestic violence from further physical or psychological abuse.

The interagency Sexual Assault Investigative Unit in Bogota focuses on investigating sexual assault cases. The Ministry of Defense continued implementing its protocol for managing cases of sexual violence and harassment involving members of the military. The District Secretariat of Women in Bogota and the Ombudsperson's Office offered free legal aid for survivors of gender violence and organized courses to teach officials how to treat survivors respectfully.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C, but isolated incidents were reported in several Indigenous communities in different parts of the country. Two-thirds of women from the Embera community had undergone FGM/C, according to the UN Population Fund. The Ministry of Health reported FGM/C cases occurring in Choco and Cauca Departments affecting girls as young as age nine days. Indigenous leaders stated that FGM/C continued to be a problem, with local officials confirming a high level of underreporting on a regional and national scale.

Sexual Harassment: The law provides measures to deter and punish harassment in the workplace such as sexual harassment, verbal abuse or derision, aggression, and discrimination. The government did not always enforce the law effectively. The Attorney General's Office and Prosecutor's Office opened numerous cases against members of the military forces and police for rape, abuse, and sexual harassment of women, Afro-Colombian and Indigenous leaders, and members of the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community. Nonetheless, NGOs reported sexual harassment remained a pervasive and underreported problem in workplaces and in public.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. The law, however, allows the involuntary surgical sterilization in certain cases of children with cognitive and psychosocial disabilities. The Truth Commission's final report released on June 28 acknowledged that the internal armed conflict involved "reproductive violence." This included forced contraception and abortions for adult women combatants and

minor girls illegally recruited into armed groups.

Contraception was widely available. The government provided access to sexual and reproductive services, and emergency contraception was available for survivors of sexual violence, including survivors of conflict-related sexual violence. Emergency contraception was also available as part of family planning methods.

Discrimination: Although women have the same legal rights as men, discrimination against women persisted. The Office of the Advisor for the Equality of Women had primary responsibility for combating discrimination against women, but advocacy groups reported that the office remained seriously underfunded and was not always effective. The government continued its national public policy promoting gender equity.

Systemic Racial or Ethnic Violence and Discrimination

According to the 2018 national census, approximately one-fifth of the country's population self-identified as Afro-Colombian or Indigenous, and approximately 9.3 percent of the population described themselves as being of African descent. A 2011 UN report estimated Afro-Colombians were 15 to 20 percent of the population, while human rights groups and Afro-Colombian organizations estimated the proportion to be 20 to 25 percent.

Afro-Colombians and Indigenous individuals are entitled to all constitutional rights and protections, but they faced significant economic and social discrimination. According to a 2016 UN report, 32 percent of the country's population lived below the poverty line, but in Choco, the department with the highest percentage of Afro-Colombian residents, 79 percent of residents lived below the poverty line. NGOs and the OHCHR reported that Afro-Colombian and Indigenous communities continued to be disproportionately affected by illicit economic activities in territories with weak governments. According to the Truth Commission's final report, 39.6 percent of Afro-Colombian individuals were affected by the armed conflict. The NGO CODHES reported 19,168 Afro-Colombian communities were affected by forced displacements between January and July.

The government continued a policy to promote equal opportunity for Black, Afro-

Colombian, Palenquera, and Raizal populations. The Petro administration acknowledged that prior government policies disproportionately excluded Afro-Colombian, Indigenous, and ethnic communities from opportunities for health, education, and economic growth. The Ministry of Interior provided technical advice and funding for social projects proposed by Afro-Colombian communities. As part of the implementation of the 2016 peace accord, the government's various agencies took steps to implement development programs aimed at Afro-Colombian, Indigenous, and ethnic communities.

Indigenous Peoples

Despite special legal protections and government assistance programs, Indigenous persons continued to suffer discrimination and lacked access to basic services. Indigenous communities were often among the poorest in the country and had the highest age-specific mortality rates.

The law gives special recognition to the fundamental rights of Indigenous persons, who made up approximately 4.4 percent of the population. The law requires the government to consult beforehand with Indigenous groups regarding governmental actions that could affect them.

The law gives Indigenous groups perpetual rights to their ancestral lands but Indigenous groups, neighboring landowners, and the government often disputed the demarcation of those lands. Indigenous groups operated 842 reservations, accounting for approximately 28 percent of the country's land area. Armed groups often violently contested Indigenous land ownership and recruited Indigenous children to join their ranks.

The law provides for special criminal and civil jurisdictions based on traditional community laws within Indigenous territories. Legal proceedings in these jurisdictions were subject to manipulation and often rendered punishments more lenient than those imposed by civilian state courts.

Some Indigenous groups continued to assert they were not able to participate adequately in decisions affecting their lands. The constitution provides for a "prior consultation" mechanism for Indigenous communities, but it does not require the government to obtain the consent of those communities in all cases. Indigenous

communities such as the Wayuu community in La Guajira protested private and government entities that developed projects on Wayuu territories without consulting the Indigenous communities. The government stated that it consulted with Indigenous leaders when possible before entering Indigenous lands but that for security reasons, the government could not provide advance notice of most military operations, especially when in pursuit of enemy combatants.

According to the Truth Commission's final report in June, 25.2 percent of Indigenous communities had been affected by the armed conflict.

Killings of members and leaders of Indigenous groups continued. In the first half of the year, the UN's High Commissioner for Human Rights reported the homicide of nine male Indigenous human rights defenders. The ombudsperson reported on October 28 that 32 Indigenous leaders were killed through September 30. In July unidentified armed men allegedly linked to illegal armed groups shot and killed Maria Veronica Pai Cabeza, an Indigenous woman, in Narino.

UN Special Rapporteur on the Situation of Human Rights Defenders Mary Lawlor expressed concern with the killing of human rights and environmental defender Breiner David Cucuname, as well as abductions of young leaders (see also section 5, Retribution Against Human Rights Defenders (HRDs)). Activists and political analysts noted increasing killings of and threats to Indigenous leaders, many of whom were environmental activists. The NGO CODES reported that 11,023 Indigenous communities had suffered from forced displacement between January and September. The United Nations received reports of an increasing number of children and adolescents, including many girls, being recruited by illegal armed groups.

Ethnic Wayuu children continued to die of malnutrition. According to a 2015 government survey, 77 percent of Indigenous households in the department of La Guajira, where the largest number of Wayuu lived, were food insecure. Many of these communities lacked access to health-care facilities, sanitary and hygiene products, and clean water. Poor economic conditions also made health-related isolation recommendations difficult due to overcrowded housing.

Children

Birth Registration: In most cases, citizenship was derived by birth within the country's territory. Birth registration was provided on a nondiscriminatory basis. Most births were registered immediately. If a birth is not registered within one month, parents may be fined and denied public services.

Child Abuse: Child abuse was a serious problem. The Colombian Family Welfare Institute (ICBF) provided psychosocial, legal, and medical care to victims.

Child, Early, and Forced Marriage: Marriage is legal at age 18. Boys older than 14 and girls older than 12 may marry with the consent of their parents. According to UNICEF, 5 percent of girls were married before age 15 and 23 percent were married before age 18. The ICBF assisted with 11,146 cases of sexual abuse of a minor; 84 of these cases were for early marriage.

Sexual Exploitation of Children: Sexual exploitation of children remained a problem. The law prohibits sexual exploitation of a minor or facilitating the sexual exploitation of a minor and stipulates a penalty of 14 to 25 years in prison. Penalties are more severe for perpetrators who are family members of the victim and for cases of forced marriage. Penalties exist for sexual exploitation by armed groups, sex tourism, and commercial sexual exploitation. The law prohibits pornography using children younger than 18 and stipulates a penalty of 10 to 20 years in prison and a fine for violations. The minimum age for consensual sex is 14. The penalty for sexual activity with a child younger than 14 ranges from nine to 13 years in prison. The government generally enforced the law.

The Attorney General's Office reported that most of the investigations opened during the year into the sexual abuse of minors involved children under age 14.

On May 6, in Barrancabermeja, Santander, a woman was arrested and charged with aggravated sexual exploitation of a minor for exploitation of her age 13 granddaughter, who was under her custody. A man involved in this case was also arrested and charged with commercial sexual exploitation of children and sexually violating a minor.

On May 22, in the municipality of Sevilla, Valle del Cauca, a woman was arrested

for recruiting young women between 2016 and 2017 from the country's "coffee belt" region using fraudulent employment opportunities to later exploit these women into sex trafficking in China.

Antisemitism

The Jewish community, with an estimated 5,000 members, continued to report instances of antisemitic graffiti near synagogues, as well as antisemitic comments on social media.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: Consensual same-sex conduct between adults is legal.

Violence Against LGBTQI+ Persons: There were reports of societal abuse, discrimination, and sexual assault of LGBTQI+ persons. There were allegations of police violence based on sexual orientation. The NGO Colombia Diversa reported 41 homicides of LGBTQI+ persons between January 1 and July 30. The organization highlighted that six of these homicides were of LGBTQI+ rights movement leaders.

On July 30, a group of women harassed and assaulted a same-sex couple in the park, claiming their public kissing was inappropriate. Local officials stated they were investigating the incident.

As of August, the Attorney General's Office reported 50 open investigations into excessive use of force by military or police against LGBTQI+ persons. On October 27, the Attorney General's Office announced the adoption of the first protocol for investigating crimes against LGBTQI+ victims.

Discrimination: The law prohibits discrimination by state and nonstate actors based on sexual orientation and gender identity or expression. From January 1 to October, Colombia Diversa received 62 requests for support in cases of discrimination based on sexual orientation in employment, housing, health, and access to education.

NGOs reported that within the LGBTQI+ community, transgender individuals faced significant discrimination in accessing public services. According to Foundation Group of Action and Support for People with Trans Life Experience (in Spanish, Fundacion GAAT), in addition to the bullying and discrimination they faced in public, transgender individuals had difficulty accessing formal jobs, health services, including mental health support, and education. Only four out of 100 transgender individuals had formal jobs, according to Fundacion GAAT. The organization reported that delays for transgender individuals in receiving updated identification documents posed specific challenges for employment.

The country suffers from high rates of impunity for crimes against LGBTQI+ persons, especially against transgender individuals. Investigators and police often mislabeled the gender identities of victims and improperly interviewed LGBTQI+ victims, leading to intentional and unintentional intimidation. LGBTQI+ NGOs noted it was common for police either in conversation or their reports to identify transgender victims as “a man disguised as a woman” or vice versa.

Availability of Legal Gender Recognition: Transgender individuals cited barriers to public services when health-care providers or police refused to accept their government-issued identification. Some transgender individuals stated it was difficult to change their gender designation on national identity documents and that transgender individuals whose identity cards listed them as male were required to show proof they had performed mandatory military service or obtained the necessary waivers from that service.

The country recognizes male, female, transgender, or nonbinary markers as the gender in legal identification documents. NGOs, such as Caribe Afirmativo, highlighted that updating a gender designation was difficult due to the financial costs associated with acquiring the underlying documents, such as birth certificates and updated medical documents.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: NGOs claimed transgender individuals, particularly transgender men, were often sexually assaulted in so-called corrective rape. The NGO Fundacion GAAT estimated that approximately 20 percent of LGBTQI+ persons had been a victim of conversion therapy. A university study estimated that the majority of those experiencing conversion therapy received it from a religious figure or a medical provider. Data for victims of conversion therapy did not exist because conversion therapy is not considered as a crime and the practice is not legally regulated in the country.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: No restrictions exist on the freedom of expression, association, or peaceful assembly of LGBTQI+ persons.

Persons with Disabilities

The law prohibits arbitrary restriction on the full exercise of the rights of persons with disabilities or harassment of persons with disabilities; however, enforcement was rare. The law prohibits discrimination against persons with physical and mental disabilities but does not explicitly prohibit discrimination against persons with sensory or intellectual disabilities. No law mandates access to information and telecommunications for persons with disabilities. The law recognizes that persons 18 years of age and older with disabilities have full legal capacity.

In 2013, the State Council ordered all public offices to be accessible to persons with disabilities and to include requirements for accessibility when granting licenses for construction and occupancy. The government reported progress during the year at both the national and municipal level, including accessibility adaptations at ports, airports, and other mass transport terminals.

The Office of the Presidential Advisor for Human Rights and the Human Rights Directorate at the Ministry of Interior were responsible for protecting the rights of persons with disabilities. The government made efforts to improve and address disability issues, including providing training to increase awareness about persons with disabilities, providing training on legal obligations, increasing student quotas at universities for persons with disabilities, and providing legal and tax incentives

for employers to hire persons with disabilities.

According to the NGO Somos Defensores, government authorities seldom enforced laws providing rights for individuals with disabilities. Access of persons with disabilities to education, health services, public buildings, and transportation was generally not on an equal basis with other persons.

Although children with disabilities attended school at all grade levels, advocates noted most teachers and schools were neither trained nor equipped to successfully educate children with disabilities. Advocacy groups also stated children with disabilities entered the education system later than children without disabilities and dropped out at higher rates. Persons with disabilities were unemployed at a much higher rate than the general population.

Other Societal Violence or Discrimination

There were confirmed reports of societal violence or discrimination against persons with HIV and AIDS. In its most recent demographic and health survey (2015), the government reported that 78 percent of the respondents indicated discriminatory attitudes towards persons with HIV and AIDS, reflecting low levels of social acceptance throughout the country.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination. Members of associated workers' cooperatives, however, are not allowed to form unions, since the law recognizes members of a cooperative as owners. The law also prohibits members of the armed forces and police from forming or joining unions.

The law provides for automatic recognition of unions that obtain 25 signatures from potential members and that comply with a registration process. The law provides for associated workers' cooperatives, collective pacts, and union contracts. Under collective pacts, employers may negotiate accords on pay and

labor conditions with workers in workplaces where no union is present or where a union represents less than one-third of employees. Law and regulations prohibit the use of workers' cooperatives and collective pacts to undermine the right to organize and bargain collectively, including by extending better conditions to nonunion workers through such pacts.

Through a union contract, a company may contract a union, at times formed explicitly for this purpose, for a specific job or work; the union then in essence serves as an employer for its members. Workers who belong to a union that has a union contract with a company do not have a direct employment relationship with either the company or the union. Labor disputes for workers under a union contract may be decided through an arbitration panel, as opposed to deciding in labor courts, if both parties agree. Prohibited practices include an employer impeding workers' rights to strike, meet, or otherwise associate, and extending better conditions to members of collective pacts than to union members.

Before conducting a strike, unions must follow prescribed legal procedures, including entering into a conversation period with the employer, presenting a list of demands, and gaining majority approval in the union for a strike. The law limits strikes to periods of contract negotiations or collective bargaining. The law allows employers to fire trade unionists who participate in strikes or work stoppages ruled illegal by the courts.

The government has the authority to fine labor rights violators. The law stipulates that offenders repeatedly misusing workers' cooperatives or other labor-contracting mechanisms shall receive the maximum penalty and may be subject to losing their legal status to operate. Employers who engage in antiunion practices may also be imprisoned for up to five years, although government officials acknowledged a fine was more likely than imprisonment. Penalties are commensurate with penalties prescribed for other violations regarding denials of civil rights, such as discrimination.

Government enforcement of applicable laws was inconsistent. Penalties were rarely applied against violators. The government did not fully implement a new system for fine collection that would ensure timely and regular collection of fines related to these protections. Despite steps by the Ministry of Labor to strengthen

its labor law inspection system, the government did not establish a consistent, robust national strategy to protect freedom of association and collective bargaining. Structural challenges adversely affected prosecutions, which resulted in a continued high degree of impunity for violators of these rights, including in cases of threats and violence against unionists.

The government continued to reach labor formalization agreements with firms engaged in abusive subcontracting or that had labor conflict during the year. Most of the agreements resulted in direct employment contracts, and a few were indefinite term contracts. Through August 30, the vice minister of labor relations and inspections reported 2,102 workers benefited from 46 such formalization agreements in various sectors, including commerce, agriculture, health, and transport, a significant increase from the previous year.

Labor rights groups expressed concern that previously signed formalization agreements were not sufficiently monitored by the ministry to ensure their enforcement. The Ministry of Labor's Special Investigations Unit, which is part of the labor inspectorate, has the authority to investigate and impose sanctions. The vice minister of labor relations and inspections decided on a case-by-case basis whether to assign the unit or the regional inspectors to investigate a particular worksite or review a particular case. The unit was reportedly overburdened with cases, resulting in delays responding to union requests for review.

Field-based inspections by the Ministry of Labor for abusive subcontracting in the five priority sectors of palm oil, sugar, ports, mines, and cut flowers were infrequent. Critics claimed inspections lacked necessary rigor, assessed fines were not collected, and abusive subcontracting continued. Through August 30, there were no new fines assessed for abusive subcontracting or freedom of association violations in the five priority sectors. The government continued to engage in regular meetings with unions and civil society groups on these and related issues.

The Ministry of Labor continued to train labor inspectors through a virtual training campus to identify abusive subcontracting and antiunion conduct, among other violations. It also implemented methods, including contract and process maps, as strategic planning tools to prioritize interventions. The ministry continued to employ a telephone- and internet-based complaint mechanism to report alleged

labor violations. Union members complained that the systems did not allow citizens to register anonymous complaints and that registered complaints did not result in any government action.

Violence, threats, harassment, and other practices against trade unionists continued to affect the exercise of the right to freedom of association and collective bargaining. The tripartite Interinstitutional Commission for the Promotion and Protection of the Human Rights of Workers did not meet in the year. The commission was led by the Ministry of Interior with participation by the government, organized labor groups, and the business community.

Judicial police, the Technical Investigation Body, and prosecutors investigating criminal cases of threats and killings are required to determine during the initial phase of an investigation whether a victim was an active or retired union member or was actively engaged in union formation and organization, but it was unclear whether they did so. It could take several months to transfer cases from regional field offices of the Attorney General's Office to the Attorney General's Human Rights Directorate. Cases are transferred only with the approval of the attorney general in response to direct requests, instead of automatically.

The government continued to include in its protection program labor activists engaged in efforts to form a union, as well as former unionists under threat because of their past activities. As of June 30, the NPU was providing protection to 253 trade union leaders or members, a decrease from the prior year. Between January 1 and August 31, the NPU processed 280 risk assessments of union leaders or members; 94 of those individuals were assessed as facing an "extraordinary threat," and the NPU provided protection to them. The NPU reported that the average time needed to implement protection measures upon completion of a risk analysis was 62 days in regular cases.

In cases of unionist killings from previous years, the pace of investigations and convictions remained slow, and high rates of impunity continued, although the attorney general made progress in sentencing. The Attorney General's Office reported receiving 254 cases of homicide of unionists between 2011 and August 15, 2022. The Attorney General's Office reported advancements in 45 percent of its open cases.

On September 10, armed actors killed Sibares Lamprea Vargas, secretary of administrative affairs of the Oil Workers Union (*Union Sindical Obrera*) in Barrancabermeja. Labor groups stated more needed to be done to address impunity for perpetrators of violence and threats against trade unionists. The National Union School (ENS), a labor rights NGO and think tank, reported 10 trade unionists were killed through August, seven of whom were members of the Colombian Federation of Educators. The ENS and other labor groups stated that focusing on killings alone masked the true nature and scope of the violence against labor activists. Labor groups noted that in some regions, nonlethal violations continued to increase. Through August, the ENS reported 55 death threats, three abductions, and two cases of harassment.

The government and employers generally respected freedom of association and collective bargaining, but unions cited multiple instances in which companies fired employees who formed or sought to form new unions. Some employers continued to use temporary contracts, temporary service agencies, and other forms of subcontracting, including cooperatives, to limit worker rights and protections. Labor confederations and NGOs reported that business owners in several sectors used “simplified stock corporations” (SASs), union contracts, foundations, or temporary-service agencies in attempts to circumvent legal restrictions on cooperatives. In some cases, the SAS had little or no control over the conditions of employment. The Ministry of Labor stated that an SAS, like any corporate structure, may be fined for labor violations. Labor confederations and NGOs reported these enforcement actions did not address the scope of abusive subcontracting and illegal labor intermediation.

The port workers’ labor union reported Buenaventura port operators engaged in abusive subcontracting through SASs and that Ministry of Labor inspections and adjudication of cases at the Buenaventura port were ineffective in safeguarding the rights to freedom of association and collective bargaining.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government did not effectively enforce the law in all cases, and there were reports that such practices occurred. The International Labor Organization noted the law permits

military conscripts to be compelled to undertake work beyond that of a military nature, such as activities to protect the environment or natural resources.

There were reports ELN guerrillas, FARC dissidents, and criminal gangs used forced labor, including forced child labor, in coca cultivation and illegal mining in areas outside government control, and used forced criminality, such as extortion, in urban areas.

Forced begging and forced labor in other sectors, including mining, agriculture (especially near the coffee belt and in floriculture), cattle herding, crop harvesting, forced recruitment by armed persons, and domestic servitude, remained a serious problem. Afro-Colombians, Indigenous persons, Venezuelan migrants, and inhabitants of marginalized urban areas were at the highest risk of forced labor, domestic servitude, forced begging, and forced recruitment. Authorities did not make efforts to investigate cases or increase inspections of forced labor. There was impunity for forced labor, and unidentified victims remained without protection in critical sectors such as agriculture, coffee production, floriculture, and extractive industries.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment or occupation based on race, ethnicity, sex, religion, political preference, national origin or citizenship, gender, disability, age, language, sexual orientation or gender identity, HIV-positive status or infection with other communicable diseases, or social status. Complaints of quid pro quo sexual harassment were filed with criminal courts, not with the Ministry of Labor. There are legal restrictions against women being employed in the construction sector. The government did not effectively enforce the law in all cases. Penalties were not commensurate with laws related to civil

rights, such as election interference. Penalties were rarely applied against violators.

Unemployment disproportionately affected women, who faced hiring discrimination and received salaries that generally were not commensurate with their education and experience. Media reported that, on average, women earned 12 percent less than men for the same work. In a previous year, a senior government official estimated that 85 percent of persons with disabilities were unemployed. Afro-Colombian labor unions reported discrimination in the port sector.

e. Acceptable Conditions of Work

Wage and Hour Laws: The legal minimum monthly wage is approximately twice the amount of the poverty line; however, almost half of the total workforce earned less than the minimum wage.

The law provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. Exceptions to this may be granted by the Ministry of Labor and were frequently granted in the mining sector. The law stipulates that workers receive premium compensation for nighttime work, hours worked in excess of 48 per week, and work performed on Sundays. The law permits compulsory overtime only in exceptional cases where the work is considered essential for the company's functioning.

Occupational Safety and Health: The law provides for workers' occupational safety and health (OSH) in the formal sector. The legal standards were generally up to date and appropriate for the main formal industries. The law does not cover informal-sector workers, including many mining and agricultural workers. In general, the law protects workers' rights to remove themselves from situations that endanger health or safety without jeopardy to their employment, although some violations of this right were reported during the year. In cases of formal grievances, authorities generally protected employees in this situation.

Nonunion workers, particularly those in the agricultural and port sectors, reportedly worked under hazardous conditions because they feared losing their jobs through subcontracting mechanisms or in formal arrangements if they reported abuses. Some unionized workers who alleged they suffered on-the-job injuries

complained that companies illegally fired them in retaliation for filing workers compensation claims. Only the courts may order reinstatement, and workers complained the courts were backlogged, slow, and corrupt. The Ministry of Labor may punish a company found to have broken the law in this way, but it does not offer other guarantees to workers.

According to the National Mining Agency, as of June a total of 55 workers died in 32 accidents in mines, the majority due to explosions, poisoned atmosphere, cave-ins, and floods. The National Mining Agency reported this number was similar to deaths as of June 2021.

Security forces reported that armed actors, including FARC dissidents, the ELN, and organized-crime groups, engaged in illegal mining of gold, coal, coltan, nickel, copper, and other minerals. Illegal mines, which lacked safety precautions, were particularly common in the departments of Antioquia, Boyaca, Choco, Cundinamarca, and Valle del Cauca.

Wage, Hour, and OSH Enforcement: The Ministry of Labor is required to enforce labor laws in the formal sector, including wage, hour, and OSH regulations, through periodic inspections by labor inspectors. The government did not effectively enforce the laws in all cases. Inspectors have the authority to perform unannounced inspections and may also initiate sanction procedures, including after opening investigations. The number of inspectors was insufficient to enforce the law effectively. Penalties are commensurate with those for negligence and fraud but were applied rarely to violators. Unionists stated that more fines needed to be collected to cause a reduction in wage and hour violations and occupational safety and health problems.

In January, the Ministry of Labor received authorization to hire an additional 355 labor inspectors. Through the end of August, 287 of these positions had been filled. Labor unions alleged a lack of transparency and nepotism in the ministry's efforts to fill the positions. As of September, the ministry employed 40 percent of the ministry's estimated 1,250 inspectors under temporary contracts.

Informal Sector: Workers in the informal sector, including part-time workers, are protected by wage, hour, and occupational safety and health laws, but the

government did not effectively enforce these laws in the informal sector. Eligibility to enroll and pay into the traditional social security system, which includes health and pension plans, is conditioned on earning the legal minimum monthly wage, a condition that half of all workers do not meet.

A 2021 Constitutional Court decision regarding National Development Plan provisions allows workers who earn less than the legal minimum monthly wage – often because of part-time, informal, or own-account work – to contribute to a new parallel “social protection floor” system. The decision requires the government to legislate these reforms by 2023. The government continued to implement the existing National Development Plan, as required by the court’s decision, but had not legislated the reforms. Labor unions complained the new social protection floor system allows employers to move full-time workers into part-time positions with adverse effects on worker rights.

The national statistical service reported that from May through August, 58 percent of all laborers worked in the informal sector. The government continued to support complementary social security programs to increase the employability of extremely poor individuals, displaced persons, and the elderly.

B

Colombia

Events of 2022

Members of the Indigenous Guard carry the coffin of Indigenous leader Albeiro Camayo in Buenos Aires, Colombia, January 27, 2022. Camayo was assassinated on Jan. 24 by an armed group that the Indigenous community says they believe are remnants of the former FARC rebel group.

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AVAILABLE IN



Abuses by armed groups, limited access to justice, and high levels of poverty, especially among Indigenous and Afro-descendant communities, remain serious human rights concerns in Colombia.

The 2016 peace accord between the Revolutionary Armed Forces of Colombia (FARC) and the government ended a five-decade-long conflict and brought an initial decline in violence. But violence took new forms and abuses by armed groups increased in many remote areas in later years, reaching similar levels in 2022 to those that existed immediately before the peace process.

Human rights defenders, journalists, demobilized FARC fighters, Indigenous and Afro-descendant leaders, and other activists face pervasive death threats and violence.

climate change, implement the 2016 peace accord, and prioritize a “total peace” policy that would seek an accord with the National Liberation Army (ELN) guerrillas and the negotiated disarmament of other armed groups, including criminal gangs.

In February, the Constitutional Court decriminalized abortion in all circumstances up to the 24th week of pregnancy.

Abuses by Armed Groups

Numerous armed groups operate in Colombia fueled by illegal economies, including drug trafficking and illegal mining. These include the ELN guerrillas, which was formed in the 1960s; over 30 “dissident” groups that emerged from the 2017 demobilization of the FARC; and the Gaitanist Self-Defense Forces of Colombia (AGC), which emerged from the demobilization of paramilitary groups in the mid-2000s and are also known as “Gulf Clan.” Many of these groups have fluid and complex links to each other and some are parties to non-international armed conflicts.

Armed groups continue to commit serious abuses against civilians, including killings, child recruitment, and rape, especially in rural areas of the Pacific region and along the Venezuelan and Ecuadorian borders. Security forces and judicial authorities have failed to effectively protect the population, ensure victims’ access to justice, and prosecute and dismantle the groups.

In May, the AGC ordered an “armed strike,” imposing movement restrictions on civilians in over 170 municipalities in 11 states. The restrictions suggested an alarming geographical expansion, compared to its 2012 armed strike, affecting 26 municipalities. The strike came in response to the extradition to the United States of its top commander, Darío Antonio Úsuga David, alias “Otoniel.” The group also killed 36 police from June through August 2022.

Fears of antipersonnel landmines, threats by armed groups, and the hazards of crossfire prevented 96,000 people from leaving their communities between January and October a situation known as “confinement.”

The Office of the High Commissioner for Human Rights (OHCHR) reported 60 “massacres,” defined as the intentional killing of three or more civilians in a single incident, in 2022, as of October.

confinement, kidnappings, and killings.

In neighboring Cauca, the ELN and FARC dissident groups have recruited over 500 mostly Indigenous children since 2021, according to local groups. Nasa Indigenous people who oppose abuses by armed groups have been threatened and killed. Fighting by armed groups, mainly in Argelia municipality, left more than 2,600 people displaced and confined.

In the border areas of Colombia's Arauca and Venezuela's Apure state, fighting between the ELN and a coalition of FARC dissident groups have caused a dramatic increase in violence, including a spike in killings. Over 12,000 people were displaced or confined. In Apure, ELN fighters conducted joint operations with members of the Venezuelan security forces, which were complicit in their abuses.

In Putumayo state, on the Ecuadorian border, Comandos de la Frontera and the Carolina Ramírez Front, two groups that emerged from the FARC, control the population, imposing dress codes and curfews and threatening to kill those who fail to comply.

Violations by Public Security Forces

Security force abuses remain a serious concern.

On March 28, 2022, 11 people died in a controversial army operation in El Remanso, Putumayo state, in southern Colombia. The army claimed it complied with international humanitarian law, saying the operation had targeted Comandos de Frontera. At least four civilians died, including one Indigenous and one community leaders. Criminal investigations into whether the army used excessive force continued as of October.

Police have committed serious human rights violations in response to largely peaceful protests across Colombia since 2019. Efforts to investigate and prosecute them have been limited.

In 2021, Human Rights Watch reviewed evidence linking police to 25 killings of protesters and bystanders, as well as dozens of injuries and arbitrary arrests, in the context of peaceful demonstrations. As of October, four officers had been charged and five others indicted in connection with homicides. Nobody had been charged for the injuries or arbitrary arrests.

There have been limited reforms to improve accountability and prevent future violations.

pursue further police reform, including by transferring the police out of the Ministry of Defense, where the line between its functions and the military's have often been blurred.

Violence Against Human Rights Defenders, Other Community Leaders

More than 1,000 human rights defenders and social leaders have been killed in Colombia since 2016, according to the Human Rights Ombudsperson's Office.

Colombian law includes a broad range of policies, mechanisms, and laws to prevent abuses against human rights defenders and protect former FARC fighters. But implementation, especially of measures established under the 2016 peace accord, has often been poor.

The Human Rights Ombudsperson's Office reported 182 killings of human rights defenders between January and October 2022.

In February 2022, in San Martín municipality, Cesar state, armed men killed Teófilo Acuña and Jorge Tafur, prominent peasant leaders who, for decades, led small-farmer and small-scale miner communities. As of October, one person had been charged in connection with their killings.

Peace Negotiations, Negotiated Disarmament, and Accountability

The 2016 peace agreement created a truth commission; the Special Jurisdiction for Peace (JEP), charged with trying abuses committed during the conflict; and an agency to seek the bodies of those disappeared during the conflict.

The Truth Commission presented its findings in June 2022 and established a committee to monitor, for seven years, implementation of its recommendations to the government, including creating an "anti-violence policy," re-starting peace negotiations with the ELN, and reforming security and drug policies. The report included comprehensive analysis of violence committed against women, LGBT people, children, Afro-descendants and Indigenous people.

The JEP has made significant strides in investigating and prosecuting war crimes and crimes against humanity, charging top former FARC commanders with hostage-taking and several army officers with extrajudicial executions, known as "false positive" killings.

encompass crimes motivated by gender, sex, sexual orientation, and gender identity.

In late October, the JEP issued its first indictment, accusing 11 army officers and one civilian of extrajudicial executions committed in North Santander in 2007 and 2008.

In November, the JEP indicted former FARC top commanders for their responsibility in hostage-taking. The commanders had acknowledged their role in these crimes in a June hearing, and the JEP said they should be sentenced to between five and eight years of “special sanctions.”

In early December, the JEP indicted 14 other army officers for their role in “false positive” killings committed on the Caribbean Coast between 2002 and 2005. The judges said that 12 of the officers had fully acknowledged their responsibility and confessed to their crimes, but that two others had not and should stand trial.

Defendants who fully cooperate with the JEP and confess to their crimes are subject to up to eight years of “special sanctions,” including restrictions on liberty but no prison time. Because the language in the existing legislation on these sanctions is vague and no punishments have been imposed, it remains unclear how the “special sanctions” will operate in practice.

In early November, Congress passed a Petro administration-sponsored law that allows it to negotiate a peace accord, including new transitional justice mechanisms, with some armed groups, such as the ELN. On November 21, the peace talks with the ELN re-started in Venezuela. Authorities said that they would also introduce a bill to offer reduced sentences for other armed groups. As of November, it remained unclear how authorities would ensure victims’ access to justice and to what extent the government would treat gangs and armed groups that are parties to the conflict differently.

Internal Displacement, Reparations, and Land Restitution

Conflict-related violence has displaced almost 8.4 million Colombians since 1985, government figures show.

The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported 70,000 people displaced between January and October 2022, in “mass displacements” of 50 or more people or 10 or more families.

In 2011, Congress passed a Victims' Law to ensure redress for victims and restore millions of hectares left behind or stolen from Colombians displaced during the conflict. As of October 2022, courts had issued rulings on only 13,507 of over 142,000 claims filed. Under 14 percent of over 9 million registered victims of the armed conflict had received reparations, as of October.

Refugees, Asylum Seekers, and Migrants

Colombia has received by far the largest number of refugees, asylum seekers, and migrants fleeing the human rights and humanitarian crises in Venezuela. As of February, more than 2.5 million Venezuelans lived in Colombia.

In 2021, then-President Iván Duque announced temporary protection for Venezuelans, granting them 10 years of legal status. As of October 2022, authorities had granted temporary protection to over 1.4 million Venezuelans, out of more than 2.4 million who had requested it.

More than 3,000 people, including Venezuelans and Colombians who had been living in Venezuela's Apure state, fled to Colombia's Arauca and Vichada states in early 2022, escaping fighting and abuses by armed groups. Aid has been very limited.

Hundreds of thousands of migrants—mostly Venezuelan—crossed Colombia's Darien gap into Panama in 2022, believed to be heading in most cases to the US. The number of people crossing the gap increased significantly, in large part driven by the flow of Venezuelans. During their days-long walk across the gap, migrants of all nationalities are frequently victims of robbery and serious abuses, including rape. They receive little security, aid, or access to justice.

Gender, Sexuality, and Gender-Based Violence

Gender-based violence, including by armed groups, is widespread. Lack of training and poor implementation of treatment protocols impede timely access to medical services and create obstacles for women and girls seeking post-violence care and justice. Perpetrators of violent, gender-based crimes are rarely held accountable.

Despite many legal protections based on sexual orientation and gender identity, lesbian, gay, bisexual, and transgender people in Colombia continue to face high levels of violence and discrimination. In 2021, the organization Colombia Diversa registered attacks against 405

Office registered homicides against 111 LGBT persons.

In February, the Constitutional Court decriminalized abortion in all circumstances up to the 24th week of pregnancy, and maintained access beyond that time in cases of rape, a non-viable pregnancy, or risk to a pregnant person's health or life.

In February, the court also recognized a non-binary gender marker, the first such ruling issued by a supreme or constitutional court in the region.

Economic and Social Rights

High levels of poverty especially among Indigenous and Afro-descendant communities remain a serious human rights concern.

The 2016 peace accord established “Territorial Development Programs” (PDET) to increase the presence of state institutions in 170 municipalities highly affected by the armed conflict, poverty, and illegal economies. In 2020, the multidimensional poverty rate (32.9 percent) in these areas was nearly double the national rate (18.1 percent). Efforts to implement the PDET have been limited.

Between January and November 2022, at least 65 children under age five—the majority Indigenous Wayuu—died in La Guajira state of causes associated with malnutrition and limited access to safe drinking water.

Technology and Rights

The Education Ministry failed to act following reports that it had recommended unsafe online learning products for children during the Covid-19 pandemic. All eight products surveilled or had the capacity to surveil children online, outside of school hours, and deep into their private lives.

Climate Policy and Impacts

Colombia's national plan to reduce greenhouse gas emissions is “highly insufficient” to meet the Paris Agreement goal of limiting global warming to 1.5°C above pre-industrial levels, according to the Climate Action Tracker. The plan commits Colombia to reducing deforestation to 50,000 hectares per year by 2030. Colombia subsequently joined the

Government figures registered 174,000 hectares deforested in 2021, a 1.5 percent increase over 2020, and figures for the first trimester of 2022 show deforestation increased 10 percent compared to the same trimester in 2021. More than 9,000 hectares were razed on land officially held by Indigenous peoples, in some cases leading to their forced displacement. Roughly two-thirds of deforestation occurs in the Amazon region.

Cattle ranchers and FARC dissident groups primarily drive deforestation, pressuring residents to fell trees, extorting farmers, promoting coca crops to produce cocaine, and threatening people who defend conservation.

The former Duque government's flagship initiative to combat deforestation, Operation Artemisa, achieved limited results.

In September, the environment minister announced that, as part of a new forest conservation strategy, the government would work with communities to prevent logging and seek criminal prosecutions against people and armed groups who promote it.

Key International Actors

The US, the most influential foreign actor in Colombia, approved US\$471 million in assistance for fiscal year 2022. In October, Secretary of State Antony Blinken met President Petro in Bogota and expressed his support for implementing the 2016 peace accord.

In 2016, the UN Security Council established a political mission to monitor and verify implementation of the FARC peace accord, which was succeeded in 2017 by the UN Verification Mission in Colombia. In 2022, the Security Council extended the mission's mandate until October 2023, including the verification of compliance with JEP sanctions.

President Petro and Venezuelan President Nicolás Maduro re-established diplomatic relations in August and reopened the border on September 26. President Maduro agreed in September to take part in peace negotiations between the National Liberation Army (ELN) and the Colombian government.

In early August, Colombia did not support a resolution in the Organization of American States (OAS) to condemn human rights violations in Nicaragua. Foreign Minister Alvaro Leyva later said that the decision was part of an effort to seek the negotiated release of

In September, Colombia withdrew from a “core group” of governments from across the political spectrum—Brazil, Canada, Chile, Ecuador, Guatemala, and Paraguay—that led the initiative to extend the mandate of the United Nations Fact Finding Mission on Venezuela.

Also in September, President Petro rightly criticized the “war against drugs,” calling for it to end to during his speech in the United Nations General Assembly.

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Tirana Hassan
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C



FREEDOM IN THE WORLD 2023

Colombia

70
/100

FREE

<u>Political Rights</u>	31 /40
<u>Civil Liberties</u>	39 /60

LAST YEAR'S SCORE & STATUS

64 /100 **Partly Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



Status Change

Colombia's status improved from Partly Free to Free due to more open and competitive national elections, a decline in restrictions on assembly and movement, and the decriminalization of abortion. However, illegal armed groups remained active, and the country was still one of the deadliest in the world for human rights defenders.

Overview

Colombia is among the longest-standing democracies in Latin America, but one with a history of widespread violence and serious human rights abuses. Public institutions have demonstrated the capacity to check executive power, and the country's main left-wing guerrilla group signed a peace accord in 2016. Nonetheless, Colombia faces enormous challenges in consolidating peace and guaranteeing political rights and civil liberties outside of major urban areas. In June 2022, opposition candidate and former left-wing guerrilla member Gustavo Petro was elected to the presidency and formed a government comprised of a broad left-wing coalition, becoming Colombia's first leftist government since the reestablishment of competitive democracy.

Key Developments in 2022

- Opposition politician Gustavo Petro, a former guerrilla member belonging to the now-defunct April 19th Movement (M-19), was elected president in a June runoff vote with 50.4 percent of the vote. Petro, Colombia's first leftist president, selected Francia Márquez, an environmentalist and civil society leader as vice president; Márquez is the first Afro-Colombian and the second woman to hold the post.
- Following March legislative elections, a broad coalition composed of both leftist and traditional parties gained a wide majority in Congress, and subsequently elected to support Petro's legislative agenda. The coalition included many of the parties that previously supported outgoing president Iván Duque.

- After taking office in August, Petro was able to broker a fragile, temporary truce between the government and various criminal organizations, such as the left-wing Revolutionary Armed Forces of Colombia (FARC) rebel group. In December, the government announced a six-month cease-fire with the National Liberation Army (ELN), FARC dissidents, and three other armed groups. The ELN later denied adopting such an agreement.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?	4/4
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The president is directly elected to a four-year term. As part of a series of 2015 constitutional amendments, presidential reelection was eliminated.

No candidate garnered an outright majority in the first round of the 2022 election, held in May. Following a polarized runoff campaign, Gustavo Petro, the left-wing Historic Pact (PH) candidate, took 50.4 percent of the second-round vote in June, becoming Colombia's first leftist president, and defeating the former mayor of Bucaramanga, Rodolfo Hernández, who was backed by several leaders in incumbent president Iván Duque's party, the Democratic Center (CD). Voter turnout reached 58 percent, marking the highest turnout for presidential elections in nearly 25 years. The balloting was considered competitive and credible, and the results were accepted by stakeholders. Election observers logged sporadic reports of vote buying and other violations in both rounds of polls.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?	3/4
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Congress is composed of the Senate and the Chamber of Representatives, with all seats up for election every four years. The nation at large selects 100 Senate members using a proportional representation system; two additional members are chosen by Indigenous communities, one seat is awarded to the runner-up in the presidential election, and another five seats were reserved in 2018 and 2022 for the FARC under the peace accord. Following the 2022 elections, the Chamber of Representatives features 188 members: 162 were elected by proportional representation in multimember districts, two chosen by Afro-Colombian communities, one each by Indigenous and expatriate voters, one seat reserved for the runner-up vice presidential candidate, five seats reserved for the FARC, and 16 seats reserved for representatives of victims of the country's internal conflict; the latter were instituted following an August 2021 law implementing a peace accord provision.

The March 2022 legislative elections were peaceful, though observers reported some irregularities and officials from multiple parties accused the electoral authorities of fraud, vote buying, and allowing candidacies for people with connections to organized crime figures. Most allegations came because of disparities between the unofficial preliminary vote count and the official tally released after the election. Ultimately, the final tally corrected earlier discrepancies, and independent observers deemed the polls and results credible.

Senate seats were dispersed, with seven parties winning 10 or more seats. Petro's PH won a plurality, taking 20 seats, followed by the Conservative Party with 15 seats, and the Liberal Party with 14. In the Chamber of Representatives, three parties won 21 or more seats, led by the Liberal Party with 32 seats. In its second balloting as a legal party, the FARC took no seats aside from the five guaranteed to it in each chamber.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?	3/4
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The legal framework generally allows for competitive balloting in practice, though the nine-member National Electoral Council (CNE)—which oversees the conduct of the country’s elections, including the financing of political campaigns and the counting of votes—has faced criticism for ineffective enforcement of electoral laws, blamed in part on the partisan selection system for its members. Congress voted in October 2021 to suspend a law that constrains public contracting during electoral periods, raising concerns about the diversion of state resources for electoral purposes; the Constitutional Court ruled against the law’s suspension in February 2022, and cancelled all contracts signed while the suspension was in effect.

An internal audit of the National Registry, Colombia’s election management body, found irregularities in ballot reporting during the 2022 legislative elections, but did not find evidence that fraud had occurred.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?	4/4
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Colombia’s historically rigid two-party system has begun to diversify in recent years. It continued to do so in 2022, with candidates representing a wide range of parties—including new groups that emerged without obstruction—freely competing in the year’s presidential and legislative elections. Opposition leader Gustavo Petro of the new PH party won the presidency in 2022 and garnered the support of a broad coalition of leftist politicians and civil society leaders, as well as seasoned politicians who broke from their traditional parties.

Three former political parties that had become defunct due to conflict-related violence returned to contest the 2022 elections after being reinstated by a December 2021 court ruling; similar redress is available for other political parties unduly impacted by the conflict.

Score Change: The score improved from 3 to 4 because presidential candidates outside the country's two-party system—including the winning candidate—launched significant and credible campaigns during the May and June elections.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?	4/4
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Democratic transfers of power between rival parties are routine at both the national level and in many regions, though significant areas remain under the long-term control of machine-style political clans with ties to organized crime. Following the 2022 presidential elections, opposition leader Gustavo Petro became Colombia's first leftist president and his PH party left the congressional opposition to lead the new governing coalition. Numerous prominent politicians occupy the political space between the extremes of Petro and the CD.

Score Change: The score improved from 3 to 4 because a large group of political parties competed in the year's elections, weakening the country's traditional political duopoly.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?	2/4
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After decades of political violence and insecurity around elections, the 2018 and 2022 elections were peaceful and safe for most voters. In limited areas, however, and despite the peace accord with the FARC, activity by the smaller ELN leftist guerrilla group, the successors of previously disbanded right-wing paramilitary groups, so-

called “dissident” FARC members, and criminal gangs has continued to impair the ability of citizens to participate freely in the political process.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?	3/4
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Women enjoy equal political rights, and at least 30 percent of the candidates on party lists must be women. Following the March 2022 legislative elections, the share of congressional seats held by women increased to 29 percent. Following the 2022 presidential elections, Francia Márquez became the first Afro-Colombian vice president and the second woman to hold the post. Colombia’s Congress has historically disregarded women’s issues, but in 2021 legislators passed several laws intended to improve social and economic conditions for women, including on issues of family violence and employment opportunities. Though LGBT+ people’s rights are legally protected and there are LGBT+ representatives in government, LGBT+ individuals are marginalized in the political sphere.

Lighter-skinned Colombians occupy a disproportionate share of government posts. While progress remains slow, the government has undertaken a series of steps to incorporate Indigenous and Afro-Colombian voices into national political debates in recent years. The 2016 peace accord included provisions for improving consultation mechanisms for marginalized groups, but issues affecting Afro-Colombians and Indigenous groups are rarely priorities in national policymaking.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?	3/4
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Elected officials generally determine government policy without interference. However, the Colombian state has long struggled to establish a secure presence in all parts of its territory, meaning threats from guerrilla groups and criminal gangs can disrupt policymaking and implementation in certain regions and localities. The peace accords ended FARC control of significant territory, but since 2017 nonstate armed actors have filled the void in many regions, with FARC dissidents and paramilitary successors expanding the territory in which state authority is absent or mainly limited to coca-eradication efforts.

C2 0-4 pts

Are safeguards against official corruption strong and effective?	2/4
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Corruption occurs at multiple levels of public administration. Graft scandals have emerged in recent years within an array of federal agencies, but investigations do result in convictions, including against senior officials.

However, in 2022 more than 200 individuals were sentenced on corruption charges, including a group of corrupt public officials led by a former congressperson.

C3 0-4 pts

Does the government operate with openness and transparency?	3/4
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Government information is generally available to the public, though information related to military and security affairs, as well as criminal justice processes, can be difficult to access. Civil society groups and independent media have exposed irregularities in government spending and contracting in recent years, including identifying shortcomings in government data regarding disbursement and oversight of COVID-19-related emergency spending.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?	2/4
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The constitution guarantees freedom of expression, and opposition views are commonly aired in the media. However, journalists face intimidation and violence both while reporting and in retaliation for their work. The government has prosecuted several notorious cases of murdered journalists in recent years, but convictions are rare. Free expression groups including the Committee to Protect Journalists (CPJ) also harshly criticized the government for a 2021 attempt to undermine the Inter-American Court of Human Rights (IACHR) October ruling that the state bore responsibility for the 2000 kidnapping, sexual assault, and torture of journalist Jineth Bedoya. As of September 2022, the crime remained under investigation by Colombian officials.

Self-censorship is common, and slander and defamation remain criminal offenses. The government does not restrict access to the internet, nor does it censor websites. Twitter and other social media platforms have become important arenas for political discourse, but large areas of Colombia remain without local news coverage. Government officials, including President Petro, have sometimes disparaged members of the media in response to negative coverage of the government and ruling coalition.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?	4/4
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The constitution provides for freedom of religion, and the government generally respects this right in practice.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?	4/4
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Academic freedom is generally respected, and university debates are often vigorous. Armed groups maintain a presence on some campuses to generate political support and intimidate opponents, and some of their threats impacted some academic activities in Medellin and Cordoba in 2022. However, the overall activity of armed groups on campuses has significantly decreased in recent years. Most academic activities proceeded without interruption in 2022, in contrast to the total suspension of the academic calendar seen in major public universities during the 2021 mass protests.

Score Change: The score improved from 3 to 4 because armed groups are less active on campuses and because academics encounter fewer impediments when engaging in scholarly work.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?	3/4
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Individual expression is generally protected in major urban centers, but it remains inhibited in more remote areas where the state, insurgents, and criminals vie for control.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	2/4
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Although provided for in the constitution, freedom of assembly is restricted in practice by violence. A wave of protests, dubbed the national strike, swept the country between April and June 2021, inspired by a range of grievances, including a government-proposed tax plan, economic despair, and police brutality. Most protests were peaceful, but some individuals destroyed property and erected blockades that disrupted supplies of essential goods and services in several cities. Police cracked down on protesters with what domestic and international rights observers characterized as serious human rights abuses. Government prosecutors opened numerous investigations into their actions, but officials also repeatedly portrayed protesters as terrorists, blamed the unrest on armed infiltrators, and downplayed the scale of rights violations. In January 2022, then-president Duque signed into law Congress's controversial Citizen Security Law, which human rights advocates claimed could exacerbate unjust treatment of protesters.

Colombians organized various street protests in 2022, which generally proceeded peacefully.

Score Change: The score improved from 1 to 2 because demonstrators encountered fewer violent responses from security forces than in the previous year.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?	2/4
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The legal framework generally supports nongovernmental organizations (NGOs), and civil society is diverse and active, but the threat of violent reprisal poses a major obstacle to freedom of association. While the government provides protection to thousands of threatened human rights workers, hundreds of activists have been murdered in recent years, mostly by insurgents or the criminal organizations that

succeeded demobilized right-wing paramilitary groups. Impunity is widespread, with indictments and convictions occurring in only a small minority of cases.

Attacks on civil society leaders increased in 2022—189 were killed according to human rights group Indepaz—though newly elected President Petro committed to increasing protections for several civil society leaders. Land rights, victims’ rights, and ethnic and Indigenous rights advocates are frequently targeted by illegal armed groups and other powerful interests seeking to control local illicit economies or halt the implementation of rural development plans, especially coca substitution programs.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?	2/4
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Workers may form and join trade unions, bargain collectively, and strike, and antiunion discrimination is prohibited. Though Colombia’s illegal armed groups have killed thousands of union activists and leaders over the past three decades, killings declined substantially from their peak in the early 2000s. Between April 2021 and March 2022, 13 trade unionists were murdered, down from 22 in the previous year, according to the International Trade Union Confederation (ITUC). A special prosecutorial unit has substantially increased prosecutions for such assassinations since 2007, but few investigations have targeted those who ordered the killings.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?	3/4
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The justice system remains compromised by corruption and extortion. The Constitutional Court, the Council of State, and the Supreme Court have consistently exhibited independence from the executive, though corruption allegations involving

members of the courts have damaged their credibility in recent years. In March 2021, a former Supreme Court chief justice was convicted of corruption and sentenced to 19 years in prison.

In February 2022, the Constitutional Court expanded abortion rights, decriminalizing all abortions performed up to the 24th week of pregnancy, despite fierce opposition from the government.

The Constitutional Court has repeatedly been asked to mediate polarizing political disputes, especially with respect to the Special Jurisdiction for Peace (JEP), a parallel judicial tribunal that lies at the heart of the 2016 peace accord’s transitional justice system. Though critics of the peace accord, previously led by former president Álvaro Uribe, have repeatedly called for shutting down the JEP, it was able to fulfill its mandate without undue interference in 2022.

F2 0-4 pts

Does due process prevail in civil and criminal matters?	2/4
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Colombia’s prosecutorial service is relatively professional, but watchdog groups suggest that key oversight institutions, including the Attorney General’s Office, became less independent during the Duque administration. Due process protections remain weak, and trial processes move very slowly, though a judicial reform passed in June 2021 included provisions intended to accelerate legal processes.

The country’s two key transitional justice bodies following the peace accord, the JEP and the Truth Commission, began operations in 2018; by late 2021 they had amassed enormous volumes of evidence and received testimony from thousands of people. The Truth Commission delivered its final report in 2022, calling for “sweeping changes” to the country’s military and for a renewed focus on human rights. The report was disseminated widely, despite fierce criticism from members of the CD. The JEP issued several indictments in 2022, including filing criminal charges against more than a dozen military officials accused of war crimes in July. However,

uncertainty remains about the extent to which the bodies will be able to render a comprehensive historical and judicial accounting of Colombia's conflict.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?	2/4
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Many soldiers operate with limited civilian oversight, though the government has in recent years increased human rights training and investigated violations by security forces personnel. Collaboration between security forces and illegal armed groups has declined, but rights groups report official toleration of paramilitary successor groups in some regions. The police lack necessary resources, some units are prone to abuse, and police are largely absent from many rural areas where the most dangerous groups are active. The rights abuses committed by police during the national strike in 2021 prompted calls for deep institutional changes. In response to these calls, President Petro installed new military and police commanders in August 2022; Petro has also promised to reform the controversial riot control forces and to remove the police from the Ministry of Defense, though these changes had not been implemented before year's end. Reforms to the national police disciplinary code were enacted in March, introducing new provisions that impose stricter penalties for police officers found to have used excessive force.

Civil-military relations have been a source of significant tension in recent years. A portion of the armed forces opposed the peace process, and the ability of accused human rights violators within the military to receive benefits under the transitional justice system is one of the most controversial elements of the process. Scandals involving both corruption and rights violations have continued to buffet the military, including the bombing of a FARC dissident camp in March 2021 that killed several minors.

Some parts of the country, particularly resource-rich zones and drug-trafficking corridors, remain highly insecure. Remnant guerrilla forces—including both the ELN and dissident factions of the FARC—and paramilitary successor groups regularly abuse the civilian population, especially in coca-growing areas. However, President

Petro has spoken out against the “irrational” war on drugs, saying that the associated violence has been fueled by militaristic anti-drug policies. A general conflict fragmentation and intensification has affected some areas, illustrated by a continuing rise in the number of people affected by mass displacement—in December 2022, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that over 78,000 people were displaced during the year. After Petro took office in August, a number of criminal organizations expressed willingness to accept an offer of more lenient terms of surrender to the state, resulting in a fragile truce that temporarily improved safety for citizens in some areas.

A steady trickle of former FARC combatants, including several high-ranking members, have returned to clandestine life, alleging government failure to abide by the accord’s terms. Indepaz estimated the total number of “dissidents” at around 5,200 in October 2021; several of the most prominent dissidents have been killed in internecine fighting in Venezuela during 2021–22. President Petro proposed a new peace deal with FARC dissidents in August 2022, sparking criticism from the top government negotiators of the 2016 peace agreements. The Petro administration also began negotiations with the ELN in December, marking the first new talks with the organization since 2019. That month, the government announced a six-month cease-fire with the ELN, FARC dissidents, and three other armed groups; the ELN later denied adopting such an agreement.

Violence overall has significantly subsided since the internal conflict peaked in the early 2000s, but analysts have noted a gradual trend upward since 2017. The homicide rate decreased slightly between 2021 and 2022, but remained relatively high, with more than 12,000 cases reported as of November 2022. Impunity for crime in general is rampant, and prison conditions remain harsh.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?	2/4
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The legal framework provides protections against various forms of discrimination based on gender, race and ethnicity, sexual orientation and gender identity, and other

categories, and the government takes some measures to enforce these protections. Nevertheless, several vulnerable groups suffer serious disadvantages in practice.

Afro-Colombians, who account for as much as 25 percent of the population, make up the largest segment of the more than 7 million people who have been displaced by violence. Areas with concentrated Afro-Colombian populations continue to suffer vastly disproportionate levels of abuse by guerrillas, security forces, and criminal groups. UN officials have reported that impunity is nearly absolute for killers of Afro-Colombian and Indigenous ex-combatants and social leaders.

Most of Colombia's Indigenous inhabitants, who make up more than 3 percent of the population, live on approximately 34 million hectares granted to them by the government, often in resource-rich, strategic regions that are highly contested by armed groups. Indigenous people have been targeted by all sides in the country's various conflicts. In 2022, Indigenous communities in the departments of Chocó, Cauca, Valle de Cauca, and Nariño suffered widespread violence and displacement perpetrated by former FARC members, paramilitary successors, and criminal groups.

Women face employment discrimination and sexual harassment in the workplace, as well as gender-based violence. In June 2022, the Constitutional Court ruled that businesses must take steps to prevent and punish workplace gender violence.

Though Colombian law prohibits LGBT+ discrimination, LGBT+ individuals often suffer societal discrimination and abuse, and there are high levels of impunity for crimes committed against them. According to Colombian NGO Caribe Afirmativo, 49 LGBT+ people were murdered between January and August 2022.

As many as 2.4 million Venezuelan migrants have entered Colombia in recent years, and the government has offered work permits, access to services, and other accommodations to those who register. International relief agencies praised a February 2021 government announcement that Venezuelan migrants would be granted long-term temporary protection status, though stigmatization, discrimination, and lack of access to services remain problems.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?	3/4
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Freedom of movement improved substantially in tandem with the peace process, but it remains restricted by ongoing violence in certain regions, particularly for marginalized people. More than 35,000 individuals were displaced during the first six months of 2022, mostly due to threats from armed groups. Travel in some remote areas is further limited by illegal checkpoints operated by criminal and guerrilla groups.

Most COVID-19-related restrictions on movement ended in 2022, but incoming international travelers were still required to be vaccinated or provide a negative coronavirus test before entering the country.

As of July 2022, more than one million Venezuelan migrants have been granted Temporary Protection Status (ETPV), allowing them to work and move freely in Colombia for 10 years. Permit-holders are eligible for a range of state-run programs and services, including healthcare and education.

Score Change: The score improved from 2 to 3 because the Colombian government began providing temporary permits for Venezuelan refugees and other migrants seeking protective measures and because COVID-19-related movement restrictions were loosened.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate	2/4
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actors?	
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Violence and instability in some areas threaten property rights and the ability to establish businesses. Guerrillas, paramilitary successor groups, and common criminals regularly extort payments from business owners. Corruption as well as undue pressure exerted on prosecutors and members of the judiciary can disrupt legitimate business activity.

Progress remains slow on the implementation of the landmark 2011 Victims and Land Law, which recognized the legitimacy of claims by victims of conflict-related abuses, including those committed by government forces. While affected citizens continue receiving compensation and modest progress has been made on land titling, the legal process for land restitution is heavily backlogged, and the resettlement of those who were displaced during the conflict moved slowly during the Duque administration, which demonstrated limited will to advance the process. In 2022, the newly elected Petro administration promised to accelerate the process, and in October, the government agreed to a series of land purchases, which will be distributed at a subsidized price to those displaced by the conflict.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?	4/4
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Personal social freedoms, such as those related to marriage and divorce, are largely respected. In 2016, after several years of contradictory judicial and administrative decisions regarding same-sex unions, the Constitutional Court voted to legalize them.

In February 2022, the Constitutional Court decriminalized all abortions performed within the first 24 weeks of pregnancy. Prior to this, women continued to face criminal charges for abortion.

Score Change: The score improved from 3 to 4 because the Constitutional Court decriminalized abortions performed within the first 24 weeks of a pregnancy in a

February ruling.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation?

2/4

Child labor, the recruitment of children by illegal armed groups, and related sexual abuse are serious problems in Colombia; recruitment declined following the peace accord but has increased since 2020 amid pandemic-related disruption and violence. A 2011 free trade agreement with the United States and a subsequent Labor Action Plan called for enhanced investigation of abusive labor practices and rights violations, but progress remains deficient in several areas. In coca-growing zones, armed groups exert coercive pressure on farmers to engage in coca cultivation and shun government-run crop-substitution programs.



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Global Freedom Score

70/100 Free

Internet Freedom Score

65/100 Partly Free

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Colombia: Misuse of counter-terrorism measures to prosecute protesters threatens human rights, say UN experts

29 March 2023

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GENEVA (29 March 2023) – UN experts* today called on Colombia to stop misusing counter-terrorism measures and serious criminal offences, such as terrorism, to prosecute individuals for taking part in protests against government policies.

The experts urged authorities to ensure that any charges brought forward comply with international law and human rights standards. “The use of such egregious charges to prosecute violent conduct during protests poses a serious threat to the promotion and protection of human rights and fundamental freedoms and to the legitimacy of international counter-terrorism frameworks and laws,” the experts said. “It has a chilling effect and encourages vilification campaigns against protest movements in the country.”

Information received by the experts indicate that 228 individuals who took part in the protests of 2021 have been charged with serious offences, including terrorism and conspiracy to commit crimes, for which some are facing more than 22 years in prison. More than 180 demonstrators remain in prison or are under house arrest, despite legal provisions that allow for the release of people arrested in connection with the protests so they could await their trial in liberty. The detainees include peaceful protesters and young people who allegedly damaged public and private property, engaged in violent and destructive acts.

“We strongly condemn any violence during protests,” the experts said. “While we recognise the State’s responsibility to respond to violence, including by investigating, preventing and dissuading such acts, violent individuals among peaceful demonstrators must be dealt with fairly and in accordance international human rights standards,” they said.

The experts expressed concern about reports of stigmatisation and judicial harassment of human rights defenders, reporters and defence lawyers prosecuted in the context of these proceedings.

They stressed that decisions on whether to prosecute, hold in pre-trial detention, convict or award damages to protesters must meet the

requirements of necessity, proportionality and non-discrimination under international human rights law. “Prison sentences for non-violent protest activity and the exercise of human rights, including freedom of peaceful assembly and freedom of expression, are always disproportionate, and therefore incompatible with international human rights law,” the experts said.

ENDS

****The experts: Mr. Clément N. Voule, UN Special Rapporteur on the right to peaceful assembly and association; Ms. Fionnuala Ní Aoláin, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Ms. Mary Lawlor, Special Rapporteur on Human Rights Defenders; Ms. Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Ms. Miriam Estrada-Castillo (Chairperson-Rapporteur), Mr. Mumba Malila (Vice-Chairperson); Ms. Ganna Yudkiviska, Ms. Priya Golapan, Mr. Matthew Gillett, Working Group on Arbitrary Detention.***

*Special Rapporteurs are part of what are known as the **Special Procedures** of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN human rights system, is the general name for the Council's independent investigative and monitoring mechanisms that address specific country situations or thematic issues in all parts of the world. Special Procedures experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent of any government or organization and serve in their individual capacity.*

For more information and media requests, please contact Elizabeth Jiménez Mora (Elizabeth.jimenezmora@un.org) or write to hrc-sr-freeassembly@un.org

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Situation of human rights in Colombia

Report of the United Nations High Commissioner for Human Rights* **

Summary

In this report, the United Nations High Commissioner for Human Rights analyses the human rights situation in Colombia in 2022. It highlights the impact of territorial violence on human rights, the state of implementation of human rights provisions of the Peace Agreement, including rural reform and transitional justice, as well as civic space. It also addresses the new “total peace” policy and the transition to a human security model.

* The summary of this report is circulated in all official languages. The report itself is circulated in the language of submission and in English.

** This report was submitted after the deadline to include information on recent developments.

Annex

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia

I. Introduction

1. In this report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) analyses the human rights situation in Colombia between 1 January and 31 December 2022.
2. On 13 March, legislative elections took place, including the first election of 16 special transitional districts for peace established in the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (the Peace Agreement), signed in 2016 between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP). These seats, assigned for two electoral periods, seek to ensure political representation of the areas most affected by the conflict, where there is weak institutional presence. Four hundred and three people applied. Some of them faced obstacles to freely campaign, such as restrictions imposed by non-State armed groups preventing them from accessing certain constituency areas, direct threats or threats against their entourage, and stigmatization. Of the 16 people elected, three were women. The election of some was questioned due to their lack of representation of victims and communities. In addition, concerns were raised about alleged pressure on the process from traditional political parties and non-State armed groups.
3. The presidential elections were mostly peaceful, with isolated acts of violence¹. On 19 June, in the second round of elections, Gustavo Petro was elected President and took office on 7 August with Francia Márquez, a human rights defender from the department of Cauca, and the first woman of African descent to become Vice-President.
4. In its first 100 days, the new Government prioritized the development of a new “total peace” policy that includes the comprehensive implementation of the Peace Agreement. It adopted an “Emergency Plan for the Protection of Social Leaders, Human Rights Defenders and Peace Signatories” in August. In October, it relaunched two key mechanisms for the implementation of the peace agreement: the Commission for the Follow-up, Promotion and Verification of the Implementation of the Final Agreement and the National Commission on Security Guarantees.
5. In October, the House of Representatives approved the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).
6. In 2022, OHCHR conducted 906 field missions and 319 capacity-building activities with State institutions and civil society.

II. Total peace policy

7. In July, the Office published the report *Territorial Violence: Recommendations for the New Government*², which identified 156 municipalities where violence by non-State armed groups and criminal organizations seriously impacted the human rights situation.
8. These groups and organizations maintain a presence in several territories and exercise control over the population using coercion, intimidation, violence and threats to counter the opposition to the development of their activities. In addition to acts of sexual violence, killings and disappearances, in

¹ On 29 May, in Meta, during the first round of elections, members of a non-State armed group attacked members of the Army as they removed electoral materials, resulting in the death of a voting jury and an injured soldier. During the scrutiny process, in Cauca, unknown individuals murdered two social leaders in two separate incidents. Both victims reportedly supported President Petro’s campaign.

² https://www.hchr.org.co/informes_tematicos/violencia-territorial-en-colombia-recomendaciones-al-nuevo-gobierno/.

several territories the groups extort, control or limit the mobility of the population and its productive activities.

9. In some places, such groups seem to supplant State functions, regulating aspects of community life and making decisions on family issues or delivering “justice”.
10. Violence by armed actors in rural areas and in some urban centres severely affects indigenous, African descent and peasant leadership and community life, as well as women, girls and members of the LGBTIQ+ community. It is in this context that the majority of killings of human rights defenders are committed, affecting the organizational capacity of communities and their social fabric.
11. In the report, the Office highlighted the responsibility of the State, as a guarantor of human rights, to protect populations and expressed concern at cases of alleged collusion between State agents and non-State armed groups.
12. In response to this situation of violence, the new Government launched the “total peace”³ policy which includes a commitment to strengthen the implementation of the Peace Agreement; the initiation of dialogues with all armed groups present in the territories; and the development of a new approach to human security.
13. As part of this new policy, the Government resumed dialogues with the National Liberation Army (ELN)⁴ in November and has reached out to other groups. In September, the High Commissioner for Peace announced the willingness of several armed actors to engage in dialogue and the possibility of a multilateral ceasefire⁵. On 31 December, President Petro announced a bilateral ceasefire⁶ with five non-State armed groups and criminal organizations⁷.
14. On November 4, President Petro approved Law 2272 of 2022, which defines the legal framework of the “total peace” policy as State policy and ratifies the new approach to human security. This Law establishes a Commission to determine the type of organizations with which a political dialogue will begin and with which a process of submission to justice will take place. It also facilitates partial and full agreements with different actors of the armed conflict, including humanitarian agreements⁸.
15. Law 2272 states that the peace policy must ensure the effective participation of women and civil society by incorporating differential approaches in an intersectional and territorial manner as well as a focus on the centrality of victims⁹. It is essential that efforts are made to achieve such participation and that agreements which contribute to mitigating the impact of violence on the civilian population be made simultaneously. To achieve “total peace”, the rule of law and participatory development must be strengthened in territories affected by violence. This requires strengthening State civilian institutions, combating situations of corruption and collusion, and effectively implementing the Peace Agreement.

III. Implementation of the Peace Agreement

16. In line with the provisions of the Peace Agreement, the Office has incorporated a follow-up chapter on aspects of human rights related to the implementation of the Agreement.

³ <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=197883>.

⁴ <https://petro.presidencia.gov.co/prensa/Paginas/Gobierno-del-Cambio-y-guerrilla-del-ELN-reanudan-este-lunes-negociacion-221119.aspx>.

⁵ <https://www.elcolombiano.com/colombia/gustavo-petro-y-danilo-rueda-explican-cese-multilateral-del-fuego-con-eln-exfarc-disidencias-y-narcobandas-PG18695802>.

⁶ <https://petro.presidencia.gov.co/prensa/Paginas/Presidente-Petro-anuncia-cese-al-fuego-bilateral-con-5-organizaciones-armad-221201.aspx>.

⁷ On 31 December, the Government issued Decrees 2656, 2658, 2659 and 2660.

⁸ <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=197883>.

⁹ Law 2272, paras. 2 and 3 b, art. 2; Law 2272, art. 8C.

A. Comprehensive rural reform and drug policy

17. The new Government announced a shift in its drug policy, with a less punitive and more social approach focused on public health. In particular, it announced that it would prioritize crop substitution policy over other mechanisms, as well as the inclusion of a human rights approach in public drug policies¹⁰. The United Nations High Commissioner for Human Rights noted that “this approach could be instrumental in better protecting the rights of peasants, indigenous and Afro-Colombian communities and of people who use drugs, both in Colombia and globally”¹¹.
18. The Comprehensive National Programme for the Substitution of Illicit Crops still presents challenges in terms of its level of implementation. The programme’s progress in terms of voluntary crop eradication is at 75.07 per cent of the four-year target¹². The Procurator General’s Office notes a 21 per cent increase in the number of families being removed from the Substitution Programme for non-compliance or failing to meet the requirements of the Programme¹³. The Comptroller General’s Office has reported concerns regarding the management of resources for the Substitution Programme¹⁴.
19. In November, the State notified the UN Secretary-General of Colombia’s adhesion to the United Nations Declaration on the Rights of Peasants and Other Persons Working in Rural Areas.
20. The Government announced the purchase of land to compliment the National Land Fund, with the aim of advancing the allocation of land to peasants. This included the signing of an agreement with the cattle ranchers’ association in October¹⁵.
21. Rural women face greater difficulties in terms of access to, use and land tenure. For every five rural women who benefit from land programmes, there are eight male beneficiaries. Of the plots allocated as part of the Peace Agreement between 2016 and 2018, 38 per cent of the beneficiaries were women¹⁶.
22. The National Round Table for Monitoring Development Programmes with a Territorial Focus called¹⁷ on the Government to seek greater community participation, recognize family and community agriculture and make advances in democratizing access to land. The Round Table also indicated that the road maps designed to implement the Peace Agreement do not include the Framework Implementation Plan’s indicators which include guarantees for the territorial rights of ethnic peoples.
23. Congress is currently reviewing two important legislative initiatives for comprehensive rural reform: the creation of an agrarian¹⁸ jurisdiction to address conflicts over territory in rural areas, and the recognition of peasants and other people working in rural areas as subjects of rights, by incorporating the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas into the Constitution¹⁹. If approved, these bills would constitute significant progress.

¹⁰ <https://petro.presidencia.gov.co/prensa/Paginas/La-paz-en-Colombia-afecta-de-manera-positiva-el-trabajo-con-Estados-Unidos-221003.aspx>.

¹¹ Press conference by UN High Commissioner for Human Rights Michelle Bachelet, Geneva, 25 August 2022 | OHCHR, https://www.hchr.org.co/historias_destacadas/una-politica-de-drogas-mas-social-podria-proteger-mejor-a-campesinos-indigenas-y-afrodescendientes-en-colombia-michelle-bachelet/.

¹² https://www.procuraduria.gov.co/Documents/Cuarto%20Informe%20Seguimiento%20al%20Acuerdo%20de%20Paz_Radicaci%C3%B3n%20281%29.pdf.

¹³ *Ibid.*

¹⁴ https://www.contraloria.gov.co/resultados/informes/informes-posconflicto/-/document_library/impz/view_file/3519115?_com_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz_redirect=https%3A%2F%2Fwww.contraloria.gov.co%2Fresultados%2Finformes%2Finformes-posconflicto%2F%2Fdocument_library%2Fimpz%2Fview%2F2968463%3F_com_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz_redirect%3Dhttps%253A%252F%252Fwww.contraloria.gov.co%252Fresultados%252Finformes%252Finformes-posconflicto%253Fp_p_id%253Dcom_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz%2526p_p_lifecycle%253D0%2526p_p_state%253Dnormal%2526p_p_mode%253Dview.

¹⁵ <https://www.minagricultura.gov.co/noticias/Paginas/ACUERDO-PARA-LA-MATERIALIZACI%C3%93N-DE-LA-PAZ-TERRITORIAL-Compra-directa-de-tierras-para-la-construcci%C3%B3n-de-la-Reforma-Rural-In.aspx>.

¹⁶ <https://colaboracion.dnp.gov.co/CDT/Prensa/PND-Pacto-por-Colombia-pacto-por-la-equidad-2018-2022.pdf>.

¹⁷ https://www.cinep.org.co/Home2/images/2021News/MesaPDET.docx.pdf?utm_source=MesaPDET.

¹⁸ <http://leyes.senado.gov.co/proyectos/index.php/textos-radicados-senado/p-ley-2022-2024/2607-bill-056-de-2022>.

¹⁹ http://leyes.senado.gov.co/projects/images/documents/Texts%20Radicados/Papers/2022/gaceta_1279.pdf.

B. Transitional justice

24. The Final Report²⁰ of the Commission for the Clarification of Truth, published in June, based its findings on the individual and collective testimonies of more than 30,000 victims and on more than 500 dialogue and recognition sessions with broad sectors of Colombian society.
25. Dissemination of the report and implementation of its recommendations would help Colombian society to become aware of the history of the armed conflict and guarantee non-repetition. The report is an instrument for the comprehensive implementation of the Peace Agreement, to combat impunity, to overcome the militarization of security, the lack of protection of peasants, discrimination, violence and its disproportionate impact on ethnic peoples, women and children.
26. The Monitoring Committee, installed in August 2022 for a seven-year period, will verify the implementation of the Commission's recommendations. The Office has contributed to the establishment of the Committee and will continue to support efforts to implement the recommendations. It is essential that the State ensure conditions for the functioning of the Committee.
27. The search led by the Unit for the Search of Persons Deemed as Missing requires State entities – executive and judicial – at the national and local levels to guarantee effective access to information and advance institutional coordination to strengthen the search.
28. The implementation of regional search plans has enabled progress to be made in finding persons deemed as missing. However, it is constrained by the critical security situation in departments such as Arauca, Chocó and Norte de Santander, and in regions such as the Pacífico Medio and Nariñense, among others. The identification strategy has addressed 34,238 files on unidentified bodies.
29. The State's acceptance of the competence of the United Nations Committee on Enforced Disappearances in August to receive and examine individual communications constitutes an important step forward in the search for victims, and the investigation and eradication of enforced disappearance²¹.
30. Hearings on the recognition of responsibility conducted by the Special Jurisdiction for Peace in the cases of kidnappings (case 01) and extrajudicial executions (case 03) at the national level, in Bogotá and in the departments of Cesar and Norte de Santander are significant milestones for discovering the truth. Precautionary measures to protect places where there have been reports of victims of disappearance in Antioquia and Valle del Cauca, among others, have also been important. The Office values the opening of three new macro-cases²² and reiterates the importance of the formal opening of the macro-case on sexual violence²³.
31. The first three resolutions of conclusions in macro-cases 01 and 03 are justice sign of progress and demonstrate the Special Jurisdiction for Peace's ability to combat impunity. Specific sanctions imposed by the Peace Tribunal should take into account the concerns and proposals put forward by the victims. Their participation must be ensured through observations in legal proceedings, as well as at the stage of implementation of sentences. Compliance by those appearing before the Special Jurisdiction with the conditions they assumed by virtue of their submission to the Jurisdiction is necessary to guarantee the full truth.
32. The Office learned of concerns from victims' groups related to Interpretative Judgement 3 of the Special Jurisdiction for Peace²⁴ which they consider limit their participation. They also highlighted challenges they have faced in certain proceedings and participation spaces. OHCHR reiterates that standards on access to justice, equality of parties and participation guarantee the centrality of victims.

²⁰ <https://www.comisiondelaverdad.co>.

²¹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en#EndDec.

²² Macro-case 08 (crimes committed by members of the security forces, other State agents, in association with paramilitary groups or civilian third parties). Macro-case 09 (crimes committed against ethnic peoples and territories) and Macro-case 10 (crimes committed by the former FARC-EP).

²³ https://jurinfo.jep.gov.co/normograma/compilacion/docs/auto_srvt-103_11-julio-2022.htm.

²⁴ https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/TP-SA-SENIT-03_28-April-2022.pdf.

C. Victims and Land Restitution Act

33. The Final Report of the Commission for the Clarification of Truth notes that, between 1995 and 2004, more than eight million hectares²⁵ were dispossessed or abandoned. According to the Land Restitution Unit, more than 568,000 hectares²⁶ have been restored after 10 years of implementation of the Victims Act. Resolute progress in land restitution processes involves strengthening the administrative processes of the Unit, ensuring adequate representation of victims and strengthening the security component for claimants. Judicial processes to resolve the backlog of cases should also be strengthened.
34. According to information from the Land Restitution Unit, 7,791 restitution decisions have been approved, benefiting 85,588 persons. There are 57 judicial offices nationwide to resolve 19,272 restitution claims²⁷. The Unit continues to face a major challenge in the restitution of ethnic territories. A total of 822 applications have been submitted for indigenous and Afrodescendant territories, but only 235 applications have been processed administratively for their submission to the justice system. Of these, 24 have reached a verdict. Social sectors requested the Government to review the more than 57,000 cases that were rejected for land restitution and are therefore not part of the land registry. In November, the Government issued Circular 00021, which eliminated the Unit's Environmental, Mineral Energy and Infrastructure Team.

D. Dismantling and submission to justice

35. President Petro reactivated the National Commission on Security Guarantees in October and has already made progress towards adopting the guidelines of a Public policy on Dismantling Criminal Organizations and Conduct. This policy should be adopted as soon as possible and should take into account territorial dynamics and analysis in its implementation and monitoring. According to good practices identified by the Office, dismantling should focus on factors enabling the criminal phenomenon. Good practices recommend the simultaneous implementation of five measures, in line with the State's international human rights obligations: social investment, strengthening justice, combating corruption, affecting criminal assets and submission to justice. Under the latter measure, reparation to victims should be included, and the criminal network should be exposed²⁸.
36. Participation of affected communities and ethnic peoples – including women – to define the way in which social investment, strengthening justice and fighting corruption contributes to dismantling is fundamental for achieving this goal. To that end, the National Commission on Security Guarantees must increase its efforts to channel the proposals of ethnic communities and peoples and adequately guarantee their security.

E. Ethnic chapter

37. The reports of the Special High-level Instance of Ethnic Peoples to monitor the implementation of the Peace Agreement²⁹, the National³⁰ Afro-Colombian Peace Council and institutions such as the Procurator General's Office³¹ and the Kroc Institute agree that minimal progress has been made to

²⁵ <https://www.comisionde.la.verdad.co/sites/default/files/downloadables/2022-06/Report%20Final%20capi%CC%81title%20Findings%20and%20recommendations.pdf>.

²⁶ <https://www.urt.gov.co/estadisticas-de-restitucion-de-tierras>.

²⁷ *Ibid.*

²⁸ Edgardo Buscaglia, “La paradoja de la represión: la impotencia del Estado ante la delincuencia organizada”, available at <https://www.casamerica.es/index.php/temastv/paradoja-de-la-represion-la-impotencia-del-estado-ante-la-delincuencia-organizada>; Edgardo Buscaglia, “La integración vertical de la delincuencia organizada vinculada a la corrupción política: un análisis jurimétrico del decomiso de activos y los derechos humanos” in Carlos Tablante, Mariela Morales Antoniazzi (eds.), “Impacto de la corrupción en los derechos humanos”, available at <https://biblio.juridicas.unam.mx/bjv/detalle-libro/5096-impacto-de-la-corrupcion-en-los-derechos-humanos>.

²⁹ <https://www.cenpaz.com/2022/01/informe-jeanpe-2016-2021-de-seguimiento.html>.

³⁰ CONPA, “II Informe de Balance de la implementación del Capítulo Étnico del Acuerdo final de paz: 5 años de incumplimiento” (II Review of the implementation of the Ethnic Chapter of the Final Peace Agreement: 5 years of non-compliance), August 2022, <https://conpapaz.org/>.

³¹ <https://www.procuraduria.gov.co/portal/media/docs/Procuradur%C3%ADa%20-%20Report%20Final%20Cap%C3%ADtulo%20C3%89tnico%202020%20-%20August%202021.pdf>.

implement the ethnic chapter of the Peace Agreement. According to the Kroc Institute³², as of September 2022, only 13 per cent of the 80 provisions included in the ethnic chapter have been fully implemented.

38. OHCHR noted setbacks in the protection of rights to life, mobility, territory and self-government of indigenous peoples and people of African descent in Arauca, Cauca, Chocó, Córdoba, Huila, Nariño, Norte de Santander, Putumayo and Valle del Cauca. The National Afro-Colombian Peace Council attributes the high level of non-compliance with the ethnic chapter to the persistence of the armed conflict and the humanitarian crisis that continues to affect ethnic peoples³³.
39. The lack of prior, free and informed consultation in programmes and projects for the implementation of the Peace Agreement contributed to the lack of guarantees of other rights of ethnic peoples and, from their perspective, the progress achieved so far has not had a positive impact on them.
40. The new Government's commitment to the implementation of the ethnic chapter and the appointment of ethnic human rights defenders to official positions aimed at protecting rights are positive signs. The decision of the Government of the United States to accompany the implementation of the ethnic chapter is also welcomed.³⁴

IV. Territorial violence, security and human rights

A. The situation of security and human rights

41. OHCHR received allegations of 128 cases of possible massacres³⁵ in 2022, of which 92 were verified, two are still under verification and 34 were considered inconclusive. In 92 verified massacres, 321 victims were recorded: 270 men, 30 women, 14 boys and 7 girls. In addition, 27 victims were from ethnic groups: 23 indigenous people and four people of African descent. The most affected departments were Antioquia, Cauca, Nariño and Valle del Cauca. Twenty-seven per cent of the victims were young people aged between 18 and 28. In Tumaco (Nariño), three members of the Awá people were massacred while at a meeting planning actions to oppose coca cultivation in the area. In the verified cases, the alleged perpetrators are mainly criminal organizations.
42. The Office for the Coordination of Humanitarian Affairs (OCHA) indicates that, in 2022, 82,862 people (approximately 19 per cent of which are children) have been displaced and 102,395 people have been confined³⁶, while in 2021, 73,974 people were displaced and 65,685 suffered confinement³⁷. OCHA notes that, in 2022, 65 per cent of the displaced population and 70 per cent of those whose mobility has been unduly restricted are indigenous and of African descent. The departments most affected by displacement and confinement are Arauca, Cauca, Chocó and Nariño³⁸.

³² <https://curate.nd.edu/show/4f16c250g77>.

³³ CONPA, "II Informe de Balance de la implementación del Capítulo Étnico del Acuerdo final de paz: 5 años de incumplimiento" (II Review of the implementation of the Ethnic Chapter of the Final Peace Agreement: 5 years of non-compliance), August 2022, <https://conpapaz.org/>.

³⁴ <https://www.unidadvictimas.gov.co/en/institutional/agreement-with-the-United-States-would-be-fundamental-for-ethnic-communities-in-Colombia>.

³⁵ For a definition of "massacres", see E/CN.4/2000/11, para. 27.

³⁶

https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/informe_impacto_y_tendencias_ene-ago_2022_vf.pdf; <https://reliefweb.int/report/colombia/informe-tendencias-e-impacto-humanitario-en-colombia-2022-fecha-de-corte-enero-septiembre-de-2022-fecha-de-publicacion-24-de-octubre-de-2022>.

³⁷ <https://reliefweb.int/report/colombia/colombia-impacto-y-tendencias-humanitarias-entre-enero-diciembre-de-2021-08-de>.

³⁸ https://reliefweb.int/attachments/7886001b-f5cc-43b5-9df0-efa08df26cfe/informe_impacto_y_tendencias_ene_dic_2022_vf.pdf.

43. The United Nations Verification Mission in Colombia verified, in 2022, the killings of 50 former FARC-EP combatants, bringing the total number of killings of former combatants to 355 since the signing of the Peace Agreement³⁹.
44. The Office documented cases of gender-based violence (sexual slavery, early unions, rape) in the context of the conflict. This violence forms part of the territorial control exercised by non-State armed groups, and is also used as a reprisal to male relatives belonging to rival groups. Femicides have been perpetrated by non-State armed groups whose victims have been accused of belonging to armed groups or maintaining relationships with their members. The presence of non-State armed groups results in restrictions on the free expression of and violence against LGBTIQ+ persons.
45. The Office received information about the involvement of non-State armed groups in the transfer of women to Chocó and Nariño, raising concerns about the risks of possible trafficking for sexual exploitation, including of girls. In some cases, groups are reported to be directly selecting and transferring women. The Office has also been informed about cases of femicides, including one of a girl, who were possibly victims of trafficking.
46. In 2022, the Office learned of 115 cases of children and adolescents recruited by non-State armed groups (74 boys, 37 girls, 4 without information on sex). Of these, 20 were reportedly killed (11 girls and 9 boys), and 12 girls were sexually abused. There is a high level of under-reporting of these violations and abuses. Poor access to food and an adequate standard of living, lack of protection from gender-based violence and the cultural loss suffered by ethnic peoples as a result of the impact of the conflict increase children's vulnerability to these practices. Under international human rights standards, non-State armed groups must not, under any circumstances, recruit or use persons under the age of 18 in hostilities and the State has an obligation to take all possible measures to prevent such recruitment and exploitation, to demobilize recruited children and to provide them with all necessary assistance for their physical and psychological recovery and social reintegration⁴⁰.
47. There is a need to strengthen gender and ethnic approaches in prevention and protection measures against recruitment, particularly where State presence is weak. In addition, it is necessary to support local and ethno-territorial authorities that warn of such situations. Most of the cases known to the Office have been detected by the institution after the recovery, death or escape of the minor and not at the time of recruitment. Furthermore, gender stereotypes often mean that the recruitment of girls, especially for sexual exploitation, is not recognized as a violation of their rights, leading to insufficient institutional action. When children and adolescents who have been separated do not access or remain on protection pathways, there is no institutional monitoring of their situation, which puts them at risk of being recruited again.
48. In the case of indigenous peoples and people of African descent, violence by non-State armed groups and criminal organizations, including disregard for their authorities, displacement and territorial dispossession, affect their physical and cultural survival. These groups force them to become associated with illicit economies and impose restrictions on their customs, forcing them to abandon the ancestral practices that underpin their well-being, cultural identity and autonomy. Ethnic communities have developed various forms of resistance to pressure from non-State armed groups and criminal organizations.
49. Official data from the Human Rights and National Defence Observatory indicate that 103 members of the security forces were killed by criminal organizations and non-State armed groups in 2022⁴¹. In San Luis (Huila), seven police officers, some under the age of 20, died in September after being attacked by a non-State armed group.

³⁹ <https://colombia.unmissions.org/sites/default/files/n2276999.pdf>.

⁴⁰ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2002), arts. 4 and 6.

⁴¹ Comments of the Colombian State, submitted on 20 February 2023.

50. OHCHR condemns all forms of violence that seriously affect human rights. Addressing this violence requires a comprehensive commitment by the State, including greater institutional coordination. Economic, social and cultural rights must be upheld as a matter of priority, including the State commitments contained in the Peace Agreement on comprehensive rural reform and drug policy.
51. The Government's shift towards a human security approach can be reinforced by ensuring that security forces prioritize the protection communities most at risk. The adoption by the National Commission on Security Guarantees of a public policy to dismantle criminal organizations, including by seizing their assets would contribute to this objective. There is also a need for the State to commit to and coordinate preventive actions to strengthen and make the Early Warning System of the Ombudsman's Office more effective. This prevention tool that must go complement the "total peace" policy, and the new human security approach.

B. Security forces

52. OHCHR received 71 allegations of arbitrary deprivation of life allegedly committed by members of the Police and Military Forces. These allegations were registered in 19 departments, the most affected being Antioquia, Cauca, Nariño and Norte de Santander. The Office sent the 71 allegations to the Ministry of Defence, who considered that in 41 cases, no violation to the right to life was committed, because international standards regarding the use of force and firearms and/or international humanitarian law had been respected, and/or because security forces were not involved the allegations. The Ministry of Defence also informed that it had taken action in 30 allegations where the right to life may have been violated, including penal and/or disciplinary actions in some cases⁴².
53. The events that took place in the village of Alto Remanso, Puerto Leguizamo (Putumayo) in March, where 11 people were killed during an army operation, as well as the events in the district of Chocho (Sucre), where members of the National Police arbitrarily deprived three young men of their lives, point to the urgent need to make progress in reforming military and police doctrines, and prioritizing the protection of civilian populations in the design and execution of military and police operations.
54. The Office received allegations of cases of torture, cruel treatment and sexual violence while the victims were in police custody. At the Chambacú police station in Cartagena (Bolívar), 11 people in detention were victims of serious sexual violence by other detainees, with no police intervention to prevent such acts; these events are being investigated by the Attorney General's Office and the Procurator General's Office.
55. The Office verified that, in Bolivar, members of the Armed Forces allegedly perpetrated gender-based violence, including sexual violence, and forced early unions with girls and adolescents, taking advantage of their socio-economic vulnerability. Measures to prevent the Ministry of Defence's Zero Tolerance Policy on Sexual Violence in territories affected by armed conflict must be implemented and monitoring and accountability mechanisms must also be implemented to respond to the gravity of these events.
56. OHCHR welcomes the adoption of a human security concept as the basis of the Government's new security policy. This concept broadens the traditional notion of security and establishes a close relationship with human rights. Human security is not limited only to aspects related to the use of force, but is based on an approach aimed at preventing violence and prioritizing the protection of the population, which is actively involved in identifying its security needs. Responsibility for security issues is not confined exclusively to the work of the security forces, and includes different State institutions with various responsibilities and which must be coordinated effectively to cover all the dimensions of the approach.

⁴² Communication received on 14 February 2023.

57. This new approach involves far-reaching changes in current police and military doctrines and envisages mechanisms to enable coordination between all the State institutions concerned. OHCHR provides technical advice to the Government to ensure that human rights are properly integrated into this new security paradigm.
58. The decision to suspend bombing of high-value targets where the presence of children and adolescents has been identified,⁴³ is an important development. In this regard, OHCHR has observed gaps in monitoring and verification mechanisms and accountability processes. Overcoming these gaps would allow for greater transparency and certainty in intelligence reporting. In November, the Government announced Colombia's adherence to the Safe Schools Declaration.
59. OHCHR welcomes the Constitutional Court's decision to assign jurisdiction to the ordinary system of justice over the El Tandil massacre (Tumaco), which was allegedly committed by members of the security forces in 2017⁴⁴. This is a positive development for the implementation of international standards on competent jurisdictions for alleged human rights violations committed by members of the security forces⁴⁵. However, it is noted that not all justice entities apply these international standards consistently, which could increase the thresholds of impunity and compromise the application of an independent justice.
60. OHCHR has provided advice and technical assistance for the reform of the National Police to strengthen the inclusion of human rights. This advisory support is aimed primarily at ensuring that international human rights standards are incorporated into police doctrine as the focus of manuals, directives and operational orders; that better communication is initiated with communities and effective channels of communication are established or strengthened; that the exercise of the right to peaceful assembly is managed in accordance with international human rights standards and norms; and that international human rights standards are included in the disciplinary system, particularly that such conduct must be investigated and prosecuted in the ordinary justice system.

V. Civic space

A. Situation of human rights defenders

61. High levels of violence against human rights defenders continued throughout 2022. OHCHR received 256 allegations of killings of human rights defenders, in 116 cases of which it verified a link between their death and their human rights work, and in 140 were found to be inconclusive⁴⁶. Nine of the victims of the verified cases were women, including three indigenous women, one woman of African descent, one peasant and one trans woman; 107 were men, including 23 indigenous men, 14 men of African descent and 52 peasants. Non-State armed groups are alleged to be responsible for 73 per cent of the verified killings.
62. In 2022, OHCHR noted a significant increase in allegations of killings against members of the *Juntas de Acción Comunal*, linked to community and territorial control exercised by non-State armed groups, particularly in of Arauca, Bolívar and Putumayo. Of the total number of cases of allegations of killings of defenders verified in 2022, 45 per cent of the victims were members of the *Juntas de Acción Comunal*, with 52 cases in 2022 compared to 13 in 2021.

⁴³ See <https://www.infobae.com/america/agencias/2022/08/25/colombia-suspende-bombardeos-cuando-haya-menores-de-edad/>.

⁴⁴ Decision 989/22.

⁴⁵ See the Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, E/CN.4/2005/102/Add.1, 8 February 2005; See also the Report of the United Nations Special Rapporteur on the independence of judges and lawyers, A/68/285; Resolution of the Inter-American Court of Human Rights, Monitoring compliance with judgment, Cases Radilla Pacheco, Fernández Ortega et al. and Rosendo Cantú et al. v. Mexico cases, 17 April 2015, footnote 37, p.8.

⁴⁶ The Office of the Ombudsman documented 215 killings of social leaders, while INDEPAZ documented 189 cases.

63. These groups also used violence against indigenous authorities and authorities of African descent, including members of indigenous and Cimarrona guards, to disrupt their authority and organizational processes. OHCHR verified allegations of killings of brothers Marcos Fidel and Albeiro Camayo, Guillermo Chicame, Miller Correa, Luis Tombé, Yemi Chocué and the child Breiner Cucuñame of the Nasa people in the department of Cauca. In Nariño, it verified allegations of killings of five indigenous Awá authorities and guards: Juan Orlando Moriano, John Faver Nastacuas, Carlos José García, Gerardo Pai and Carlos García. In Chocó, it verified the cases of Luis Champuro of the Wounaan people, Sercelino Lana of the Embera people, Julio Cardenas of the Barrios Unidos Local Community Council and Fredy Mena of La Playa Community Council.
64. In the Medio Magdalena region, OHCHR verified allegations of killings of Teófilo Acuña, Jorge Tafur and Luis Quiñones, who were peasant leaders working to defend the land and the environment. In Casanare, it verified the allegation of the killing of Luz Marina Arteaga, who accompanied communities in their struggle for access to land and carried out municipal monitoring in Orocué.
65. OHCHR promoted protective measures and investigative actions in 682 cases of threats and attacks against defenders, 501 against men, 163 against women, some of which constituted gender-based violence, 8 against LGBTIQ+ persons and 10 against organizations. Of note is the car bomb attack on defenders, who were at the headquarters of the *Movimiento de Masas Social and Popular del Centro Oriente* (Social and Popular Masses Movement of the Central East) in Arauca in January; the bomb attack on the Nasa Paéz indigenous reserve in Huila; and the bomb attack against the mayor of Cumbal in April and against the governor of the Cumbal indigenous reserve in the department of Nariño in October.
66. There is also concern about the negative impact of a series of pamphlets allegedly signed by the “Águilas Negras”, which threatened several defenders, including members of the Regional Indigenous Council of Cauca, members of the student movement of EAFIT University in Antioquia, judges of the Constitutional Court who voted in favour of the ruling that decriminalized abortion in February and the Vice President of the Republic when she was a candidate. Other pamphlets, followed by death threats, generated fear and displacement of environmental defenders who denounced the risks of fracking pilot projects in Puerto Wilches (Bolívar). A significant group of mayors, ombudspersons, defenders and members of the Barí indigenous community in Norte de Santander received death threats and even suffered attempts on their lives allegedly by non-State armed groups in their quest to exercise territorial control.
67. OHCHR values the Government’s adoption, in August, of an Emergency Plan proposed by civil society to protect defenders, social leaders and peace signatories in 65 municipalities and six prioritized capitals. The Plan is structured in six axes and 49 short- and medium-term actions. The most visible part has been the establishment of Unified Operations Centres for Life (*Puestos de Mando Unificados por la Vida*), which function as operational spaces at the local level, created to adopt concrete prevention and protection measures. These centres have faced implementation challenges related to the lack of a preventive approach by some local authorities, limitations in the capacity of the National Government to accompany local level spaces, lack of trust between authorities and civil society, and the structural causes of violence in the territories. In some municipalities, however, processes were initiated to reverse some of the risk factors affecting defenders.
68. OHCHR hopes that the Emergency Plan will serve as the basis for the adoption of a comprehensive and coherent public policy on prevention and protection for human rights defenders, which will be built with the participation of civil society and ethnic territorial authorities. One of its basic elements should be the strengthening of the municipal ombudspersons as the main authorities responsible for human rights at the local level, especially in those municipalities experiencing the highest rates of violence and multidimensional poverty.

69. The Office received a high number of complaints regarding the implementation of individual and collective protection schemes. The complaints refer to delays in the implementation of protective measures, the tendency to decrease the level of risk in risk analysis studies, the lack of adaptation of the measures to the realities of the territories, the weak incorporation of ethnic and gender perspectives and operational failures. OHCHR considers the ongoing proceedings before the Constitutional Court, following legal action by several defenders, to be a unique opportunity to thoroughly review the individual and collective protection system of the National Protection Unit⁴⁷. This reform is imperative.
70. There is also a need to revive the national guarantees process through the establishment of the National Round Table to begin the formulation of a national guarantees policy for human rights defenders. In addition, greater efforts are required by national and regional authorities to reactivate the territorial round tables and transform them into spaces that effectively address the main risk factors that prevent defenders from exercising their work in the territories. With a few exceptions, in the past, the operational functioning of the territorial round tables was affected by a lack of political will, weak presence of decision-making authorities, a lack of clear methodologies for monitoring and implementing commitments and a lack of broad representation of civil society, especially ethnic peoples.

B. Right to peaceful assembly

71. The current Government took some significant steps towards complying with international human rights standards on the right to peaceful assembly. As part of the reform of the National Police, a process of transformation of the Mobile Anti-Riot Squad (ESMAD) was announced, including the pre-eminence of dialogue, the differentiated use of force and the use of force as a last resort, and accountability. The reform of the Mobile Anti-Riot Squad, however, must be the result of a broad participatory process with various civil society actors and must include substantive changes such as the revision of its protocols on the use of force and less lethal weapons, as well as the strengthening of internal control mechanisms that ensure strict compliance with international standards. It is also crucial to strengthen mechanisms to prevent and investigate instances of sexual and gender-based violence against women, girls and LGBTIQ+ persons that occurred in 2021. The Office accompanied a meeting between the National Police Commander and youth from the “front lines”⁴⁸, during which the latter shared recommendations based on their experience.
72. During the first half of 2022, OHCHR documented 110 cases of people (95 men and 15 women) arrested and detained in connection with the National Strike protests in 2021. The arrests were made by court order and as a result of an investigation process by the Attorney General’s Office, with information provided by the National Police. In 85 of the registered cases, the Office of the Attorney General included the crime of conspiracy among the offences charged, and in 54 cases the crime of terrorism. In other cases, serious crimes such as torture, kidnapping, attempted homicide or homicide were also included. The majority of those charged are young people between 18 and 28 years old, in vulnerable conditions, who had participated in protests or so-called spaces of resistance in the country’s main cities.
73. OHCHR notes that the use of criminal offences such as terrorism and conspiracy by the Attorney General’s Office and arrests around key dates when young people often came out to protest stigmatize people participating in protests and create an environment that does not enable the full and free exercise of the right to peaceful assembly⁴⁹. To address this situation, in December, the Government issued Decree 2422⁵⁰, by which it created an Interministerial Commission with the power to admit, as spokespersons for peace, citizens of social and humanitarian organizations who have arrest warrants.
74. In contrast to progress with investigations against individuals who participated in the protests, OHCHR identified slow progress in the prosecution of cases of human rights violations by members of the

⁴⁷ Decision 538/22.

⁴⁸ https://twitter.com/NoticiasCaracol/status/1565862788802781185?s=20&t=_qXrym-NndVjpmWXRJKg4Q.

⁴⁹ <https://www.hchr.org.co/pronunciamentos/intervencion-de-juliette-de-rivero-en-audiencia-publica-de-la-comision-para-la-verificacion-de-garantias-y-derechos-humanos-de-personas-capturadas-en-el-marco-de-la-protesta-de-la-camara-de-represent/>.

⁵⁰ <https://www.infobae.com/tag/decreto-2422-de-2022/>.

security forces during the National Strike in 2021⁵¹. Of the 46 cases of deaths during protests between April and July 2021 verified by OHCHR, 13 are on trial, 29 are under investigation, 3 have been filed and in one case no information was obtained. The Attorney General's Office has charged 10 members of the security forces, of whom five are of higher rank. In 28 cases (of the 46 cases) which involve the security forces, no one is deprived of liberty nor have there been convictions.

75. With regard to cases of 2021 referred to in the previous paragraph, and with regard to the 14 people who were deprived of their lives in the context of the protests of September 2020, a working group was established between the Ministry of Defence, the Inspectorate of the Police, the Attorney General's Office, the Procurator General's Office and OHCHR to facilitate advances in the investigations and prosecution of members of the security forces allegedly responsible⁵². The establishment of dialogue channels between the Mayor's Office of Bogotá and the Ministry of Defence with the families of victims is also a welcome step.

VI. Recommendations

76. The United Nations High Commissioner for Human Rights recalls the recommendations made in previous reports and:
- a) Calls upon the State to strengthen the presence and capacity of its civil authorities and institutions in the territories most affected by the violence, including ethnic territorial authorities, and to strengthen the coordination of local, regional and national actions to respond to the conflict and violence.
 - b) Calls for immediate measures to de-escalate the violence and mitigate its impact to be agreed upon in the context of talks and/or negotiations with non-State armed groups, and/or criminal organizations, and for these to adhere to international norms and standards on victims' rights and combating impunity.
 - c) Urges non-State armed groups to fully respect human rights and, where applicable, international humanitarian law.
 - d) Urges the strengthening of community participation in the implementation of the rural reform, social management plans for rural property, policies of access to land for rural women, and to ensure that the purchase of land by the State does not generate speculative processes.
 - e) Calls on the State to promote and strengthen forums for dialogue on the implementation of the Peace Agreement related to comprehensive rural reform and drug policy, such as the National Round Table for Monitoring Development Programmes with a Territorial Focus.
 - f) Calls on the Ministry of Agriculture and Rural Development, the National Land Agency and other entities in the sector to create a programme of priority access to land for rural women.
 - g) Urges that adequate resources be allocated for the effective implementation of the Escazú Agreement.
 - h) Urges the State to strengthen community participation in the framework of the National Comprehensive Programme for the Substitution of Illicit Crops, its articulation with comprehensive rural reform, the territorial approach and the implementation of the access to land programme.
 - i) Urges the State to incorporate the recommendations of the Commission for the Clarification of Truth into existing and future public policies. Also encourages the continuation of processes of recognition of responsibility before the Special Jurisdiction for Peace that are vital for accountability and the fight against impunity.

⁵¹ https://www.hchr.org.co/wp/wp-content/uploads/2022/05/211214-Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf.

⁵² https://www.hchr.org.co/informes_anuales/informe-de-la-alta-comisionada-de-las-naciones-unidas-para-los-derechos-humanos-sobre-la-situacion-de-derechos-humanos-en-colombia-durante-el-ano-2020/.

- j) Urges the State to implement a comprehensive and transparent public policy for the prevention and attention of enforced disappearance. This includes strengthening the National Institute of Legal Medicine and Forensic Sciences, the Genetic Profile Bank and strengthening the effectiveness of the Urgent Search Mechanism.
- k) Calls upon the State to provide the necessary administrative, budgetary and legal conditions to ensure that the Special Jurisdiction for Peace's specific sanctions regime guarantees victims' rights and non-repetition.
- l) Urges the State to adopt and implement a public policy to dismantle criminal organizations and an action plan for the National Commission on Security Guarantees, taking into account the recommendations of the Commission for the Clarification of Truth, complying with international human rights obligations and including participation of civil society.
- m) Urges the Government to reactivate and strengthen ethnic participation bodies and to facilitate the ongoing and participatory monitoring of the implementation of the Peace Agreement's ethnic chapter at the regional level.
- n) Urges the State to regulate Law 70 and adopt a methodology to guarantee the right to prior consultation in accordance with international standards in all decisions affecting indigenous peoples and people of African descent, including those related to the implementation of the Peace Agreement.
- o) Calls for intensified efforts to ensure access to comprehensive care for survivors of sexual and gender-based violence in the context of conflict, ensuring stigmatization is avoided. The prevention of gender-based and sexual violence must be prioritized in areas most affected by conflict.
- p) Urges the Ministry of Defence to effectively implement the Zero Tolerance Policy on Sexual Violence, especially in territories affected by violence and armed conflict.
- q) Urges the State to take comprehensive and differentiated measures to prevent and provide early responses to the recruitment of children and adolescents in the context of the conflict, including measures to prevent recruitment for sexual exploitation and to strengthen protective environments at home, at school, and within the community.
- r) Urges the State to initiate a process to reform intelligence law, with broad participation from civil society, including appropriate mechanisms for monitoring and analysing information. Also urges the inclusion of grounds for the declassification of intelligence when there are consistent indications that violations of human rights and international humanitarian law may have been committed as a result of the collection or use of such information.
- s) Invites the State to make progress on security sector reforms through the new human security policy, based on measurable and objective indicators, which include differential, gender and ethnic approaches to changing military and police doctrines. Also calls for the establishment of inter-institutional coordination spaces for the operationalization of human security policy.
- t) Again urges the State to move forward with the announced process of transferring the National Police to a civilian ministry outside of the Ministry of Defence.
- u) Urges the Government to adopt and implement a national policy for the protection of defenders, within the framework of the national guarantee process, with the broad participation of civil society, that can respond to the needs for prevention, protection, combating impunity and the stigmatization of defenders.
- v) Calls on Congress to allocate adequate resources to each of the ministries and institutions responsible for the adoption and implementation of collective protection measures.
- w) Calls on Congress to approve the initiative to strengthen the human rights work of ombudspersons in category five and six municipalities with high levels of violence against communities.
- x) Urges the Attorney General's Office to make progress in investigating alleged human rights violations and violations of international humanitarian law in a thorough, prompt, independent, impartial and

effective manner, including violations committed during the 2021 National Strike, particularly killings in the context of protests, serious injuries, including eye injuries, and gender-based violence, and to bring the perpetrators to justice.

- y) Urges the Attorney General's Office to ensure that the prosecution of violent acts during protests complies with human rights norms and standards, including the application and interpretation of criminal offences in accordance with the acts pursued.

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COLOMBIA 2022

Human rights defenders continued to face attacks, threats and harassment because of their work; defenders of the land, territory and environment were particularly at risk. Killings and threats targeting former Revolutionary Armed Forces of Colombia – Army of the People (FARC-EP) combatants persisted. Attacks on media workers and outlets continued, threatening freedom of expression. Excessive and unnecessary use of force by state officials was reported. Indigenous leaders and defenders were attacked and killed and, in areas where armed opposition groups continued to operate, Indigenous

and Afro-descendant communities were forcibly displaced and some faced humanitarian crises. A final report by the Truth and Reconciliation Commission acknowledged that violations of reproductive rights had been committed during the decades-long armed conflict (1964-2016). Several former army members, civilians and former FARC-EP commanders were charged with crimes against humanity and war crimes committed during the conflict before the Special Jurisdiction for Peace (JEP). Abortion was decriminalized. Attacks on LGBTI people continued. Gender-based violence persisted and survivors faced ongoing barriers to accessing justice, truth and reparation. Venezuelan refugee women faced violence and discrimination on grounds of nationality and gender.

Background

Parliamentary elections were held on 13 March. Some seats in parliament were reserved for former FARC-EP combatants and for victims of the armed conflict, as stipulated in the 2016 Peace Agreement.

In June, the Colombian Truth Commission released its final report, highlighting the need to address historic inequalities, discrimination, racism, gender-based violence, violence against Indigenous peoples and Afro-descendants and to guarantee the rights to truth, justice and reparation of victims of the armed conflict.

Gustavo Petro, former mayor of Bogotá and former M-19 guerrilla fighter, won the presidential election and began his four-year term in August. He was accompanied by Francia Márquez, environmental defender and the country's first Black woman vice president.

In August, authorities recognized the competence of the UN Committee on Enforced Disappearances to receive and examine individual complaints regarding victims of enforced disappearance. In September, Colombia also ratified the Inter-American Convention on the Protection of Human Rights of Older Persons. In October, Congress approved the Escazú Agreement.

President Petro restored diplomatic relations with Venezuela and in September some border operations between the two countries were re-established.

In October, President Petro reinstated and reinitiated meetings of the National Commission for Security Guarantees, established by the Peace Agreement to create a public policy for dismantling armed groups.

In October, the Colombian government and the National Liberation Army (ELN) recommenced peace talks and proposed a “multilateral ceasefire”. The government also explored negotiations with other armed actors in the context of a “total peace” policy.

Colombia is one of the South American countries with the highest recurrence of extreme weather events. Approximately 84% of its population is exposed to multiple environmental hazards. According to the Institute of Hydrology, Meteorology and Environmental Studies of Colombia (IDEAM), coastal and insular areas are most sensitive to climate change, as well as high mountain ecosystems.

Rights to truth, justice and reparation

In January, the Constitutional Court declared an unconstitutional state of affairs due to the constant and massive violations of fundamental rights to life, physical integrity and security of former FARC-EP combatants. The Institute of Studies for Development and Peace (INDEPAZ), a civil society organization, reported 42 killings of former combatants during the year. The UN Security Council stressed its concern regarding the persistent threats, attacks and killings targeting former FARC-EP combatants who had signed the Peace Agreement.

According to the Kroc Institute, compliance with the 2016 Peace Agreement between FARC-EP and the Colombian state remained slow, particularly regarding the implementation of ethnic and gender-based approaches. The Institute reported that 37% of the Agreement’s provisions had been minimally implemented and 15% uninitiated.

From January to December, the Unit for the Search for Persons Deemed as Missing (UBPD) recovered 185 bodies of people reported missing in the context of the armed conflict, in regions such as Antioquia, Santander and Sucre. In June, the UBPD also reported it had handed the remains of 167 victims back to their families and loved ones since its creation in 2017.

Freedom of expression

In May, the Foundation for Press Freedom (FLIP) expressed alarm at the arbitrary detention of journalists Luis Ángel and Luna Mendoza, who were covering the high-profile murder of Paraguayan prosecutor Marcelo Pecci near the city of Cartagena.

In May, media outlets in Antioquia and Córdoba departments received death threats in the context of an armed strike declared by the paramilitary group the Gaitanista Self-Defence Forces of Colombia (AGC – also known as the Gulf Clan).

In July, the Colombian Council of State declared the state responsible for psychological torture, threats, persecution, exile and illegal interception in the case of journalist Claudia Julieta Duque and her family between 2001 and 2010.

In August, journalists Leiner Montero and Dilia Contreras were killed in Magdalena department. According to FLIP, the killings were related to their journalistic work.

In September, FLIP reported threats against Telemundo journalists covering the Darien Gap migration route.

As of September, FLIP had reported 595 violations of freedom of expression against journalists, including two cases of sexual violence. In the first five months of the year, FLIP reported a 59% increase in threats against media workers covering the electoral process compared with 2018.

Excessive and unnecessary use of force

In May, Indigenous leader Luis Tombé was shot dead in the context of an environmental protest in the town of Miranda, Cauca department, when members of the Mobile Anti-Riot Squad (ESMAD) opened fire on protesters calling for the release of fellow demonstrators held by police.

In June, civil society platform Campaña Defender la Libertad criticized ESMAD's excessive use of force against protesters, which resulted in one person sustaining eye trauma at Distrital University in Bogotá. Protesters were calling for more resources and improved infrastructure for the university.

Arbitrary detention

According to Campaña Defender la Libertad, arbitrary detentions by state security forces increased between March and June, in the context of the upcoming elections.

Indigenous peoples' rights

Killings and threats targeting Indigenous leaders and defenders continued.

In January, the Totoroez Indigenous people reported the killing of Albeiro Camayo, a member of the Indigenous Guard, by FARC-EP dissidents in Cauca department.

In February, the National Indigenous Organization of Colombia (ONIC) reported the killing of Julio César Bravo, a human rights defender and leader of the Pastos people in Nariño department.

ELN combatants in Chocó department killed Luis Chamapuro, a member of the Wounan people, in February.

Also in February, Dilson Arbey Borja, an Indigenous leader, human rights defender and member of the Indigenous Guard, was killed in the city of Turbo, Antioquia department.

The OHCHR condemned the killing of Miller Correa in March, in the context of constant threats against his community and its leaders. Miller Correa was a human rights defender and member of the Nasa people in Cauca department.

In September, two Wayuu Indigenous infants died of malnutrition in the northern region of La Guajira, taking the death toll among young children there to 39 since January. On 6 September, the Ombudsperson's Office issued a public warning asking the government to take action to address the humanitarian situation in the region.

In June, at least 100 Indigenous people from Alto Andagueda reserve in Chocó were forcibly displaced following clashes between state security forces and illegal armed groups.

Indigenous organizations in Chocó highlighted the risk of displacement faced by Emberá Indigenous families due to the presence of illegal armed groups in Chocó in the

Jurubida Chori Alto Baudó reserve.

In September, Awá peoples highlighted the continuing humanitarian crisis and violence affecting them because of the presence of illegal armed actors on Indigenous reserves in Nariño and Putumayo departments.

Gender-based violence

In July, the Special Jurisdiction for Peace (JEP) announced the opening of Case 11, relating to sexual violence, grave violations of reproductive rights and violence motivated by the sexual orientation and/or gender identity of the victims in the context of the armed conflict.

The Femicides Observatory reported that there were 557 femicides in 2022.

Victims of gender-based violence, including sexual violence, by state officials in the context of the 2021 national strike faced continuing obstacles in accessing justice and reparation.¹

Sexual and reproductive rights

A ruling by the Constitutional Court in February decriminalized abortion up to the 24th week of pregnancy. The historic decision came in response to a lawsuit filed by the Causa Justa movement.

The Truth Commission's final report recognized that grave violations of reproductive rights, including forced abortions, forced sterilizations and forced contraception, had occurred in the context of the armed conflict. The report recommended that the state avoid restarting aerial fumigation programmes to eradicate illicit crops using the herbicide glyphosate as it has negative effects on people's reproductive health.

LGBTI people's rights

According to the NGO Caribe Afirmativo, between January and July, 15 gay men were killed and LGBTI people faced heightened risks in the city of Medellín.

The JEP opened an investigation (Case 7) into sexual crimes and discrimination against forcibly recruited LGBTI children and adolescents during the armed conflict.

The Constitutional Court recognized a non-binary gender marker for ID registration, establishing legal precedent for gender diversity.

In March, lesbian rights defender Paola Andrea Jaraba Martínez faced violence and threats, allegedly related to her sexual orientation and work in Córdoba department.

According to the NGO Trans Action and Support Group (GAAT), between January and August, 16 trans women were killed in Colombia.

Human rights defenders

Human rights defenders continued to face attacks, threats and harassment because of their work. Defenders of the land, territory and environment were particularly at risk.

In February, several human rights defenders in the Magdalena Medio region were targeted in a pamphlet circulated by an armed group calling itself the United Self-defence Forces of Colombia. The pamphlet referred to human rights defenders as military targets and gave them and their families 48 hours to leave the area or face the consequences. Targeted defenders included Carolina Agón Ramón Abril. Ten days later, Yuvelis Natalia Morales, a 21-year-old environmental defender, was forced to flee Colombia after her home was broken into.

In May, unidentified people shot at four environmental defenders belonging to the Federation of Santander Fishers for Tourism and Environment (FEDESPAN), an environmental organization which operates in the city of Barrancabermeja, and assesses possible environmental damage in the Magdalena Medio region.

In July, Yuli Velásquez, president of FEDEPESAN, was the victim of an armed attack in which her bodyguard was injured.²

In August, the minister of the interior installed the first Unified Command Point for Life in Caldono municipality, Cauca department. The aim of this space, and similar spaces that followed in other regions, was to listen to the demands and concerns of

communities and protect the lives of social leaders, human rights defenders and others at risk.

According to the NGO Programa Somos Defensores, between January and September there were 621 attacks targeting human rights defenders.

INDEPAZ recorded the killings of 189 social leaders and human rights defenders in 2022.

Forced displacement

OCHA reported that from January to July, there were 220 humanitarian emergencies relating to confinement (meaning people were forced to stay in their territories because of the armed conflict and had limited access to food, drinking water and basic services) and forced displacement, affecting at least 249,106 people, mainly in the pacific region and near the Venezuela-Colombia border.

In January, clashes broke out between FARC-EP dissidents and the ELN in Arauca, forcibly displacing 3,860 people.

In May, 7,989 people were prevented by non-state armed groups from leaving their homes or moving freely in the zones of Nóvita and San José del Palmar in Chocó.

Violations of international humanitarian law

Between January and June, the ICRC recorded 377 victims of explosive hazards, including anti-personnel mines and explosive remnants of war, in 16 departments. Cauca, Antioquia, Arauca, Norte de Santander and Meta were the most affected departments.

According to the human rights NGO Attorneys Collective José Alvear Restrepo (CAJAR), on 28 March, 11 people were extrajudicially executed during a military incursion in the Puerto Leguízamo municipality, Putumayo department.

The National Ombudsperson issued an alert over the presence of the paramilitary group Border Command in Caquetá region and the grave risk to the lives and physical integrity of civil society leaders and former FARC-EP combatants.

On 5 May, the AGC imposed a four-day curfew across 10 departments in northern Colombia, following the announcement of the decision to extradite its commander “Otoniel” to the USA. During this so-called armed strike, at least 127 acts of violence were reported in 73 municipalities, including four killings, five death threats, 36 cases of restriction of movement and one case of torture and another of kidnapping.

In May, Afro-descendant communities reported armed clashes in Istmina, Sipí, Nóvita, Medio San Juan and Litoral del San Juan in Chocó department, resulting in collective forced displacements and the confinement of several Black communities. In June, unidentified armed actors killed Jesusita Moreno and Rómulo Angulo López, members of Malagueta Afro-descendant collective territory, in Bajo San Juan, Chocó department.

As of 1 December, INDEPAZ reported that 91 massacres (that is, killings of three or more people at the same time and place and by the same alleged perpetrator) had resulted in the deaths of 289 people.

Impunity

On 18 February, the JEP announced the opening of new cases on the responsibility of FARC-EP combatants for sexual violence, forced displacement and enforced disappearances and other crimes committed by state security forces and officials in coordination with paramilitary groups; and crimes against ethnic communities and territories.

By the end of the year, the JEP had charged 79 former army members (including officials), four civilians and one former intelligence agent with crimes against humanity and war crimes in relation to extrajudicial killings and enforced disappearances in Norte de Santander, the Caribbean Coast, Casanare and Antioquia departments. The JEP also charged eight former high-ranking FARC-EP commanders with crimes against humanity and war crimes in the context of a policy of kidnapping and hostage-taking, among other crimes.

In September, former FARC-EP combatants accepted responsibility for homicides, forced displacement, forced recruitment and other crimes against civilians in Northern Cauca.

Refugees' and migrants' rights

In June, UNICEF declared that the number of children crossing the Darién Gap between Colombia and Panama had reached more than 5,000 since the beginning of 2022, twice the number recorded for the same period in 2021.

Authorities stated that 2,477,000 Venezuelans were living in Colombia in July, 96% of whom had applied for Temporary Protection Status.

Gender-based violence against Venezuelan refugee women persisted and Colombian authorities failed to guarantee Venezuelan women's rights to a life free from violence and discrimination.³

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1. *Colombia: The Police Does Not Care for Me: Sexual Violence and Other Gender-Based Violence in the 2021 National Strike, 1 December*
 2. *“Colombia: Protect environmental defender at risk”, 15 July*
 3. *Americas: Unprotected: Gender-based Violence against Venezuelan Refugee Women in Colombia and Peru, 12 July*

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IACHR Inter-American
Commission on
Human Rights

Observations and recommendations

Working visit to Colombia

Visit: June 2021

Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021.

I. Introduction

1. According to the Political Constitution of 1991, Colombia is a social State governed by the rule of law with robust, participatory, and pluralistic democratic institutions. As it has done on previous occasions, the IACHR recognizes that this political Constitution established an institutional architecture that strikes a balance between branches of government and autonomous bodies with specific control functions. The Commission calls for the preservation of this architecture, reinforced by the 2016 Peace Agreement,¹ along with the consolidation of an operating system checks and balances.
2. At the same time, the IACHR notes that the demonstrations that began on April 28 are linked to structural and historical demands of Colombian society that are themselves articulated in the Political Constitution of 1991 and the Peace Accords of 2016. The Commission found a broad consensus among representatives of the State and civil society regarding the causes of the unrest underlying the protests, including deep inequality in the distribution of wealth; poverty and extreme poverty; and access to economic, social, and cultural rights, particularly the rights to education, work, and health. Also of concern are the high levels of violence and impunity, as well as ethnic-racial and gender discrimination.
3. The Commission recognizes that these challenges have been exacerbated by the necessary measures to contain and address the COVID-19 pandemic, measures that, as in other countries, have had a significant economic and social impact and have altered the policy trajectories of the current administrations. Additionally, it recognizes that the effects of the pandemic have had an impact on the lack of access to health, as well as job and educational opportunities, especially among women and young people.
4. The IACHR also notes that the demonstrations in Colombia are especially complex not only because they have extended to the different regions of the country but because of the broad array of petitions, claims, and social demands that are national, regional, and local in nature. Specifically, the high number of deaths and injuries are extremely concerning, as are the grave reports of disappeared persons, sexual violence, and the use of ethnic-racial profiling. Likewise concerning are the attacks on journalists and medical missions, the use of protective transfers (*traslado por protección*), and complaints of arbitrary detentions.

¹ Special Jurisdiction for Peace, Government of Colombia, Final Agreement for the End of the Conflict and Building of a Stable and Lasting Peace, November 24, 2016.

5. During the visit, the IACHR verified the existence of a climate of polarization that is directly related to structural ethnic-racial and gender discrimination, as well as to political factors. This phenomenon is present across social sectors and manifests itself in the form of stigmatizing speech that has accelerated the deterioration of the public discourse. The Inter-American Commission finds such speech especially concerning when it comes from government authorities.
6. The Commission has observed the phenomenon of violence in Colombia, which stands out for—among other factors—the presence and actions of a variety of criminal structures that have particular characteristics in the country’s different territories. In this regard, the Commission is concerned that some illegal groups, including gangs involved in drug trafficking, may take advantage of the current environment to develop or conduct criminal activities.
7. Similarly, the Commission notes with concern the persistence of the logic of the armed conflict in the responses to the current social mobilization and how it is interpreted. In this regard, it reiterates that these disagreements are arising between people who must be protected, not enemies who must be fought.²
8. The Commission finds that the polarization, stigmatization, violence, and persistence of militaristic approaches hinder efforts to use dialogue as a mechanism for reaching solutions to social conflict. It is essential for dialogue with a territorial approach to be broad and inclusive so as to involve young people, indigenous persons and persons of African descent, women, LGBTI persons, persons living in poverty, older persons, persons with disabilities, persons in a situation of human mobility, and the victims of human rights violations.
9. In these observations, the Inter-American Commission gives an account of the background of the social protest in Colombia and the demonstrations that began on April 28. It also presents its findings on grave human rights violations, particularly with respect to the right to life, integrity of person, and liberty of demonstrators, along with other situations that endanger social protest, as well as regarding impacts on the fundamental rights of third parties and public and private property protected in the context of the protests. Additionally, it offers some considerations regarding the roadblocks and the Internet as a space for protest. Lastly, the IACHR makes a range of recommendations to the State.

II. Social protests beginning in April 2021

2.1 Background

² IACHR, *Report on Citizen Security and Human Rights*, pg. 44, para. 105.

10. The Inter-American Commission was able to confirm that the protest that began on April 28, 2021, had similar claims to those of mobilizations in previous years. Through its monitoring mechanisms, the IACHR documented the demonstrations that took place nationally in 2019³ and 2020.⁴ Among other things, they were motivated by increasing rates of poverty, inequality, and violence, along with the growing number of murders of human rights defenders, social leaders, representatives of indigenous peoples and persons of African descent, and signers of the Peace Agreement.
11. Regarding inequality, the World Bank⁵ and the Organization for Economic Cooperation and Development (OECD)⁶ have indicated that the tax system of the Colombian State does not redistribute income, measured through the Gini coefficient, which is considered an indicator of regressive taxation. Additionally, its social spending is relatively low.
12. In 2020, monetary poverty reached 42.5% and extreme monetary poverty was 15.1%. In other words, a total of 21 million people were in poverty and 7.5 million in extreme poverty. The departments with the highest share of population below the poverty line are located in the regions where indigenous peoples and communities of African descent predominate.⁷
13. Additionally, the national unemployment rate in the first quarter of 2021 was 15.1%.⁸ According to the State, unemployment has particularly impacted women, who have an unemployment rate of 19.9% (8.3 percentage points higher than men), as well as young people, with a rate of 18.1%.
14. With regard to rates of violence, according to government figures, the homicide rate stood at 23.33 deaths per 100,000 inhabitants.⁹ Although this is the lowest rate for this indicator since 1974, it remains alarming. The IACHR observes that these homicides were concentrated in 55% of the national territory, particularly in areas characterized by a limited presence of the State. Additionally, it recognizes that in these areas, the presence of illegal armed groups as a phenomenon that predated the protests adds an additional layer of difficulty when it comes to guaranteeing human rights. This situation also has the potential to impact the exercise of the right to protest, highlighting the State's duty to act in accordance with inter-American standards.

³ IACHR, Press Release "[IACHR Concerned about Repression by Government Agents in Colombia, Rejects All Forms of Violence in the Context of Protests](#)," December 2019.

⁴ Deutsche Welle (DW), "[Colombia: enfrentamientos en primera protesta de 2020 contra gobierno](#)," January 2020.

⁵ World Bank, [Fiscal Policy in Colombia: Tapping Its Potential for a More Equitable Society](#), 2012, p. 5.

⁶ Organization for Economic Cooperation and Development (OECD), [OECD Economic Surveys: Colombia](#), 2019, pg. 30-35.

⁷ National Administrative Department of Statistics (DANE), [Monetary Poverty and Extreme Poverty](#) (<https://www.dane.gov.co/index.php/estadisticas-por-tema/pobreza-y-condiciones-de-vida/pobreza-monetaria>), 2021.

⁸ National Administrative Department of Statistics (DANE), [Overall participation, occupation and unemployment rate. National total](#), April 202-2021.

⁹ Presidency of the Republic, Colombia marks its lowest homicide rate in 46 years in the first half of 2020: National Police, July 1, 2020.

15. State figures indicate that 53 human rights defenders were murdered in 2020, while the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported 133 murders¹⁰ of human rights defenders during that period. Elsewhere, the Instituto de Estudios para el Desarrollo y la Paz (INDEPAZ) documented 310 murders of social leaders and human rights defenders during 2020.¹¹ Additionally, the United Nations Verification Mission in Colombia confirmed the murder of 73 signatories of the Peace Agreement in 2020.¹²
16. The IACHR takes note of the recent early warnings from the Office of the Ombudsperson reporting imminent risk to the population due to the reemergence of the violence and the presence of armed actors in outlying areas.¹³ In this regard, it highlights the differentiated impact of these risks on indigenous peoples and communities of African descent.
17. The Commission has also received information on low levels of public trust in State institutions, a phenomenon that could be explained by issues such as high rates of impunity. According to the United Nations High Commissioner for Human Rights, in 2018 the impunity rate for intentional homicides ranged between 86.58% and 94.30%.¹⁴ Likewise, according to the 2018 Latinobarómetro data, there is widespread distrust among Colombian society in State institutions, exceeding 70% for the judiciary and 75% for the executive and legislative branches.¹⁵
18. In its 2020 Annual Report, the Commission noted the concern expressed by civil society regarding the concentration of authority in the Executive Branch, as well as at the potential impacts to the system of checks and balances due to connections between members of the executive branch and the persons chosen for investigation and oversight bodies. These concerns were raised once again at the hearing on the "human rights situation in Colombia," held during the 178th period of sessions,¹⁶ as well as during the Commission's visit.
19. Regarding guarantees of the right to protest in Colombia, the exercise of which is not yet regulated by a statutory law as required by the Political Constitution, the Commission was informed of judgment STC 7641-2020 of the Supreme Court of Justice, dated September

¹⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), [Presentation of the Annual Report of the UN High Commissioner for Human Rights for Colombia](#), February 2021, p. 3.

¹¹ Instituto de Estudios para el Desarrollo y la Paz (INDEPAZ), [Líderes sociales y defensores de derechos humanos asesinados en 2020](#), June 2020.

¹² United Nations Verification Mission in Colombia, [Press release on the UN Secretary-General's Quarterly Report to the Security Council on the UN Verification Mission in Colombia](#), January 2021.

¹³ Office of the Ombudsperson of Colombia, [Early warnings](#), 21. No. 001, 002, and 003.

¹⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. [Human Rights Situation in Colombia](#), February 2019, pg. 9.

¹⁵ Latinobarómetro, [Online Analysis Colombia](#), 2018.

¹⁶ IACHR, Public Hearing, 178th period of sessions, [Situation of human rights in Colombia](#), December 9, 2020.

22, 2020.¹⁷ This judicial decision described a nationwide issue of violent, arbitrary, and disproportionate intervention by security forces during several citizen demonstrations.

20. In this judgment, the Civil Cassation Chamber found that the security forces, especially the Mobile Antiriot Squad of the National Police (ESMAD), pose "a serious and present threat to those seeking to go out and demonstrate to peacefully express their opinions, as its actions, far from being isolated, are consistent and reflect ongoing and identifiable aggression during protests."¹⁸ The Civil Cassation Chamber also found that security forces agents harbored deep-seated stereotypes about the protests and their participants, reflected in, among other things, a willingness to permit violations of individual guarantees.¹⁹
21. The Commission recognizes that this decision constitutes an important judicial precedent. In addition, it values that some of the reports delivered by the authorities during the visit were to comply with orders issued in that judgment. The IACHR highlights that it is important for the authorities in question to fully comply with STC 7641-2020 so as to effectively guarantee the right to protest in Colombia.²⁰

2.2 National strike

22. On April 28, 2021, the so-called national strike began, in response to a tax reform project ("Sustainable Solidarity Act")²¹ submitted to Congress by the national government on April 15. Subsequently, another bill was announced to reform the way the General Social Security System provides health services (Bill 010)²². Both initiatives were met with broad social dissatisfaction and were withdrawn from the legislature on May 2 and 19, respectively. It is the Commission's view that the fact that the protests persist to this day demonstrates the scope of the social dissatisfaction and the structural nature of its demands.
23. The Inter-American Commission highlights the massive citizen participation in public affairs through the exercise of the right to public and peaceful protests, set forth in article 37 of the Political Constitution of Colombia²³ and protected by the American Convention on Human Rights.²⁴ It also notes that the mobilizations have brought some of the social

¹⁷ Supreme Court of Justice, [STC 7641-2020](#).

¹⁸ Supreme Court of Justice, [STC 7641-2020](#), pg. 100.

¹⁹ Supreme Court of Justice, [STC 7641-2020](#), pg. 122.

²⁰ Supreme Court of Justice, [STC 7641-2020](#).

²¹ Ministry of Finance and Public Credit of Colombia, [Bulletin No.11 "Sustainable Solidarity Law."](#) April 2021.

²² Ministry of Health and Social Protection, Bill 010, May 2021.

²³ Constitutional Court, [Political Constitution of Colombia, Article 37](#), amended with legislative acts to 2015. pg. 17.

²⁴ Organization of American States, [American Convention on Human Rights, Article 13. Freedom of Thought and Expression](#), November 1969.

demands from young people into the public debate, including universal access to health and education and the need to reform the National Police of Colombia.

24. Peaceful protest has played an essential role in giving visibility to demands that need to be addressed and voices that need to be heard. It has at the same time helped authorities at different levels better understand the issues affecting citizens. The Commission values this moment as an opportunity to strengthen the democratic system and guarantee human rights.
25. The Colombian State reported to the IACHR that, between April 28 and June 4, within the framework of the national strike, there were 12,478 protests in 862 municipalities of the 32 departments, including: 6,328 rallies, 2,300 marches, 3,190 blockades, 632 mobilizations, and 28 assemblies. Some 89% of the protests—that is 11,060—took place without acts of violence and with support from municipal authorities, peacekeepers, ombudsperson officials, and police.
26. The State also alleged that in 1,418 protests, or 11% of protests, there were disturbances or violent actions that, in its view, disturbed the peace and for which the ESMAD was called in. According to the information provided, this security force did not do regular patrolling. Rather, it intervened when there were acts of violence during protests.
27. During the visit, the State underscored the exceptional nature of the use of force to protect the human rights of the general population from grave and imminent threats using protocols that follow the criteria of prevention, persuasion, dissuasion, reaction, and containment. It likewise indicated that force was only used in cases where police intervention was needed and after analysis of its legality, absolute necessity, proportionality, and reasonableness.²⁵
28. However, the Inter-American Commission received complaints about repeated human rights violations in the context of social protests. Likewise, it received information on damage done to third parties and public property in the same context. Hereinafter, the IACHR will address the findings of the working visit and offer considerations on the roadblocks and the Internet as a space of protest.

III. Main human rights violations observed and obstacles identified to guaranteeing the right to protest

29. In the framework of the working visit, the Inter-American Commission received information on grave human rights violations and a number of obstacles to guaranteeing social protest. Similarly, it observed the impact that polarization and stigmatization have on the human rights of demonstrators. The central concerns identified were the following:

²⁵ Ministry of Foreign Affairs, Written Report for the working visit to Colombia of the Inter-American Commission on Human Rights, June 8, 2021.

the disproportionate use of force; gender-based violence during protests; ethnic-racial violence during protests; violence against journalists and volunteer medics during protective transfers; and reports of disappearances. Also concerning was the use of military support, military disciplinary authority, and military criminal jurisdiction.

30. Regarding the human right to protest, the Commission recalls that human rights are universal, indivisible, and interdependent—that is, all human rights exists in relation to each other and mutually reinforce each other, and in principle, no one right takes precedence over the others in a way that would empty them of their essential content. Likewise, it reminds States that in the exercise of their obligations to respect and guarantee human rights, the principle of non-discrimination must be considered a mandatory norm of international human rights law
31. According to the information provided by the Office of the Attorney General of the Nation, between April 28 and June 5, 51 deaths were documented. Of these deaths, 21 took place during protests, 11 incidents are undergoing the verification process, and 19 took place over the course of the national strike but not during protests. The Presidential Council for Human Rights and International Affairs reported that, between April 28 and June 13, 1,113 civilians were injured.²⁶ The Office of the Ombudsperson documented 18 cases of eye injuries.²⁷
32. The State also indicated in its report that 1,106 civilians and 1,253 police officers were injured, mainly in the cities of Bogotá, Cali, Yumbo, Neiva, Medellín, Pasto and Popayán, as well as in other municipalities of Risaralda and Valle del Cauca. It also provided information on acts of violence against public and private property and the impact on various sectors of the economy, which, according to State estimates, amounts to COP 11.9 trillion (US\$3.3 billion).²⁸
33. The Office of the Ombudsperson also reported that it had received 783 reports of missing persons, of which 318 cases were eliminated for being duplicates or because the persons had been located. Likewise, it indicated that 465 cases were referred to the Office of the Attorney General of the Nation. Of these, 196 cases were closed after the persons were located; 153 cases were rejected; and 29 are undergoing the verification process. According to information from the Office of the Ombudsperson, the Urgent Search Mechanism was activated for 91 people. In this regard, the Office of the Attorney General of the Nation indicated that, as of June 15, 335 people had been located and the Urgent Search Mechanism was still active with respect to 84 cases.²⁹

²⁶ Presidential Council for Human Rights and International Affairs, [Bulletin 32: Human Rights in the Framework of the 2021 National Strike](#), pg. 1.

²⁷ Office of the Ombudsperson, Report of the Ombudsperson for the IACHR Visit, Social Protest in Colombia April-June 2021, Archive of the Commission, pg. 33.

²⁸ Ministry of Defense, [Overall Assessment of the National Strike](#), June 9.

²⁹ Office of the Attorney General of the Nation, Press Release, ["Office of the Prosecutor locates 335 people and keeps the Urgent Search Mechanism active in 84 more cases."](#) June 2021.

34. Additionally, according to the Office of the Ombudsperson, 113 acts of gender-based violence were documented. Of these cases, 112 allegedly involved the security forces and their ESMAD—99 incidents against women and 13 against LGBTI persons. The complaints include 27 cases of sexual violence, 5 incidents of forcible rape, and 22 incidents of groping.³⁰ Additionally, a case was reported of gender-based violence experienced by a woman police officer during the demonstrations.
35. Regarding the keeping of statistics, in its response, the State noted the existence of a National Human Rights Information System used to monitor all situations related to human rights. According to the information reported through that system, as of June 24, 54 persons had died and 1,140 civilians had been injured. It likewise indicated that as of June 10, only 84 persons were missing of the original 572 reported, including four reports of disappearance.³¹
36. Additionally, during the working visit, civil society organization Temblores reported the existence of 4,687 cases of police violence. It provided a count of 73 persons dead in the framework of the protests, of which 44 cases allegedly involved the actions of security forces and 29 are undergoing the verification process.³² Likewise, the organizations that make up the Campaña Defender la Libertad Asunto de Todas reported that 84 persons had died during the demonstrations, of which 28 cases involved police officers as potentially responsible, 7 could be attributed to unidentified civilians, and the perpetrators had not been identified in 43 cases, while 14 cases were undergoing the verification process.³³
37. In the same way, the organizations comprising the Campaña Defender la Libertad documented 1,790 persons injured, of which 84 experienced eye injuries.³⁴ They also reported that 3,274 persons had been detained in the framework of the protests. For its part, Temblores counted 1,617 victims of physical violence and provided a list of 82 people with ocular trauma. Additionally, it reported on 2,005 arbitrary detentions that took place in the framework of the protests. With regard to the acts of sexual violence,³⁵ the organization reported 25 cases allegedly committed by security forces agents, 18 against female victims and 9 against male victims.³⁶

³⁰ Office of the Ombudsperson, Report of the Ombudsperson for the IACHR Visit, Social Protest in Colombia April-June 2021, Archive of the Commission, pg. 49.

³¹ Human Rights Council, Bulletin # 41 on Human Rights in the framework of the 2021 National Strike (http://www.derechoshumanos.gov.co/Prensa/2021/Paginas/140521-infografia-DDHH-Paro-Nacional-2021.aspx?TSPD_101_R0=0883a32c4dab2000bf1ee9b0a4b02c5d553bc94d80ff8b342f5fe85b41f96d2b27b36b19d7a152108a1e8960b1430004d73a4061a5c27694cf43f376ee9d8ce078b8039c6e75743fc7c035fbc4d84117abcd3ebdd1113945ab5acc3c24dc2a), June 24, 2021.

³² Temblores Org, Plataforma Grita, June 2021.

³³ Campaña Defender la Libertad, Boletín informativo No.17: #ParoNacional, June 2021.

³⁴ Campaña Defender la Libertad, Boletín informativo No.17: #ParoNacional, June 2021.

³⁵ Temblores Org, Plataforma Grita, May 2021.

³⁶ Temblores Org, Plataforma Grita, May 2021 2021.

38. The Commission expresses concern at the inconsistencies in the figures reported by the different State entities, as well as at the disparities between the numbers reported by State entities and the numbers resulting from the documentation efforts by civil society, mainly as regards fatalities and disappeared persons. Regarding the cases in which investigations have been launched, the Office of the Attorney General of the Nation submitted a report explaining the methodology, the lines of inquiry in ongoing investigations, and the technical criteria used in terms of time, method, and location. In this regard, the IACHR received questions from civil society as to the Office of the Public Prosecutor's failure to publicize the criteria used to establish which deaths were related to the protests and which ones were not.
39. It is the Inter-American Commission's view that these inconsistencies could lead citizens to lose trust in the authorities. The States should therefore maintain a registry with consistent, up-to-date, and public information, with the participation of civil society, and be transparent as to the criteria used in the investigations and the progress of them. The Commission also notes that the handling of the records and widely disparate hypotheses regarding the persons dead and injured during the protests is an obstacle to access to justice for the persons who allege having been the victims of human rights violations. Whatever the case may be, the high numbers of the different reports in terms of loss of human life are extremely concerning to the Commission, and it condemns them emphatically.
40. Likewise, the Commission recalls that the right to access to public information means that States have a duty—among other duties—to provide reliable and disaggregated information. In the same way, it underscores the obligation to preserve and facilitate access to State archives on human rights violations, not only to preserve the investigations but to ensure such violations are not repeated.³⁷
41. The Inter-American Commission firmly condemns and rejects the high levels of violence documented in the framework of the social protest, caused both by the excessive use of force by security forces and by groups from outside the protest itself.

3.1 Disproportionate use of force

42. In the framework of the working visit, the Inter-American Commission was informed that, in compliance with the aforementioned decision of the Supreme Court of Justice, the Colombian State issued Decree 003 of 2021, entitled “Rules for reaction, use and verification of legitimate force of the State and protection of the right to peaceful citizen protest.” These regulations establish guidelines for the actions of police authorities “in their functions of guaranteeing fundamental rights, conserving citizen coexistence and

³⁷ IACHR and its RELE, *The Inter-American Legal Framework with regard to the Right to Access to Information*, December 2009, pg. 11, para. 44.

the public order in the framework of public and peaceful demonstrations."³⁸ In this regard, the Commission has taken note of the announcement of changes to this decree by State authorities.

43. Specifically, article 2 of Decree 003 of 2021 establishes the primacy of dialogue and mediation in protests. In this regard, it notes that "executive branch and national and territorial authorities are required to prioritize dialogue and mediation in the course of public demonstrations as decisive and central elements of the actions of administrative and police authorities (...) The encouragement of dialogue and mediation shall remain ongoing, even when peaceful means of intervention are considered exhausted and authorities proceed to use force pursuant to the terms of this protocol."³⁹
44. Additionally, the Colombian State informed the IACHR that through Directive 05 of March 1, 2021, the National Police established "institutional parameters for activating the system for anticipating and handling public demonstrations and controlling disturbances on national territory."⁴⁰ Likewise, to provide support during the demonstrations that began April 28, Transitory Operating Directive 018 of May 7, 2021 was issued on "Strengthening the police service to guarantee the peaceful public demonstrations begun on April 21, 2021."⁴¹
45. Likewise, in its response, the State reported that in accordance with the protocols of the National Police, there are two distinct mechanisms. The first is accompanying, protecting, and guaranteeing the right to public and peaceful demonstration, provided without using firearms; and the second is monitoring with police patrols, whose mission is to ensure citizen security and coexistence, and for this mechanism, carrying firearms is authorized.
46. However, the IACHR has been able to verify that on several occasions, and in multiple regions of the country, the State's response has been characterized by the excessive and disproportionate use of force, including lethal force in many cases. This was confirmed using the information received in the form of audio, video, and photographs, as well as from meetings with social organizations and individual and collective testimonies gathered in the framework of the visit. It is the Commission's view that the proper application of the protocols on the use of security forces should be governed by the criteria of legality, necessity, and proportionality. Faced with complex scenarios, the

³⁸ Supreme Court of Justice of Colombia, Decree 003, "[Rules for reaction, use and verification of legitimate force of the State and protection of the right to peaceful citizen protest](#)," January 5, 2021.

³⁹ Supreme Court of Justice of Colombia, Decree 003, "[Rules for reaction, use and verification of legitimate force of the State and protection of the right to peaceful citizen protest](#)," January 5, 2021, article 2.

⁴⁰ National Police of Colombia, Report of the Defense Sector, [Guaranteeing Peaceful Demonstration and Control of Violent Actions. Period April 28 to June 4, 2021. Transitory Operating Directive 005](#), March 1, 2021, pg. 23.

⁴¹ National Police of Colombia, Report of the Defense Sector, [Guaranteeing Peaceful Demonstration and Control of Violent Actions. Period April 28 to June 4, 2021. Transitory Operating Directive 005](#), March 1, 2021, pg. 23.

actions of authorities must not be indiscriminate. Rather, they must identify the violent actors and distinguish them from those exercising their legitimate right to protest.

47. In particular, the Commission received multiple reports indicating that, from the start of the social protests, a considerable portion of the actions of security forces were aimed at discouraging participation in them. This also impacted those who were not participating in the protests and contributed to escalating tensions. In this regard, reports were received of excessive use of force with less lethal weapons—for example, through the indiscriminate use of expired irritant gases, or the use of Venom grenade launchers, the use of which was prohibited by an administrative judge in Popayán on June 2.⁴²
48. The IACHR also received grave reports of the indiscriminate use of firearms against demonstrators and persons who were not participating in the protests, especially in Cali and the different municipalities of Valle del Cauca, as well as in Pereira, Risaralda. The reports received describe the use of these types of weapons allegedly by some members of the security forces, some of whom are not fully identified. The Commission also received extremely concerning information on the possible involvement of armed persons dressed as civilians, some of whom apparently operated with the acquiescence of the police. According to publicly-available information, this took place on multiple dates and in multiple locations, culminating on May 28 in the city of Cali, when 13 people were killed and 36 injured.⁴³
49. The IACHR also received information indicating that in some departments—such as Valle del Cauca—the armed civilians traveled on motorcycles and in SUVs with the license plates covered as they intimidated, attacked, and harassed demonstrators or people fleeing the clashes. For example, the Commission took note of publicly-available information on a group of civilians carrying firearms who traveled in a truck allegedly registered as the property of the National Police of Colombia.⁴⁴ Regarding this, State authorities said armed persons had infiltrated the protests. They also indicated that the Office of the Attorney General had been asked to conduct the corresponding investigations.
50. It should be noted that the accounts received by the IACHR consistently described disproportionate use of force by ESMAD officers. According to these accounts, ESMAD officers broke up different demonstrations, points of resistance, and other peaceful gatherings using physical, sexual, and verbal aggression. Likewise, the testimony received describes the use of marbles and rubber bullets or munitions, as well as the indiscriminate and nonstop deployment of teargas, sometimes fired directly at the heads and chests of demonstrators. This caused a high number of injuries, including eye

⁴² Tenth Mixed Administrative and Oral Court of the Popayán Circuit, [Judgment No. 065 of 2021](#), June 2.

⁴³ *El País*, news item: [Balance preliminar del 28 de mayo en Cali: 13 muertes violentas y 36 heridos](#), May 28, 2021.

⁴⁴ *El Espectador*, [Paro Nacional: Policía admite que camión con hombres vestidos de civil es suyo](#), May 6, 2021.

injuries and deaths. Specifically, the Commission received the testimony of at least a dozen persons who suffered eye injuries of varying severity.

51. The Commission also received testimony on the intimidating use of low-flying helicopters during the demonstrations. In this regard, the Deputy Prosecutor of the Nation told the delegation of the Commission that no complaints had been filed on aircraft flyovers. The IACHR additionally received public information indicating that demonstrators had been struck by antiriot armored vehicles.⁴⁵
52. The IACHR also received consistent reports that, in some cases, the teargas was fired directly into spaces where demonstrators were seeking refuge and shelter; improvised medical posts; and even into residences, disproportionately impacting older adults, children, and adolescents who were not participating the protests.
53. The Commission notes that according to the testimony received in Valle del Cauca, young people, students, journalists, indigenous persons, persons of African descent, and women are the groups most affected by the different forms of violence deployed by the State.
54. For its part, in response to complaints of eye injuries from alleged attacks, the State informed the IACHR that 11 disciplinary investigations have been launched: 5 in Bogotá, 1 in Popayán, 3 in Risaralda, 1 in Medellín and 1 in Neiva. Of these, 1 was taken over by the Office of the Procurator General of the Nation in the exercise of its authority to do so.
55. Considering that the impacts of the use of force can be irreversible, the IACHR views it as a last resort that, limited qualitatively and quantitatively, is intended to prevent events of greater gravity than what would be caused by the State's reaction. Within this framework of exceptionality, both the Commission and the Inter-American Court have agreed that in order for the use of force to be justified, it must effectively satisfy the principles of legality, absolute necessity, and proportionality.⁴⁶ This generally means that it must be provided for by law and pursue a legitimate aim; that an evaluation must be conducted to verify the existence and availability of less harmful measures; and that the degree of force used must be in accordance with the real risk posed to persons and the level of resistance, meaning a balance must be struck between the situation faced by the official and their response, considering the potential damage that could be caused.
56. Likewise, in accordance with the principle of exceptionality, States must, where possible, use nonviolent measures prior to employing force and firearms. This restriction on the use of force does not apply solely to lethal weapons. Measures considered "nonlethal" or "less lethal" must also be among the measures whose use is controlled. This category can

⁴⁵ *El Tiempo*, [Ioven atropellado por tanqueta del Esmad en Popayán se recupera](#), May 19, 2021.

⁴⁶ *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, Reparations, and Costs. Judgment of October 24, 2012, Series C No. 251, para. 85.

include different types of rubber bullets, tear gas, rubber projectiles, plastic bullets, sound devices, etc.

57. In its report *Protest and Human Rights*, the IACHR indicated that dispersing or dispelling demonstrations legally and legitimately can only be allowed very exceptionally, “through an explicit order that is based on imminent and serious risk to peoples’ fundamental rights, lives, or physical safety and when no other measures are available for protecting these rights that would be less damaging.”⁴⁷
58. Through its monitoring mechanisms, the IACHR has been able to confirm that in the case of the protests in Colombia, the use of nonlethal devices has caused serious injuries, mutilations, and the death of at least one person. The Commission recalls that, under certain circumstances, the lethality of a weapon depends on its use and control. In this regard, it reminds the State of its duty to guarantee the practical and effective application of use-of-force protocols.
59. The Commission recalls that the right to life, protected under the American Convention, is inviolable, and because of its essential nature, it is a precondition for the exercise of all other human rights. The bodies of the Inter-American system have reiterated that the use of force by the State must follow the principles of exceptionality, legality, necessity, and proportionality. The Colombian State is also reminded that lethal force cannot be used merely to maintain or restore public order; only the protection of life and physical integrity in the face of imminent and real threats can be a legitimate objective for the use of lethal force by State agents.
60. Additionally, the IACHR urges the State to immediately and urgently implement mechanisms to effectively prohibit and prevent the use of lethal force as a means of controlling public order in cases of protest. The Commission also reiterates that firearms and their respective munitions must be excluded from operations to supervise social protests, and police or military officials who could come in contact with the demonstration should not be carrying firearms.
61. In this regard, the Commission appreciates the information provided by the office of the mayor of Bogotá indicating that, thanks to the effective implementation of article 33 of Decree 003 of 2021,⁴⁸ prohibiting the carrying and use of firearms during protests, fewer people died during the national strike compared to in the demonstrations that took place on September 9 and 10, 2020. In this regard, the IACHR highlights the importance of civil society participation in the process to draft that reform.

⁴⁷ IACHR, *Protest and Human Rights*, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, Para. 153; Human Rights Council, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, February 4, 2016, para. 61-62.

⁴⁸ Office of the Mayor of Bogotá D.C., Decree 003, Article 33, January 5, 2021.

62. It likewise takes note of the information provided by the State on the institutional reform to strengthen the civilian nature of the police force and its aim of protecting all persons residing in Colombia and guaranteeing the exercise of public liberties and citizen coexistence with a focus on human rights.⁴⁹
63. Lastly, the IACHR condemns the high number of human rights violations reported in the context of social protest and urges the Colombian authorities to investigate with due diligence, identify and punish those responsible, and duly report the results to citizens, providing reparations to victims and their families.

3.2 Gender-based violence during protests

64. Pursuant to the provisions of the Convention of Belém do Pará (articles 1 and 2),⁵⁰ the interpretive standards thereof, and the case law of the Inter-American Court, the Commission understands gender-based violence to be any action or conduct based on gender identity and/or expression that causes harm or physical, psychological, or sexual suffering.⁵¹
65. In the framework of its visit, the IACHR received testimony on the different types of gender-based violence. Based on the information gathered, the Commission was able to note multiple reports of acts committed by security forces agents, indicating the use of gender-based violence as a mechanism of repression against women, girls, and LGBTI persons. Such violence was used against both persons found in the protest and against persons located in areas away from the protest.
66. In this regard, the IACHR received information on the grave case of an adolescent who was sexually assaulted by several security forces agents in the city of Popayán and who

⁴⁹ According to the response from the State dated June 30, 2021: “This reform proposes: (i) establishing a Vice Ministry of Defense and Citizen Security Policies, which will work with political and administrative authorities to articulate the purposes and mechanisms for effectively consolidating citizen security public policy; (ii) rename the Ministry of National Defense the Ministry of National Defense and Citizen Security; (iii) issue a decree to modernize the organic structure of the National Police with a view to strengthening human rights policy and the standards for service provision; (iv) submitted a bill to the Congress of the Republic creating the Police Disciplinary Rules, which will be harmonized with the human rights pronouncements of the Inter-American system, the UN, and the Constitutional Court, prioritizing disciplinary investigations in cases related to human rights violations, without prejudice to the precedents of the Office of the Attorney General of the Nation and the conduct that must be investigated criminally; (v) in the framework of harmonic collaboration between the branches of government, ask the members of Congress presenting and co-authoring the bill to prioritize the processing of Police Career and Professionalization Act, given that the professionalization of our police forces is one of the fundamental pillars of transforming the working culture of the National Police; (vi) as regards the use of force, submit a bill to establish a legal framework for the use and sale of less lethal weapons in Colombia and issue a decree regulating guns that shoot rubber bullets (*armas traumáticas*); (vii) to strengthen the procedures of the Anti-Riot Squad (ESMAD), call on partner countries for recommendations from international experts on protocols for mediation, use of force, and intervention, as well as other international good practices that will contribute to the ongoing professionalization of the ESMAD; (viii) adopt a blue uniform for the National Police of Colombia to align it with international standards on policing and law enforcement in the world, reenforcing its civilian nature; (ix) create a Commission for the Comprehensive Transformation of the National Police of Colombia to evaluate the contributions of citizens, academia and civil society.”

⁵⁰ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women “Convention of Belém do Pará,” June 1994. Articles 1 and 2.

⁵¹ Inter-American Court. *Case of Miguel Castro Castro Prison v. Peru*. Merits, Reparations, and Costs. Judgment of November 25, 2006. Series C No. 160.

later committed suicide on May 12.⁵² The Commission was informed by the State that these events are under investigation.

67. The Commission also notes with extreme concern the cases of grave gender-based violence alleged, including sexual violence against indigenous women who report having been abused and stigmatized for their cultural expressions and ancestral symbolism during the demonstrations. In this context, the testimony of an indigenous woman was received in Puerto Madera, Cali, who was stopped by two police officers traveling by motorcycle. They then proceeded to physically and sexually abuse her.
68. Likewise, the IACHR received testimony from women who recounted having been groped during their detentions, threatened with rape and sexual abuse, and subjected to stigmatization by police officers who called them "vandals" or "guerrillas" for having been at the demonstrations. Other women interviewed by the IACHR reported having been shot at point-blank range in their genitals, causing serious injuries.
69. Additionally, the Commission learned of the occurrence of 15 cases of gender-based violence against women of African descent in the framework of the national strike. The IACHR recalls the specific risks to which women of African descent and indigenous women are exposed due to the racial and structural discrimination to which they have been subjected with historic patterns of specific violence originating from slavery.
70. The Commission also received information and reports of an alleged case of sexual violence against a gay man in Barranquilla during an arbitrary detention, as well as reports of physical and sexual aggression against trans women by security forces in Tunja and Pasto.
71. Likewise, the IACHR reaffirms its condemnation of the sexual violence suffered by a female security forces officer when a police station was vandalized in Cali on April 29.⁵³
72. Regarding violence against women, in its response, the State said in its response that the Presidential Council for Women's Equity would work together with the 32 Women's Secretariats and gender mechanisms at the department level and in the capitol city to identify, support, and activate pathways for addressing cases of violence against women in the framework of the social protest. Likewise, at the judicial level, it should be noted that the Office of the Attorney General of the Nation has worked decisively on: (i) designing and implementing a protocol for investigating sexual violence; (ii) strengthening offices focused on investigating crimes of sexual violence; and (iii) supporting the interagency strategy in the struggle against impunity.

⁵² *El País*, news item: "[La fiscalía de Colombia investiga el caso de una menor que se suicidó tras ser retenida por la policía](#)," May 2021.

⁵³ *Semana*, news item: "[El desgarrador relato de una patrullera que fue abusada sexualmente por vándalos en un CAI](#)," May 5, 2021.

73. For its part, with regard to reports of gender-based violence, the Commission reminds the State of its obligation to investigate these acts, taking into account the principle of enhanced due diligence and in line with its duty to protect and prevent violence against women and ensure the investigation is carried out from an intersectional gender approach that incorporates other factors of discrimination. It is also reminded to make the necessary mechanisms available to ensure that victims receive effective access to justice and reparations.
74. The IACHR likewise recognizes that although it is difficult to determine when acts of violence against LGBTI persons are motivated by prejudice, when conducting investigations, States must at a minimum perform an exhaustive review of the motives for the violence, whether it was perpetrated by private parties or State agents.
75. In the specific case of indigenous women and women of African descent, the State must consider all risk factors that they may encounter due to their ethnic-racial origin and age, pursuant to the provisions of articles 6 and 9 of the Inter-American Convention on the Prevention, Punishment, and Eradication Of Violence against Women. The IACHR recalls that the failure to investigate and punish acts of gender-based violence with due diligence has grave repercussions. It also underscores that impunity for such crimes sends the message that this violence is tolerated, fostering their commission.
76. Lastly, it warns that violations of the rights of indigenous and Afro descendent women and girls not only impact them individually but also negatively affect their peoples of origin, causing grave damage to the social fabric and increasing the sense of defenselessness and impunity. The IACHR therefore urges the State to take these factors into account so that these incidents will be investigated as a priority, with special emphasis on the situation of violence that indigenous and Afro descendent women, girls, and adolescents may be facing in the context of the national strike at the hands of State and nonstate agents. It also urges the immediate adoption of all measures necessary to prevent, reduce, and eliminate any act of discrimination, including sexual violence, and guarantee respect for and protection of the territories of indigenous peoples and communities of African descent from the presence of armed State and nonstate actors.

3.3 Ethnic-racial discrimination-based violence during protests: Indigenous Peoples, People of African Descent, and Tribal Communities

77. Is the IACHR's understanding that, pursuant to the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance (articles 1 and 4), ethnic-racial violence includes any conduct based on ethnic-racial origin that causes stigmatization, exclusion, or any type of violence, either directly or indirectly.⁵⁴

⁵⁴ OAS, Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance, articles 1 and 4.

78. According to publicly available sources, the Commission takes note that in some of the areas where social tension is higher in the framework of the protests that began on April 28, 2021, ethnic-racial communities predominate. The IACHR observes that Cali is the city with the largest Afro-descendant population in Colombia, and the second largest in Latin America.⁵⁵ For its part, the department of Cauca has the highest percentage of indigenous people in the country, with 8 ethnic groups, settled in 26 of the 39 municipalities of the department of Cauca.
79. In this regard, reports were received from civil society organizations on the situation of ethnic peoples in the framework of the protests. The Commission particularly took note that at least 82 persons of African descent between the ages of 13 and 60 were the victims of repression at the hands of security forces during the protests.⁵⁶ For example, police sources indicate that between April 28 and May 21, 2021, of the 39 people whose deaths during the protest in Cali and Yumbo were linked to excessive use of force, at least 11 were persons of African descent.⁵⁷
80. In particular, the IACHR received with concern testimony from members of indigenous communities in the department of Valle del Cauca on the grave impact on their communities of both deaths of their traditional authorities or leaders and aggressions against them. The IACHR also received information on attacks, acts of intimidation, harassment, and stigmatization committed by civilians who associated these peoples with the demonstrations in Cali.
81. According to reports provided by ethnic organizations to the IACHR, there have been 50 documented cases of attacks against members of the National, Social, Popular, and Community Minga since the demonstrations started on April 28, 2021. Specifically with regard to indigenous peoples, reports have indicated 2 deaths, 3 physical assaults, 159 incidents of harassment, and 21 alleged victims attended to in the framework of social protest.⁵⁸
82. The Commission reiterates its concern at public statements that stigmatize demonstrators from ethnic peoples, and in that regard, it reminds the State of its duty to prevent and combat direct and indirect racial discrimination, as well as provide comprehensive reparations to the victims.
83. The IACHR has indicated that, because of structural and historic discrimination, persons of African descent and members of indigenous peoples, as well as residents of

⁵⁵ Government of Cauca, Cali, city with the second-largest Afro-descendant population the country, May 21, 2013.

⁵⁶ Race and Equality, Informe afectaciones a pueblo negro afrodescendiente en Colombia el marco del Paro Nacional, June 9, 2021, pg. 7.

⁵⁷ Consultoría para los Derechos Humanos y el Desplazamiento, Análisis étnico-racial del uso excesivo de fuerza por parte de los agentes del Estado en Cali, May 21, 2021, pg. 11.

⁵⁸ Organización Nacional Indígena de Colombia, Informe Ejecutivo sobre el contexto y las afectaciones a los derechos de los Pueblos Indígenas dentro del Paro y Minga Nacional en Colombia, pg. 12.

geographic areas experiencing poverty and extreme poverty, are more exposed to racial profiling by State security forces and therefore to arbitrary detention and abuse.⁵⁹

84. The IACHR emphasizes the urgency of adopting comprehensive citizen security policies to prevent and combat the use of discriminatory criteria in police actions in order to eradicate racial profiling and the excessive use of force, in line with principles of equal protection and nondiscrimination. The IACHR urges the State to combat ethnic-racial and structural discrimination that mainly affects persons living in poverty.
85. The Commission also urges the State to adopt urgent measures to investigate, prosecute, and punish those responsible for incidents of ethnic-racial violence, as well as grant comprehensive individual and collective reparations with an ethnic-racial focus to victims and their family members.

3.4 Violence against journalists

86. The Commission learned that from the start, the protests were covered closely by the media. At the same time, a number of testimonies received coincided in indicating that guarantees for such coverage have been deteriorating. Indeed, reports were received of journalists who were the victims of a number of attacks and limitations on their reporting work in the context of the social demonstrations.
87. According to the information received, at least 236 attacks have been documented since the start of the protests. These attacks include physical aggression, threats related to their work covering the protest, theft and deletion of reporting materials, harassment, obstruction of journalism work, illegal detentions, and attacks on media outlets. According to the Proyecto Antonio Nariño, which brings together a variety of journalism organizations and professional associations in Colombia, the month of protests was the most violent against the media in recent decades.⁶⁰ According to the Fundación para la Libertad de Prensa, 54.1% of the 236 aggressions are attributable to security forces, 31.6% to private parties, 4% to public officials, and in the remaining 10.8%, the perpetrators are unknown.⁶¹
88. According to reports and information that circulated on social media, on June 4, 2021, journalists from *Canal 2* in Cali, Alberto Tejada and Jonathan Buitrago, were shot at by the ESMAD while they covered a protest even though they identified themselves as journalists. The IACHR also received information indicating that women journalists feared

⁵⁹ IACHR Country Report: [Situation of human rights in Brazil](#), February 12, 2021, pg. 19-40.

⁶⁰ Fundación Gabo. June 11, 2021. [Peticiones urgentes por una prensa libre de violencia en Colombia](#).

⁶¹ See www.flip.org.co.

sexual violence as they did their reporting. In this regard, the Commission was informed about a case of sexual violence against a journalist in the city of Cali.

89. According to the testimony received from more than 40 reporters from Bogotá, Cali, and Popayán, security agents, demonstrators, and armed civilians have all taken part in harassment of the media. Although the State reports that at least eight disciplinary investigations have been opened into aggression against journalists, reports were also received indicating that the majority of these attacks have not been diligently addressed by authorities.
90. The incidents of violence against the media and the lack of institutional response to them has, according to the testimony received, produced a general climate of silence and journalism “no-go zones.” The Commission was informed of an overall climate of self-censorship due to fear of retaliation, attacks, or stigmatization. According to a number of journalists who met with the Commission, this has led communicators to decide not to go out reporting or, in some cases, decide not to make their media credentials or the logos of their media outlets visible. Additionally, according to the information received, as a result of the escalation of violence against the media in the streets, some protest coverage began using images and videos taken from the Internet.
91. The Commission also expressed its concern at the attacks suffered by two journalists and a protester during the June 30 protests in Suba. According to available information, the attacks were carried out by police officers. The IACHR notes that, according to publicly-available information, three of the police officers who participated in the events were suspended.
92. The IACHR received with concern reports of attacks on media facilities by some protesters and of online harassment, mainly of women journalists for their articles. According to the testimony received, these attacks take place in a context in which political or social leaders and authorities make stigmatizing statements that encourage citizens to reject media outlets that have editorial stances that are not to their liking. The attacks on media facilities also put the safety of journalists and media workers in jeopardy.
93. Increasing distrust in the media intensifies the breakdown in the public debate, and attacks on the media make it difficult to fulfill the right of persons to be informed of all possible viewpoints. Some media outlets also indicated there were no guarantees for reporting the attacks they were receiving publicly because of fear they would be repeated. The IACHR also recalls that nothing fosters the repetition of violence against the media more than the absence of a decisive institutional reaction to it.⁶² It is therefore essential for the most senior authorities to emphatically reject any escalation of violence and

⁶² IACHR. Office of the Special Rapporteur for Freedom of Expression. November 11, 2020. [Press Release R271/20. Office of the Special Rapporteur Expresses Extreme Concern about Violence against Journalists in Mexico and Calls on the State to Strengthen Protection Mechanisms and Measures to Combat Impunity.](#)

disassociate themselves from any speech that might incite these types of acts.⁶³ It is also important to issue a call for and give clear signals of a commitment to diligently investigate the reports issued.

94. The Commission also received information on the stigmatization of some media outlets by persons with government responsibilities and how that led to violence against the media during the demonstrations. The coverage of the protests has also caused a deep divide in the media ecosystem. On this point, the IACHR views it as essential that space for pluralistic, alternative, and diverse perspectives on matters concerning all citizens be respected.
95. Violence against the media affects the right to freedom of expression not only in its individual dimension but also in its social and collective dimension, as it limits opportunities for society to stay informed on matters of public interest.⁶⁴ The IACHR underscores that these limitations to media freedom also have negative impacts in terms of the professionalization of journalism and its essential role as working toward and a means of democratic coexistence.⁶⁵
96. The IACHR values the important work carried out by journalists during social protests in Colombia. It also deems it important to remind the State that media workers play a crucial role by collecting and disseminating information on what is happening during protests, including the actions of security forces. Authorities must therefore provide them with the highest level of protection so they can do their work freely. In their 2013 Joint Declaration, the Special Rapporteurs from the UN and the OAS indicated that, in the context of demonstrations and situations of significant social conflict, the work of communicators and the free flow of information are "essential to keeping the public informed of the events. At the same time, [they play] an important role in reporting on the conduct of the State [...], preventing the disproportionate use of force and the abuse of authority."⁶⁶
97. In this regard, the IACHR views positively the adoption of Directive 011 of 2021 of the Office of the Procurator General of the Nation, urging members of the national government, mayors' offices, governors' offices, security forces, and all public servants in

⁶³ United Nations (UN) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Organization for Security and Cooperation in Europe's (OSCE) Representative on Freedom of the Media, the Organization of American States' (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights' (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 25, 2012. [Joint Declaration on Freedom of Expression on the Internet](#).

⁶⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Violence against journalists and media workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators](#). OEA/SER.L/V/II. CIDH/RELE/INF. 12/13, December 31, 2013, para. 1; Inter-American Court. [Case of Vélez Restrepo and Family v. Colombia](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248, para. 142-149.

⁶⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. May 3, 2021. [Press Release R112/21. On World Press Freedom Day, the Office of the Special Rapporteur presents its 2020 Annual Report and reaffirms its commitment to support journalism in the hemisphere](#).

⁶⁶ Office of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of the United Nations, Office of the Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. [Joint declaration on violence against journalists and media workers in the context of protests](#). September 13, 2013.

general to serve as guarantors of the rights to freedom of expression and information. According to the Office of the Procurator, this is especially important given the circumstances the country has been facing since April 28 with citizens exercising their right to demonstrate peacefully, "which should be respected and protected the same as the expressions of those who are not in agreement and have staked out a different position."⁶⁷

98. The Commission urges the State to publicly condemn all acts of violence against the media and reminds it of its obligation to investigate, prosecute, and punish the perpetrators of such attacks. At the same time, the Commission invites the Colombian media to follow the highest standards in order to provide the highest quality journalism possible, ensuring the trustworthiness of the facts and information. The strengthening of democratic institutions requires journalism that follows a methodology and takes work, which in turn contributes to providing society with diverse, balanced, and well-sourced points of view on the facts of public interest being covered.

3.4 Violence against medical missions

99. Additionally, in the framework of the visit, the IACHR received multiple reports of attacks on medical missions by security forces, endangering the lives and safety of healthcare personnel. It also received reports of obstacles to the regular movement of emergency health vehicles and the transportation of medical supplies and food, which it is noted were exceptional and took place during some roadway blockades. Additionally, reports were received on the alleged obstruction of the passage of ambulances by security forces, as well as on the use of ambulances in some cases to transport security forces and/or their armaments, rather than for health purposes. This not only undermined the work of the medical missions but increased the risk faced by their personnel in this context.
100. The IACHR also received reports from the State and from medical personnel of threats toward and harassment of medical units and health personnel, especially those providing support to frontline persons. There were also reports of threats and harassment toward students who had organized to support the demonstrations. Information was also received on alleged moves by security forces—especially the ESMAD—to prevent injured demonstrators from receiving timely care. These persons were also afraid to go to health centers due to the risk of being prosecuted.
101. The IACHR also received information from medical personnel and nurses that State agents had allegedly told them to refuse care to persons injured during the demonstrations. It was also alleged that healthcare personnel were pressured and threatened to not say anything about the protests, as well as to turn over the medical

⁶⁷ Procurator General of the Nation, Directive 011 of 2021, Guarantee of freedom of expression and freedom of information for individuals and the media, June 8, 2021.

records of persons injured during the demonstrations on threat of punishment and in violation of their obligation to maintain professional confidentiality. The Commission reminds the State of its obligation to investigate, prosecute, and punish the perpetrators of these aggressions.

3.5 Protective transfers

102. According to information from the Presidential Council for Human Rights and International Affairs, in the framework of the protests, more than 7,020 people were detained on the legal grounds of “protective transfers” (*traslado de protección*), established in article 155 of the National Police Code. The declared purpose of such detentions is to protect the lives and safety of persons or third parties when they are at risk or in danger and only if the transfer is the sole available means of doing so. According to the information provided by the State in its response, the protective transfer is not a punishment, and the person being transferred must be provided all necessary guarantees.
103. In this regard, the Commission learned that the Constitutional Court of Colombia found in Judgment C-281/17 of 2017 that this form of detention as regulated in article 155 “does not offer sufficient prior or subsequent due process guarantees.” In this regard, the court found it was constitutional, but on the condition that certain guarantees be observed, confirmed by Supreme Court of Justice judgment STC 7641-2020,⁶⁸ cited as background.
104. The IACHR also learned that the police and the Office of the Procurator General of the Nation developed the “Citizen mobilization guidelines: Scope of Public Ministry intervention,” which reiterated that these “transfers” are exceptional in nature and shall not be used to take people to places intended for deprivation of liberty. The protocol also requires the preparation of a report indicating the circumstances of the detention and identifying the police officer who carried it out.⁶⁹
105. However, in view of the exceptional nature of the measure, the high number of protective transfers reported by the State stands out to the IACHR. Additionally, the Commission received reports indicating that the objective parameters used by the police to carry out these transfers are unknown. In this regard, it has been alleged that the detentions in some cases extended beyond the 12 hours allow for by law and took place in unauthorized locations. The transfers were additionally being used to intimidate some demonstrators and to avoid the requirements to prove the crime committed or produce an arrest warrant for the alleged commission of criminal offenses.

⁶⁸ Supreme Court of Justice, Civil Cassation Chamber, [STC 7641-2020](#), September 22, 2022.

⁶⁹ Office of the Procurator General of the Nation - Office of the Ombudsperson, [Citizen Mobilization Guidelines: Scope of Public Ministry intervention](#), October 2020.

106. Likewise, during the visit, civil society, the Office of the Ombudsperson,⁷⁰ and the Office of the Procurator General repeatedly described difficulties accessing information on the detentions and the deficiencies in the intake and release records for detained persons, something that could have led to the high number of reports of disappearances. A number of statements also indicated that the options to turn detained persons over to their families are not used, nor was transparent information available on the places where detained persons were being transferred.
107. The IACHR also received complaints of situations of violence and even of cruel, inhuman, and degrading treatment that could amount to torture and that took place during the protective transfers. Specifically, the persons interviewed informed the IACHR that the victims were constantly beaten and abused during the transfers. In some cases, they were threatened with being disappeared for participating in the protests.
108. The testimony collected is consistent in indicating that the protective transfers are being used in multiple cases as a form of punishment or as a means of discouraging protest. In the Commission's view, it is especially grave that these transfers, as designed, lack judicial oversight, meaning they amount to a restriction on liberty that depends solely on the judgments of the police officer implementing it.
109. The IACHR consequently urges the State to avoid depriving persons of liberty through the arbitrary use of protective transfers. In the case of *Fernández Prieto y Tumbeiro v. Argentina*, the Inter-American Court establish that in the event of a condition making it possible to carry out a detention without a court order or a crime in progress, in addition to complying with the requirements of legitimate aim, suitability, and proportionality, it "must require the existence of objective elements, such that it is not merely police intuition or subjective unverifiable standards that lead to a detention." As the Inter-American Court found in this case, "these types of regulations must also follow the principle of equal protection and nondiscrimination, so as to avoid hostility against social groups [...]."⁷¹

3.6 Reports of disappearances

110. The IACHR received allegations of persons reported as disappeared in the framework of the protest. According to information provided by the Office of the Attorney General of

⁷⁰ Office of the Ombudsperson, Report of the Ombudsperson for the IACHR Visit, Social Protest in Colombia April-June 2021, Archive of the Commission, pg. 49.

⁷¹ Inter-American Court. *Case of Fernández Prieto y Tumbeiro v. Argentina*. Merits and Reparations. Judgment of September 1, 2020. Series C No. 411, para. 90.

the Nation, as of June 15, the Urgent Search Mechanism was still active with respect to 84 cases.⁷²

111. Additionally, the Commission received with extreme concern reports that some persons initially reported as disappeared have been found dead. According to the Mesa de Trabajo sobre Desaparición Forzada (MDTDF), these are the cases of Brahian Gabriel Rojas López, who was found dead on May 9, in Risaralda; leader Cristian Torres, found dead on May 16 in Nariño; Shirley Osnas Orozco and José David Díaz Hormiga, found dead, presumably on June 8 in Caloto, Cauca; and Maicol Stiven Sanchez, who was found on June 2, burned to death in a shop after denouncing his detention by the ESMAD.⁷³
112. The Commission welcomes the existence of the Urgent Search Mechanism, created by Law 971 of July 15, 2005,⁷⁴ which can be activated by anyone before a judge or prosecutor and whose main objective is for judicial authorities to be able to immediately order all procedures necessary for locating disappeared persons. However, the IACHR observes with great concern the data on disappeared persons produced by different State institutions, as well as the delay in opening investigations in the cases reported.
113. In this regard, civil society reported that the differences in the number of persons reported as disappeared could be explained by the fact that State institutions classify these situations as "unlocated" persons, thereby postponing *ex officio* investigations.
114. In this regard, the Inter-American Commission reiterates that, whenever there is reason to suspect the disappearance of a person, a serious, impartial, and effective investigation must be launched *ex officio* and without delay, aimed at determining the truth. The Commission has also emphasized that States must undertake a rigorous search by the pertinent judicial and administrative route. It must do so systematically, by establishing specialized units or commissions and providing adequate and suitable human, technical, and scientific resources for locating and identifying the disappeared victims. This procedure must have clear and specific search strategies and mechanisms for coordinating the different State bodies and institutions. States have a fundamental obligation in this matter to guarantee the participation of family members throughout the search process.

3.7 Military Assistance

115. As reported by the State, in response to the situation arising from the framework of the national strike, during the months of April and May 2021, military assistance was sought,

⁷² Office of the Attorney General of the Nation, Press Release, "[Office of the Prosecutor locates 335 people and keeps the Urgent Search Mechanism active in 84 more cases](#)," June 2021.

⁷³ Mesa de Trabajo de Desaparición Forzada (MDTDF), Report, June 2021, archive of the Commission.

⁷⁴ Colombian Congress, [Regulations of the Urgent Search Mechanism](#), Law 971 of July 14, 2005.

as provided for under article 170 of the National Code of Coexistence and Citizen Security. For such purposes, in the context of protests, the executive branch issued Decree 575 of 2021, whereby it ordered several governors and mayors to coordinate "military assistance" to "address and overcome the incidents that have led to grave disturbances to security and coexistence in the roadways of their jurisdictions."⁷⁵

116. The national government explained to the IACHR that the decree activated the military in order to protect strategic infrastructure from violent and illegal acts. The Commission also took note of Judgment C-281/17 of the Constitutional Court of 2017, in which it ruled that the military could only be activated to protect social demonstrations, not to control them or contain them.⁷⁶
117. However, the Commission observes that the decree provides for "coordination" with the military for the purposes of "removing the internal blockades," as well as "preventing the installation of new ones" in certain jurisdictions. It is the Commission's view that the absolute ban on all blockades, pursuant to the wording of the decree, could end up subverting the exceptional nature of the military's participation, avoiding analysis of the specific circumstances of each blockade and failing to exhaust less harmful measures, such as dialogue. It is the IACHR's view that this could constitute a disproportionate restriction on freedom of expression, demonstration, and assembly.
118. Likewise, the IACHR notes that the decree does not explicitly establish the operating limits of military participation, nor does it indicate the measure is temporary so as to ensure its exceptionality. On the contrary, by stating that, "in coordination with security forces," governors must adopt all measures necessary "to lift internal blockades," the broad wording of the provision suggests prioritizing the use of the military for such purposes without justifying military intervention based on the guidelines required under international law.
119. The IACHR recalls that, as the Inter-American Court found in the case of *Women Victims of Sexual Torture in Atenco v. Mexico*, "public safety cannot be based on a standard for the use of force that treats the civilian population as the enemy, but should consist in the protection and control of civilians."⁷⁷ In addition, in accordance with the inter-American standards reflected by the Inter-American Court in the case of *Alvarado Espinoza v. Mexico*, the State must limit the military's participation in domestic security work as much as possible.⁷⁸ Likewise, and pursuant to Inter-American case law, in every case, it must be demonstrated that this participation is extraordinary, exceptional, temporary, restricted to what is strictly necessary in the circumstances of the case; subordinate and

⁷⁵ Ministry of Interior Affairs of Colombia, Decree 575, May 28, 2021.

⁷⁶ Constitutional Court, Judgment C-281/17, May 3, 2017.

⁷⁷ Inter-American Court, Case of Women Victims of Sexual Torture in Atenco v. Mexico, Judgment of November 28, 2018, para. 168.

⁷⁸ Inter-American Court, Case of Alvarado Espinoza vs. Mexico, Judgment of November 28, 2018, para. 182.

complementary to the work of civilian body; and regulated and monitored by civilian bodies that are competent, independent, and technically capable.

120. Lastly, the IACHR notes that the decree establishes that local authorities who do not comply will be sanctioned. The effect of this is to discourage governors and mayors from prioritizing the use of other measures, such as dialogue, which have proved effective in some cities in the country.
121. In view of these problems, the IACHR urges the State to amend this Decree to bring it in line with Inter-American standards by ensuring that the military support is extraordinary, exceptional, temporary, subordinate, and complementary to the work of civilian bodies.

3.8 Use of disciplinary authorities

122. The Commission was informed by the Office of the Procurator General that as of June 7, 2021, 172 disciplinary actions were being taken with regard to incidents related to the protests. Of them, 143 case files correspond to members of security forces, including 139 preliminary inquiries and 4 disciplinary investigations. Also, 8 disciplinary investigations are being pursued against other public officials, including 2 officials of the Office of the Ombudsperson. Likewise, the Office of the Procurator reported that at least 20 "actions" had been initiated regarding elected authorities, including 3 members of Congress, 1 governor, 10 mayors, and 6 local councilmembers.⁷⁹
123. The Commission does not have information on the specific grounds for such actions or whether they could lead to sanctions for failing to comply with Decree 575 of 2021. However, some elected officials informed the IACHR that they feared facing disciplinary processes that could lead to sanctions like removal from their offices or disqualification from serving in government. Similarly, information was received from mayors, governors, and even members of Congress who said their capacity to prioritize dialogue had been undermined because of the possibility of facing disciplinary proceedings.
124. The Commission emphasizes that the State must investigate and, if applicable, punish any irregularity on the part of public officials. Notwithstanding the foregoing, the IACHR highlights that, according to inter-American jurisprudence in the cases of *López Mendoza v. Venezuela*⁸⁰ and *Petro Urrego v. Colombia*,⁸¹ the punishments of disqualification and removal of democratically elected authorities can only be imposed through a "sentence imposed by a competent judge, in a criminal proceeding," thereby guaranteeing the effective right to defense and all due process guarantees.

⁷⁹ Procurator General of the Nation, Republic of Colombia, Report, June 7, 2021. Commission Archive.

⁸⁰ Inter-American Court, *Case of López Mendoza v. Venezuela*. Judgment of September 1, 2011, pg. 41, para. 202.

⁸¹ Inter-American Court, *Case of Petro Urrego v. Colombia*. Judgment of July 8, 2020, pg. 32.

125. In this regard, the Inter-American Court established in the case of *Petro Urrego v. Colombia* that "Article 23(2) of the American Convention makes clear that this instrument does not allow any administrative body to apply a sanction involving a restriction (for example, imposing a sanction of disqualification or dismissal) on a person for social misconduct (in the performance of public service or outside of it) on the exercise of their political rights to elect and be elected. This may only occur through a judicial act (judgment) by a competent judge in the corresponding criminal proceedings."⁸²
126. In this regard, the Commission urges the State to comply with the decision of the Inter-American Court by amending its internal legislation to ensure that the Office of the Procurator General of the Nation cannot prosecute elected authorities or punish them with removal from office or prohibition from serving in government.

3.9 Use of military criminal jurisdiction

127. The IACHR observed with concern that cases related to alleged human rights violations committed by the police, particularly by the ESMAD, are being heard by the military criminal justice system on the claim that they classify as "acts of service." In this regard, the Office of the Public Prosecutor reported that the cases related to the deaths of Santiago Andrés Murillo and Brayan Fernando Niño Araque are before the military criminal justice system, for which reason it filed motions of conflict of jurisdiction. Additionally, in a letter dated May 31, 2021, the Office of the Attorney General of the Nation asked the Ministry of Defense to "immediately remit the proceedings and elements of evidence related to the cases (...) [involving possible excesses by members of security forces in the framework of the national strike and] related to the alleged Commission of homicides, malicious personal injury, and sex crimes."⁸³
128. Additionally, the State indicated that from April 28 to June 4 of this year, the military criminal jurisdiction initiated a series of investigations against members of the National Police for offenses related to the police intervention to reestablish public order at the national level, pointing to 12 proceedings for alleged homicide and 19 for personal injury. The Office of the Public Prosecutor reported it has filed motions of conflict of jurisdiction in the cases related to the deaths of Santiago Andrés Murillo and Brayan Fernando Niño Araque.⁸⁴
129. In this context, the IACHR welcomes the fact that, on June 17, the Constitutional Court announced its decision to annul the order of the Superior Council of the Judiciary that granted the military criminal justice the jurisdiction to investigate and prosecute

⁸² Inter-American Court, *Case of Petro Urrego v. Colombia*. Judgment of July 8, 2020, pg. 32.

⁸³ Office of the Attorney General of the Nation, letter: Ref. Remission of Proceedings to Competence of the Ordinary Jurisdiction, May 31, 2021.

⁸⁴ Office of the Attorney General, Report on the investigative and interlocutory updates carried out by the Office of the Attorney General of the Nation with regard to the events that took place in the framework of the National Strike. June 7, 2021, p.21.

members of ESMAD for the death of Dilan Cruz,⁸⁵ who died in the 2019 demonstrations, allegedly due to the actions of a security forces officer. The Commission will monitor the results of the investigation, trial, and punishment of those responsible in the ordinary criminal justice system.

130. In this regard, the bodies of the inter-American system have consistently found that the use of military jurisdiction is incompatible with the American Convention, especially in view of the fact that it means security forces themselves engage in prosecuting their peers. The inter-American system has thus been emphatic on finding that special jurisdictions like the military jurisdiction can only prosecute active-duty personnel for committing crimes or infractions that are by nature against legal interests specific to the military or police.⁸⁶
131. As it has on multiple occasions, both through its monitoring work and through the system of petitions and cases, the IACHR urges the Colombian State to ensure that all cases—especially those involving human rights violations by security forces—be handled through the ordinary justice system, not through the military courts.

IV. Impacts on the fundamental rights of third parties and public property during the protests

132. The Commission received information on violations of the fundamental rights of third parties protected by domestic law, allegedly in the framework of the demonstrations. It also took note of the impacts on public property in that context.
133. Both the State and civil society organizations also reported that the protests have been infiltrated by groups or individuals who performed acts of violence and/or vandalism during the course of the demonstrations. Likewise, it was reported that in some specific situations, the character of the protests changed over the course of time, occasionally turning violent.
134. According to official figures, from the start of the protests through June 10, damage was documented to: 1,660 private assets, including 457 bank offices and 438 ATMs; 706 police assets, including 556 police vehicles and 116 Rapid Response Posts. In addition, more than 2,158 instances of damage to public property were observed, including 1,251 vehicles and 240 public transportation stops. Regarding the latter, the Commission received information indicating grave impact to Bogotá's public transportation system.
135. Especially concerning were the attacks on and fires at the Palace of Justice of Tuluá; the Forensic Medicine Institute in Popayán; and the Nariño government building, along with

⁸⁵ Constitutional Court of Colombia, Press Release 22 of Judgment SU-190-21, June 17, 2021.

⁸⁶ Inter-American Court. *Case of Usón Ramírez v. Venezuela*, judgment of November 20, 2009, para. 108

damage to the buildings of the Office of the Public Prosecutor of Popayán, Cauca, and the Office of the Municipal Mayor of La Plata, Huila. The Commission also learned of attacks on the facilities of different municipal-level agencies. The Commission visited a Rapid Response Unit in Popayán and verified extensive financial losses, destruction of evidence and judicial case files, and theft of firearms.

136. The IACHR also held meetings with business associations and collected testimony from persons who reported financial impact from activities related to the demonstrations. In one meeting, the IACHR received information on acts of vandalism in the form of a Molotov cocktail thrown at a bus carrying workers, causing third-degree burns to some of them. Reports also indicate the alleged collection of illegal tolls to allow passage or circulation in certain parts of the country.
137. According to information provided by the State, the protest activities impacted the supply of food, medicine, and fuel in 26 departments and 311 municipalities in the country, especially in the departments of Valle del Cauca, Cauca, Nariño, Huila, Cundinamarca, and Bogotá. Additionally, 94% of the companies in the country have said their sales were impacted by activities related to the protest, with the sectors most impacted being construction, commerce, transportation, lodging, and agriculture. For example, business groups in Valle del Cauca said that 43 days of a blockade on the Pan-American Highway had caused the loss of around 97,000 jobs.
138. The Commission expresses particular dismay at the deaths of two babies, allegedly because of a lack of medical care in the framework of the disruptions caused by the protests.
139. The IACHR condemns the death of three members of security forces during the protests. It likewise deploras the alleged kidnapping, disappearance, and murder of Officer Carlos Andrés Rincón Martínez, whose body was found showing signs of torture in the city of Cali. The Commission also took note of the fire at a Rapid Response Post in Aurora with 10 police officers inside; the attack on 6 police officers with a firebomb in Pasto; and the 1343 police officers injured, 4 of which are still in the hospital. The State likewise indicated that "in the framework of the strike, 14 police officers working to guarantee the public and peaceful demonstration suffered eye injuries, 12 from blunt objects, 1 from a firearm, and 1 from a chemical agent."⁸⁷
140. The IACHR strongly condemns all acts of violence, especially those that affect life and personal integrity and the course of demonstrations. In this regard, it calls on the State to investigate, prosecute, and punish those responsible for crimes committed in the framework of the process.

⁸⁷ Ministry of Defense, Guarantees to the peaceful demonstration and control of violent actions, April 28 to June 4, 2021, pg. 52-53

V. Considerations regarding roadblocks

141. The Commission notes that although the legitimate causes motivating the protests are widely recognized, there is a complex national debate underway on roadblocks, known as blockades. It is the IACHR's view that in the current context of Colombia, Inter-American standards on the right to protest and freedom of expression can contribute to better understanding of the scope of these rights and potential restrictions thereof.
142. As the Commission indicated in its report on Protest and Human Rights, "social protest can occur in many different ways. In the region, some of them take the form of street closures, 'cacerolazos' (pot-banging sessions), and vigils. The conditions in which many of these demonstrations and demands occur are complex and require appropriate responses from the authorities in terms of respecting and ensuring human rights."⁸⁸ In its report, it also indicated that demonstrators are free to choose the modality, form, place, and message for carrying out the peaceful protest.⁸⁹ This means that the State shall not impose prior restrictions or general prohibitions that end up denaturing the protest or robbing it of its substance.⁹⁰
143. During the visit, the IACHR was able to observe that not all roadblocks are the same or have equivalent characteristics. According to reports from the National Police, during the demonstrations, there were at least 1,937 roadblocks. Of them, 1776 lasted for between 1 and 3 days; 46 lasted for 4 to 6 days; 115 lasted for more than 7 days; and 9 were kept in place for 30 days or more,⁹¹ particularly in the department of Valle del Cauca.
144. Additionally, both the State and persons who testified during the visit indicated that several of these blockades had caused violations to the rights to life, health, freedom of movement, and work. These blockades also affected different economic sectors in the country, including the production and distribution of food and basic goods, the transfer of patients and medical supplies, and fuel supplies. In particular, the State reported that some of the blockades impeded the circulation of ambulances and the transportation of vital goods on strategic routes. This is the case for the road to the port of Buenaventura, through which 35% of the nation's cargo passes and from which chemicals are transported to purify the country's drinking water.
145. The State also indicated in its response that in the cases of certain roadblocks, criminal actions were taken against the transportation system infrastructure. It also noted what happened on June 25, 2021, when a person traveling on a motorcycle through a blockade died after colliding with an obstacle that had been placed in the roadway.

⁸⁸ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, pg. 1 and para. 89.

⁸⁹ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 154.

⁹⁰ IACHR, Protest and Human Rights, September 2019, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, para. 37.

⁹¹ Office of the Ombudsperson, Report of the Ombudsperson for the IACHR Visit, Social Protest, April-June 2021, pgs. 23-25.

146. On the other hand, the Commission also observed that some blockades included multiple peaceful and cultural expressions that are protected under the right to protest. The IACHR met with groups of young people who repeatedly and consistently alleged that security forces took repressive action and pointed to a social situation of food insecurity and alienation from family and institutions. In this regard, the Commission calls for undertaking a dialogue that specifically includes young people for the purposes of seeking alternatives and opportunities and to build bridges between the State and all sectors of society.
147. The State reported that in the majority of cases, the blockades were addressed through local dialogue processes. The Commission highlights the agreement reached through the talks between the Unión de Resistencia de Cali (URC) - Primera Línea Somos Todos y Todas [Resistance Union of Cali - We Are All in the Front Lines] and the mayor's office in Cali. This agreement led to the creation of the Emergency Social Inclusion Plan, to be implemented with an approach that differentiates based on gender, ethnicity-race, age, sexual orientation, and territory. This agreement is also aimed at intervening in areas including food security, healthcare (including psychosocial and addiction); employability programs; and strengthening of social processes in the framework of Decree 0304 of May 31, 2021.⁹²
148. The State informed the IACHR of its social dialogue strategy, which includes: i) 18 listening sessions between authorities and prominent voices; ii) regional dialogue, including 17 processes and 70 workshops; iii) interlocution with the National Strike Committee; iv) a National Roundtable for evaluating guarantees for public demonstrations; and vi) a youth social strategy and listening sessions, with space for dialogue and building trust.⁹³ The IACHR also received information on the establishment of Social Peace and Dialogue Agents and their implementation in cities like Bogotá.
149. In addition to this, in its response, the State highlighted the multiple meetings that the national government has held with the National Strike Committee in order to reach agreements on attending and responding to each of its requests, such as “Colombia Pact with the youth,” drawn up in the territories. In this framework, it reported that it is currently involved in 202 active listening roundtables, with 5,273 participants.
150. On the other hand, the Commission was informed by civil society organizations of the alleged lack of willingness by national authorities to establish broad and inclusive spaces for dialogue and negotiation. Likewise, these organizations have also alleged that the agreements struck in peaceful demonstrations—like, for example, the agreement signed in the framework of the Civic Strike of Buenaventura—have not been complied with.⁹⁴ These situations have increased distrust in institutions and led several groups to continue

⁹² Santiago de Cali Mayor's Office, Decree 0304, May 31, 2021.

⁹³ Written Report of the State to the IACHR. June 8, 2021. Pg. 29

⁹⁴ Buenaventura Mayor's Office, National Government and the Executive Committee of the Civic Strike sign an agreement to lift the strike, June 6, 2017.

with their roadblocks as a means of protesting for as long as the negotiations remain ongoing.

151. The Commission notes that the lack of a statutory law establishing regulations that are in line with inter-American standards on the right to protest gives authorities a degree of discretion with regard to the exercise of that right and its restrictions. In the absence of such a law, the IACHR views it as important for the State's response to adhere to inter-American standards applicable to the right to protest and underscores the importance of broad, plural, and extensive social participation in devising this legal framework.
152. In the current context of Colombia, the official general classification of the blockades as illegal could lose sight of the specific characteristics of each roadblock and impact the chances of reaching negotiated solutions through dialogue and mediation. Each roadblock has different impacts, different demands, and different potential effects on the fundamental rights of third parties who are not taking part in the protest. Consequently, the Commission reminds the State that the circumstances must be evaluated on a case-by-case basis to ensure the exercise of the human right to protest can coexist with the fundamental rights of third parties.
153. The Commission urges the State to avoid using generalizing and prohibitive approaches to the various forms of demonstrating in the exercise of the right to protest, as some protest modalities lead society to listen to certain voices that otherwise would have a difficult time accessing the agenda or taking part in the public discourse.⁹⁵
154. The IACHR was able to observe that the consequences of certain roadblocks in Colombia have caused deep discontent and exhaustion for some State representatives, policing bodies, and sectors of society. The Commission recognizes that this discomfort is giving rise to a series of individual and collective impacts. It condemns the fact that some blockades have greatly compromised rights like the rights to life, to the provision of food, to safe drinking water, to health, etc.
155. The IACHR is concerned that the inadmissible impacts of some of the roadblocks have caused the State to fail in its duty to tolerate a certain degree of unrest with regard to this modality of protest. This could have various consequences. On the one hand, it could contribute to the escalation of social tension. On the other, it could hinder the management of social conflict through dialogue.
156. The IACHR recalls that the fact that demonstrations cause a certain degree of disturbance to daily life (for example, disruptions to traffic and commercial activities) must be tolerated so as to not deprive the right to peaceful assembly of its essence.⁹⁶ For the Commission, the appropriate "degree of tolerance" cannot be defined in the abstract and

⁹⁵ IACHR, Protest and Human Rights, September 2019, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, para. 10-13.

⁹⁶ IACHR, Protest and Human Rights, September 2019, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, para. 154; IACHR, Report on Citizen Security and Human Rights, December 31, 2011, OEA/Ser.L/V/II. Doc 57, para. 198.

therefore it is up to the State to examine the particular circumstances of each case with respect to the scope of the admissible disturbance to daily life.⁹⁷

157. When the eventual disruption of daily life in the heart of the protests extends in terms of time and scope to the point of gravely compromising the guarantee of other rights, such as, for example i) the right to life, ii) the supply of food; and/or iii) the right to health, the State has an accentuated duty to facilitate all possible mechanisms of dialogue and coexistence for all the rights in tension, with the use of force as a last resort.
158. It is the Commission's view that the State's approach to roadblocks must take an intersectional and interdependent human rights approach in order to prevent situations that affect the protest itself and the rights of third parties who are not participating in it. Preventing violence, providing transparency, and ensuring accountability for the State agents to respond to the protests is crucial for guaranteeing the rights in tension with each other.
159. Therefore, in order to both protect the process itself and prevent violent incidents arising from the protest from potentially having an increasing impact on human rights, the IACHR issues a special call for the authorities to draw a distinction between demonstrators and those who engage in criminal acts. The Commission has indicated that the State is not the only party capable of interfering with the exercise of protest, and in this regard, its obligations extend to protecting demonstrators from violations and abuses at the hands of third parties.⁹⁸
160. Just as the response to roadblocks cannot vacate the right of demonstrators to demonstrate, this form of protest also cannot annul or suspend, *de facto*, the rights of third persons who are not participating in the demonstrations. The State has a duty to guarantee the protest, as well as to establish the conditions for third parties not participating in the demonstrations to exercise their rights. At the same time, the Commission stresses that it is important for demonstrators using roadblocks to not endanger the lives of other persons and to permit the circulation of goods, services, and essential supplies.
161. The IACHR has established that protest is not an absolute right and restrictions are allowed on an exceptional basis.⁹⁹ However, protecting the rights and freedoms of others cannot be used as an excuse to restrict peaceful protests.¹⁰⁰ Any restriction on the right to protest must be provided for by law, seek a legitimate aim, and be necessary in a

⁹⁷ European Court of Human Rights - *Case of Primov et al.*, 2014, para. 145.

⁹⁸ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, Para. 53; Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, April 14, 2014, A/HRC/26/29, para. 9.

⁹⁹ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, Para. 31.

¹⁰⁰ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, Para. 32; Human Rights Council, Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests, Report of the United Nations High Commissioner for Human Rights, A/HRC/22/28, January 21, 2013, para. 12.

democratic society based on the criteria of necessity, suitability, and proportionality.¹⁰¹ The State's actions must be guided by the application of this test to ensure that police bodies, human rights institutions, and judges play a fundamental role in reconciling the right to protest with other rights that are in tension.

162. Inter-American standards are emphatic in requiring that the restrictions be established beforehand, explicitly, narrowly, and clearly by law with full force and effect. The Inter-American Court has found that only a formal law "can restrict the enjoyment and exercise of the rights recognized by the Convention."¹⁰²
163. The Commission observes with concern the announcements of the Ministry for Interior Affairs whereby it is "established that demonstrations that promote the use of means to temporarily or permanently block roadways or infrastructure shall not be considered peaceful."¹⁰³ In this regard, it urges the State to define the exceptional restrictions on roadblocks through parliamentary deliberation and the enactment of a law. Pursuant to Inter-American standards, the executive branch is not to define the limits of the right to protest, especially when it is the target of the social demands.
164. As regards the requirement of legitimate aim, restrictions on roadblocks must be aimed at achieving the objectives authorized by the American Convention.¹⁰⁴ During its visit, the Commission was informed by the State on the negative implications of some roadblocks in terms of guaranteeing the rights and freedoms of others, such as public health, safety, and order.
165. That said, the Commission recalls that, as the Inter-American Court has found, it is not enough to generically invoke a legitimate aim, as States are not free to interpret its content however they wish.¹⁰⁵ As regards "the protection of the rights of others" as a legitimate aim justifying limits to freedom of expression, inter-American case law has been clear in finding that in cases where limits are established, these rights must be clearly damaged or threatened, which must be demonstrated by the authority imposing a limitation.¹⁰⁶ For its part, any harm to "public order" invoked as justification for limiting the right to protest must be in response to real and objectively verifiable causes that present a sure and

¹⁰¹ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, Para. 33-45.

¹⁰² Inter-American Court, Advisory Opinion OC-6/86 of May 9, 1986, "The Word 'Laws' in Article 30 of the American Convention on Human Rights," para. 35.

¹⁰³ Twitter account of Daniel Palacios (@DanielPalam). June 18, 2021.

¹⁰⁴ IACHR, Protest and Human Rights, September 2019, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, para. 36.

¹⁰⁵ IACHR, Office of the Special Rapporteur for Freedom of Expression, Inter-American Framework on the Right to Freedom of Expression, OEA/Ser.L/V/II CIDH/RELE/INF. 2/09, December 30, 2009, para. 75.

¹⁰⁶ IACHR, Office of the Special Rapporteur for Freedom of Expression, Inter-American Framework on the Right to Freedom of Expression, OEA/Ser.L/V/II CIDH/RELE/INF. 2/09, December 30, 2009, para. 77.

credible threat of a potentially serious disturbance of the basic conditions for the operation of democratic institutions.¹⁰⁷

166. Limitations on social protest must be necessary in a democratic society and strictly proportional for the compelling objectives they seek to accomplish.¹⁰⁸ The clear and compelling social need to implement the limitation must be established, and it must be confirmed that the legitimate objective invoked cannot be attained with a measure that is less restrictive of the human rights invoked.¹⁰⁹
167. Additionally, as regards the response to roadblocks, the IACHR reiterates that States have an obligation to manage social conflict from a perspective of dialogue and must respect the limited leeway they have to establish legitimate restrictions on demonstrations and protests.¹¹⁰
168. Likewise, for peaceful roadblocks, the State's decision to disperse a protest as a last resort must be clearly communicated and explained so demonstrators can understand it and comply with it, offering them sufficient time to disperse before using force.¹¹¹ It is important to underscore that dispersal by force can also increase tensions between protesters and security forces.¹¹²
169. When, in the context of a roadblock, acts of violence are observed that represent an imminent threat to the guarantee of other rights in tension, authorities must distinguish between the persons acting with violence and those participating in the protest peacefully.¹¹³ In cases in which the use of force is essential for achieving a legitimate aim in the context of a demonstration, only the minimum amount of force necessary can be used, and once that necessity has passed—for example, when a violent person has been detained safely—the use of force must cease.¹¹⁴

¹⁰⁷ IACHR, Office of the Special Rapporteur for Freedom of Expression, Inter-American Framework on the Right to Freedom of Expression, OEA/Ser.L/V/II CIDH/RELE/INF. 2/09, December 30, 2009, para. 82.

¹⁰⁸ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 38; IACHR, Office of the Special Rapporteur for Freedom of Expression, Inter-American Framework on the Right to Freedom of Expression, OEA/Ser.L/V/II CIDH/RELE/INF. 2/09, December 30, 2009, para. 67.

¹⁰⁹ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 39; IACHR, Office of the Special Rapporteur for Freedom of Expression, Inter-American Framework on the Right to Freedom of Expression, 2010, para. 85.

¹¹⁰ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, pg. 1.

¹¹¹ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 155; Human Rights Council, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, February 4, 2016, para. 63.

¹¹² IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 108 and 155.

¹¹³ Human Rights Council, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, February 4, 2016, para. 61; Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, September 17, 2020, para. 17.

¹¹⁴ Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, September 17, 2020, para. 79.

170. In the Commission's view, prioritizing dialogue also means guaranteeing the conditions necessary for those participating in the protests to be able to participate in the dialogue or mediation processes without fear. During the visit, the Commission received information on criminal investigations opened against protesters. In this regard, the IACHR reiterates that "States should stop applying criminal definitions that characterize conduct commonly observed in protests as criminal acts, such as roadblocks or disorderly acts that, in themselves, do not affect interests such as the life, safety, or freedom of persons; in the context of protests, these acts constitute forms of exercising the rights to freedom of expression, assembly, and association."¹¹⁵
171. Lastly, the IACHR reiterates that protest is a right protected by the American Convention on Human Rights that can be restricted under certain circumstances based not on its modality but on the seriousness of its impact on other fundamental rights—including the right to life, the right to protest free from violence, the provisioning of food, and the right to health. It is the State's responsibility to verify in each case the gravity of the impacts and ensure that any restrictions strictly follow the principle of legality, pursue a legitimate aim, and are necessary and proportional in a democratic society.

VI. Considerations on the Internet as a space for protest

172. During the visit, the Commission received comments on the Internet as a key instrument for exercising the rights to freedom of expression and access to information to their full potential during the protests. For example, a number of State bodies provided the IACHR with information on efforts to quickly and broadly communicate official information through different websites and interact directly with citizens. Citizens, meanwhile, described how those who went out to demonstrate use the Internet as a means of interacting and organizing.
173. At the same time, the Internet has enabled demonstrators to report incidents and make allegations openly—often in real time—with regard to possible excessive uses of force, as well as request protection of their rights. The Internet is thus a fundamental tool for facilitating and enriching the public discourse and for reporting human rights violations during demonstrations. These facts make clear the need to protect the digital environment and guarantee free access to the web.
174. Despite the Internet's potential and its role in amplifying the voices in the public debate, the IACHR noted with concern reports that must be investigated of alleged State measures that could curtail freedoms on the Internet. According to the information provided by a variety of actors, these actions are taken based on subjective criteria rather than objective,

¹¹⁵ IACHR, Protest and Human Rights, OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, para. 208.

legitimate, and transparent parameters, as required by international human rights standards.

175. The Commission notes that the majority of actors interviewed during the visit said the digital conversation was growing increasingly important. They also said that the Internet is a crucial platform for public discussion and expressed fears that some speech incentivized violence or could be used as a basis for making decisions about the Internet that take the voice away from those who wish to express themselves on matters of public interest. The IACHR takes note of a general perception of possible excesses and censorship of speech on the Internet that increase anxiety to ensure that one's own voice is the only relevant one. This anxiety affects dialogue and has the potential to affect both institutional voices and civil society, regardless of their stance on the protest.
176. In this regard, the IACHR received information on "cyber-patrols" aimed at proactive monitoring of allegedly false content on the course of the protests, content disparaging security forces, and content intended to instigate hate amongst the public. The aim of these measures is to determine what information is false or true, thereby combating alleged "digital terrorism" activities that could exacerbate the violence. During the visit, the State reported that 21,675 hours of cyber patrolling had been conducted and that they had identified at least 154 pieces of false news and more than 2,300 posts containing threats to life or physical safety.¹¹⁶
177. In this regard, the Commission notes with concern that the security forces are establishing for themselves the authority to fact check information, classifying content as either true or false. This is especially worrying when the majority of the information they are classifying has to do with the actions of security forces.
178. In this context, the IACHR calls on them to stop classifying content, instead providing more information on the subject, so as to avoid engaging in censorship. As the Office of the Special Rapporteur indicated in its Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts, it is clear that the deliberate spread of false information impoverishes the public discourse and makes it more difficult for citizens to exercise their right to receive information from a variety of sources.¹¹⁷
179. The Commission also received complaints from authorities regarding persons who post information containing, by their standards, messages of "hate" or "incitement to violence." The IACHR urges authorities to file the corresponding criminal complaints in these cases so investigations can move forward.
180. Additionally, the Inter-American Commission is concerned at the repeated allegations of profiling of persons using social media, whether or not they participate in the protests.

¹¹⁶ Written Report of the State to the IACHR. June 8, 2021. Pg. 64.

¹¹⁷ OAS, Guide to guarantee freedom of expression against deliberate misinformation in electoral contexts, OEA/Ser.D/XV.22 OEA/Ser.G CP/CAJP/INF.652/19, pg. 18.

Generic classification using terms such as "terrorism," "vandalism," or "criminals" stigmatizes demonstrators, fostering an environment that is hostile to the exercise of the right to protest and freedom of expression on the Internet. The Office of the Special Rapporteur for Freedom of Expression has indicated that criminal sanctions for the dissemination of allegedly false information could roll the region back to a time of criminalizing expression regarding officials or matters of public interest and establishing a tool with a significant chilling effect on the dissemination of ideas, criticism, and information.¹¹⁸

181. Likewise, civil society organizations reported concern at alleged cuts to Internet service in the context of protests. According to these reports, this caused a situation that impeded reporting on the actions of security forces and reduced opportunities for public scrutiny. The reports received indicate both the possible use of technology to inhibit or restrict Internet access and the blocking of two websites (URLs) on the Internet containing information about the protests.
182. Regarding this issue, the Office of the Special Rapporteur has held that mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure that can only be justified in accordance with international standards, for example where necessary to protect children against sexual exploitation.¹¹⁹
183. The IACHR recommends that these restrictions on access to networks, services, and content over the Internet, both through the use of technology with the capacity to interrupt regular access and through decisions to restrict access to content, must be established by law; pursue an aim that is legitimate, necessary, and strictly proportional to the aim sought; and be subject to judicial oversight.
184. The IACHR calls on the State to proactively and regularly provide information on the functioning of the Internet so that complaints about possible interruptions and blocks can be compared to technical, up-to-date, and accessible information. It likewise recommends that authorities refrain from assigning classifications that are stigmatizing or tend toward criminalizing those who express themselves about the protests over the Internet.

¹¹⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. April 18, 2020. [Press Release R78/20. IACHR and its RELE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic.](#)

¹¹⁹ United Nations (UN) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 1, 2011. [Joint statement on freedom of expression and Internet.](#)

VII. Recommendations

Based on its observations and in view of the norms governing the inter-American human rights system—in particular the American Convention on Human Rights—the IACHR issues the following recommendations to the State of Colombia:

General recommendations

1. From the highest levels of the State, promote and strengthen a national process of genuine dialogue, with a territorial focus, to listen to all sectors, especially those sectors that have been most affected by historic, social, and structural discrimination the country.
2. Take measures to strengthen citizen trust in the State by enhancing the practical and effective independence of the branches of government and oversight entities.
3. Strengthen the guarantee and protection of ESCERs, particularly the rights to health, food, education, work, and social security, with a focus on equality and nondiscrimination, citizen participation, and accountability that fosters social inclusion and the creation of opportunities.
4. Adopt the provisions necessary to guarantee the lives, integrity of person, and safety of each and every person who entered into dialogue with and testified to the Inter-American Commission during its visit. Likewise, refrain from retaliating against them and/or allowing retaliation against them by third parties.

General recommendations on the right to social protest

5. Respect and guarantee the full enjoyment of the rights to protest, to freedom of expression, to peaceful assembly, and to participate in politics for the entire population.
6. Promote the inter-American standard according to which public officials have a duty to refrain from making statements that stigmatize or incite violence against persons who participate in demonstrations and protests, especially young people, indigenous peoples, persons of African descent, women, LGBTI persons, and human rights defenders.
7. Draft and enact a statutory law regulating the scope and limitations of the right to protest in Colombia, in accordance with the rulings of the Supreme Court and pursuant to international standards on the subject.

Recommendations on excessive and disproportionate use of force during protests

8. In the context of protests and demonstrations, execute security operations in strict adherence to protocols on legitimate use of force and in compliance with the principles of legality, absolute necessity, and proportionality established in international standards. Likewise, take the measures necessary to immediately cease the disproportionate use of force by security forces in Colombia in the framework of social protest.
9. Ensure that the priority of the security forces that intervene to protect and control demonstrations and protests is to defend lives and integrity of person, abstaining from arbitrarily detaining demonstrators or violating their rights in any other way, in accordance with current protocols.
10. Ensure that the use of nonlethal means of controlling public order are subjected to strict protocols that prevent and punish their use in ways that gravely affect the health and safety of demonstrators.
11. Immediately implement mechanisms to effectively prohibit the use of lethal force during public demonstrations.
12. Strengthen and restructure the training processes for persons forming part of State security bodies, including by adding an ethnic-racial and gender focus, as well as a focus on the rights of persons with nonnormative sexual orientations and identities in order to consolidate the broadest possible understanding and respect for their right to freedom of expression, proper and legitimate actions in the framework of protests, and exceptions and limitations on the use of force.
13. Take urgent measures in terms of training, use of action protocols, and creation of mechanisms of accountability to ensure the ESMAD plays the role of guaranteeing public order and the exercise of the right to protest and limiting its actions only to cases where strictly necessary.
14. Separate the National Police and its ESMAD from the Ministry of Defense to ensure a structure that consolidates and preserves security with a focus on citizens and human rights and prevent all possibility of military perspectives.
15. Adopt the measures necessary to ensure accountability for State security forces by impartially, exhaustively, and quickly investigating reports of human rights violations, and prosecuting and punishing those responsible. Likewise, provide reparations for victims and their families.
16. Standardize data on persons who died and who were injured, detained, disappeared, and exposed to gender-based violence as a consequence of social protests, ensuring it is transparent, up-to-date, clear, concise, and coordinated with the information provided by civil society. The registry must provide specific

data disaggregated by ethnicity-race, age, sex, sexual orientation and gender identity and/or expression. It also must provide basic information on actions to redress the damage caused, including the State's guarantee that those who need comprehensive healthcare are able to receive it free of charge.

17. Urgently provide and coordinate programs for providing comprehensive reparations to victims, especially in cases in which State security agents have committed acts of sexual violence as a mechanism of torture and caused ocular trauma with the purpose of exercising control over demonstrators. These programs must be national in their coverage; comprehensive; based on a gender approach; intercultural and intergenerational; and meet the psychosocial and mental health needs of victims, families, and communities in general.

Recommendations regarding gender-based violence

18. Adopt the measures necessary to strengthen mechanisms of access to justice for women, girls, and LGBTI victims of gender-based violence in the context of social protest, including mechanisms for reporting, addressing, investigating, and providing reparations from an approach that is differentiated, proximate, and provided by specialized personnel.
19. Strengthen the traditional mechanisms for responding to gender-based violence by adopting alternative channels of communication and strengthening community networks to expand opportunities for complaints and orders of protection.

Recommendations regarding violence based on ethnic-racial discrimination: Indigenous Peoples, People of African Descent, and Tribal Communities

20. Adopt all reasonable and positive measures necessary to prevent, eliminate, and reverse or change discriminatory situations that perpetuate stigmatization, prejudice, intolerance, and criminalization against persons for their ethnic-racial origins, gender identities, migratory status, national origin, or any other situation, to the detriment of their human dignity.

Recommendations on the use of protective transfers and the disappearance of persons

21. Take the measures necessary to restrict the use of protective transfers to situations of circumstantial or permanent helplessness or vulnerability of persons, in accordance with the National Code on Policing and Citizen Coexistence. Likewise, refrain from generalized use of this measure in the framework of protests and demonstrations.
22. Guarantee the right of due process to persons who have been detained in the framework of the protests.

23. Ensure that the relatives of detained persons and, where applicable, their legal representatives have access to all information on the detention process.
24. Conduct an independent and individualized review of all the charges filed against persons arrested and detained during protests.
25. Immediately release those who have been detained arbitrarily or without justification yet are still deprived of liberty.
26. Establish a special commission for locating the whereabouts of persons who remain missing, in which the participation of their relatives is guaranteed.

Recommendations on the use of disciplinary authorities

27. Adjust the domestic legal framework to ensure that the Office of the Procurator General of the Nation cannot prosecute elected authorities or punish them with removal from office or prohibition from serving in government, in keeping with inter-American standards on the subject

Recommendations regarding military assistance and the use of military courts

28. Guarantee that maintaining domestic public order and citizen security is primarily reserved for civilian security forces.
29. Ensure that, if the military's participation in security work is needed, it is provided on an extraordinary basis, subordinate and complementary to the work of civilian bodies. Likewise, it must be regulated and monitored by competent, independent, and technically capable civilian bodies.
30. Amend Decree 575 of 2021 in order to ensure that intervention by Armed Forces is compatible with international law on the subject.
31. Ensure that military courts are only authorized to prosecute active-duty soldiers for committing crimes or infractions that, due to their nature, impact legal interests specific to the military.
32. Adopt all measures necessary to ensure that the ordinary justice system is the forum with jurisdiction to investigate and, where applicable, prosecute and punish those who commit human rights violations.

Recommendations on impacts to the rights of third parties and public property during the protests

33. Investigate and, where necessary, prosecute and punish—with all due process guarantees—those responsible for crimes committed in the framework of the protests.

Recommendations regarding roadblocks

34. Refrain from placing blanket and *a priori* prohibitions on roadblocks as modalities of protest.
35. Approach potential restrictions to this modality of protest based on specific considerations, as long as such restrictions strictly adhere to the principle of legality, pursue a legitimate aim, and are necessary in a democratic society.
36. Establish a permanent mechanism for dialogue in the structure of the State, comprising negotiators trained in conflict mediation and with the capacity necessary to conduct transparent and voluntary dialogue processes that incorporate local authorities—such as governors and mayors—to address the particularities of the territories.

Recommendation on the protection of journalists, freedom of expression, and access to the Internet

37. Guarantee the exercise of the right to freedom of expression pursuant to Inter-American standards, particularly through the protection of journalists, communicators, and media workers from persecution, intimidation, harassment, aggression of all kinds, and by halting State actions that interfere with the free functioning of media outlets.
38. Guarantee respect for the independence of the media and refrain from applying direct or indirect forms of censorship.
39. Proactively and regularly provide information on the functioning of the Internet so that complaints about possible interruptions and blocks can be compared to technical, up-to-date, and accessible information.
40. Halt police activities to classify content as "false" or "true" and refrain from assigning stigmatizing classifications or classifications that tend to criminalize those who express themselves over the Internet regarding the protests.

Recommendations on medical missions

41. Recognize the importance of the work done by medical missions in performing their humanitarian work in the framework of protests by guaranteeing enhanced protection for them so they can provide health support unimpeded to everyone without discrimination and without fear of reprisals or sanctions.
185. Lastly, the Commission warns of the human rights challenges that could arise in future social mobilizations. The State of Colombia and society as a whole have the unique opportunity to reverse the current situation to usher in a new phase of citizen

participation. It can do so through effective and inclusive dialogue to address the legitimate demands of the population, with the highest respect for human rights and within the democratic framework of the rule of law.

186. To this end, the Commission urges the State to support, from the most senior levels of the State, a process of multidimensional dialogue and reconciliation making it possible to deactivate the tensions and hostilities latent in Colombian society and build trust in State institutions.
187. The IACHR will continue to monitor the course of the social protests while expressing its broadest availability to provide technical assistance to the State for following up on the recommendations, for which purposes it announces the establishment of a Special Monitoring Mechanism for Human Rights in Colombia to contribute to consolidating peace across the different sectors of society.

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THE SITUATION OF HUMAN RIGHTS IN COLOMBIA

2018-2022

REPORT OF INTERNATIONAL
COORDINATION GROUPS AND
ORGANIZATIONS FOR THE UNIVERSAL
PERIODIC REVIEW OF
COLOMBIA 2023



THE SITUATION OF HUMAN RIGHTS IN COLOMBIA 2018-2022

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INTRODUCTION

This shadow report has been prepared by an ad hoc coalition of 67 international organizations for the Universal Periodic Review (UPR) of Colombia taking place in 2023. On 1 March 2023, the report was handed over to the Office of the High Commissioner for Human Rights, as part of this process.

The report contains an update on the human rights situation in Colombia between 2018 and 2023, five years of significant political change. During this period there have been three different governments: the last months of the Santos Government (2010-2018), the Duque Government (2018-2022) and the first months of the Petro Government (2022-2026). These years were also marked by the Covid-19 global pandemic, which affected all aspects of life and society in Colombia, and in particular, the human rights situation.

The global panorama of human rights in Colombia, including the situation of internal armed conflict and different peace processes, has not been encouraging in the last five years. After a reduction in rates of violence in the years 2012-2016, figures for the human rights situation and conflict-related violence worsened once again.

In 2018, Colombia received numerous recommendations to urgently implement the Final Peace Agreement signed with the FARC-EP in 2016, to avoid repetition of the conflict and human rights violations. The process under the Santos government had been slow, but in the period of the Duque Government it completely stalled. The areas left by the FARC-EP were occupied by other armed groups and the conflict entered a new phase, once again leaving hundreds of thousands of victims of forced displacement, confinement, anti-personnel mines, selective killings, forced recruitment, forced disappearance, kidnapping and sexual violence in the context of the conflict.

It was within this context, that the Covid-19 pandemic arrived in rural, small-scale farming, Afro and indigenous populations. The lack of State response to the needs caused by the pandemic dramatically worsened the situation of poverty and access to health, education, decent employment and food. Added to this situation were serious human rights violations related to social protest and police abuse.

In the midst of such a precarious situation, Colombian people have reported, investigated and sought justice and the satisfaction of their rights. Human rights defenders have been threatened, killed and attacked, year upon year during this period. Tragic records for the numbers of attacks and killings of human rights defenders have been broken. Most of these crimes remain unpunished.

Despite governmental obstacles to the implementation of the Final Peace Agreement, some progress has been made, offering glimpses of light in the darkness: the Truth Clarification Commission produced and published its final report, the Special Peace Jurisdiction was able to issue its first resolution and some of the perpetrators acknowledged their crimes and apologized to the victims of the conflict.

The Petro Government has announced and shown its political will and commitment to the full implementation of the Final Peace Agreement with the FARC-EP, has initiated new processes of dialogue with armed groups to work on the end of the conflict, has initiated social reforms and has made environmental protection and social justice a priority.

The UPR is an opportunity to accompany and encourage these efforts and to highlight any gaps. The international community must use this historic window of opportunity for peace and human rights in the country. These efforts should be supported, through active participation in the UPR, cooperation with Colombia, bilateral relations and multilateral fora.



Bogota DC, July 2019. Myrto Hatzigeorgopoulos (@MyrtoHV)

PEACE AND ARMED CONFLICT



Sumapaz Paramo, 2020. Myrto Hatzigeorgopoulos (@MyrtoHV)

Implementation of the 2016 Final Peace Agreement

1. At the end of term of the Government of Iván Duque (2018-2022) only 30% of the provisions of the 2016 Final Peace Agreement (FPA) had been implemented. Another 19% of the provisions were at an intermediate implementation stage and 37% had only been minimally implemented. Implementation of 15% of the provisions had not begun¹. The current Government of Gustavo Petro announced in August 2022 its unrestricted commitment to the comprehensive implementation of the FPA and, to making progress in the short and medium term with the implementation of the lagging provisions.
2. Point 1 of the FPA, Comprehensive Rural Reform, has been the least implemented, although inequality in land tenure and uncertainty over land ownership has been one of the structural causes of armed conflict

in Colombia. Land access and use have been affected by the low allocation of hectares from the Land Fund.

3. The Development Programmes with a Territorial Focus (PDETs in Spanish) (1.1 in the FPA) have not been linked to the National Plans for Rural Reform established under point 1 of the FPA. The Territorial Action Plans have seen partial progress and there are imbalances, in terms of participation in these initiatives and coordination with other public policy instruments². Problems with the PDETs include the lack of knowledge and understanding of the implementation Road Maps and the overly technical language for communities and local authorities, placing the viability and sustainability of the programmes at risk. Various local stakeholders have described feeling excluded from the process and have called for greater inclusion in the implementation of the PDETs³.
4. In the period 2018-22, in relation to Point 1 of the Final Peace Agreement, the National Formalization Plan was non-existent and there was a clear decline in Peasant Reserve Zones, as well as in land formalization instruments such as the Social Plans for Rural Property, the Registry of Persons for Land Reclamation and the updating of the Cadastre.
5. In relation to the provisions established in Point 2 of the FPA, Political Participation, in the 2018-22 period, progress has been achieved regarding the Statute of the Opposition, the election of representatives to the Special Transitional Peace Constituencies (2.3 of the FPA) and the implementation of the Territorial Peace Councils. However, there have been significant delays in implementing security guarantees, including the ineffectiveness of the Comprehensive System of Security Guarantees for the Exercise of the Policy (2.1 of the FPA). This is one of factors influencing the high numbers of attacks on people who represent critical voices and opposition to the status quo.
6. In relation to the provisions of Point 3 of the FPA, End of the Conflict, the reincorporation of FARC-EP members has seen significant progress. Although the National Reincorporation Council (CNR in Spanish) and the Territorial Reincorporation Councils (CTR in Spanish), established by the FPA, were created during the period evaluated, these bodies have faced several obstacles to reincorporation⁴ Decree 1523 of 2017 defined the functions of the CNR⁵, prioritizes coordination with the Common Solidarity Economies (ECOMUN) and therefore causes tension, as some sectors of former combatants believe the reincorporation should not be linked to the COMUNES Party.

7. The National Reincorporation System (SNR in Spanish) has yet to be implemented as an institution promoting the access, suitability and sustainability of the plans and programs defined for the implementation of the reincorporation process. To date, there are 181 cooperatives throughout the country, where 1,800 women are members. Around 100 women play a leadership role in 35 cooperatives⁶.
8. The insecurity of former combatants is worrying, with evident deterioration between 2018 and 2022 that may jeopardize the sustainability of the peace process. As of January 2023, 355 former FARC-EP combatants had been killed⁷. This lack of security continues to affect at least 15 reincorporation zones.

Transitional Justice

9. In relation to the provisions of Point 5 of the FPA, Victims of the Conflict, the bodies in the Integral System of Truth, Justice, Reparation and Non-Repetition (SIVJNR in Spanish), composed of judicial and extra-judicial bodies, were launched in the 2018-22 period⁸. However, the level of implementation of their mandates was varied.
10. While the entities of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition (SIVJRNR) such as the Commission for the Clarification of the Truth (CEV), the Special Jurisdiction for Peace (JEP) and the Search Unit for Missing Persons (UBPD) effectively began their mandates after the signing of the agreement, other restorative elements covered by the Final Peace Agreement, for example guarantees of non-repetition, comprehensive reparation and the implementation of the National Human Rights Action Plan (5.2 of the FPA) and its ethnic chapter have not made significant progress.
11. The Duque administration caused delays in its implementation and effectuated budget cuts that affected the operation of the entities of the SIVJRNR like the CEV, and delays generated by objections to the law approved by the Colombian Congress on the operation of the JEP⁹.
12. The SIVJNR must be implemented in its entirety and needs the support and recognition of the international community.
13. The Commission for the Clarification of Truth, Coexistence and Non-Repetition (CEV in Spanish) ended its mandate in June 2022 with the presentation of its final report. Among its findings, the report concluded¹⁰ that between 1985 and 2018, 450,664 people were victims of homicide, 121,768 people were forcibly disappeared, 50,770 were

victims of kidnapping (1990 -2018), and 16,238 children and adolescents were victims of forced recruitment (1990-2017). A Monitoring Committee has been established to monitor the implementation of all the recommendations in the report.

14. The Special Jurisdiction for Peace (JEP in Spanish) has opened, to date, 10 macro cases to date. In the macro case number 8 of crimes committed by the security forces, other State agents, paramilitaries and third parties, the JEP accredited a figure of 72,492 victims; of these, it attributes to the state security forces force 8,345 homicides, 1,249 cases of torture and 2,904 cases of forced disappearance¹¹. It is urgent to move forward with the opening of the macro-case on sexual violence in the JEP.
15. In November 2022 the JEP recognition chamber presented the first conclusions in case 01 (hostage taking committed by the FARC). Seven former guerrilla leaders admitted to the court that they committed 21,396 kidnappings¹².

Situation of the armed conflict – violations of IHL

16. There was evidence of an upsurge in violence related to the armed conflict between 2018 and 2022¹³. According to the ICRC, 6 armed conflicts persist in the country affecting the civilian population: figures on forced displacement, victims of anti-personnel mines, confinement, recruitment of minors and sexual violence have increased in the last year. According to Indepaz, 94 massacres occurred in 2022¹⁴.
17. In the period examined, the departments most affected by violations of IHL were Cauca, Valle del Cauca, Norte de Santander, and Naríño. However, in some of the semesters during the reporting period, figures from the departments of Meta, Guaviare, Antioquia and Arauca were also high.
18. According to CINEP/PPP data, 4 torture cases were registered in the first half of 2018, 3 in the second half of 2018, 20 in the first half of 2019, 3 in the second half of 2019, 1 in the first half of 2020, 1 in the second half of 2020, 5 in the first half of 2021, 2 in the second half of 2021 and 2 in the first half of 2022.
19. Of particular concern are indiscriminate bombings that killed at least 29 children and adolescents between 2019 and 2021 alone¹⁵.

Enforced disappearance*PBI Colombia*

20. In its final report, the CEV estimates that at least 121,768 people were victims of this heinous crime in Colombia¹⁶.
21. The creation of the Search Unit for Missing Persons (UBPD in Spanish) one of the entities in the SIVJNR, represented a considerable step forward in the investigation and location of victims. However, the UBPD's progress was slow in the period under review¹⁷.
22. Despite progress in the investigation of cases and the identification of remains and of victims of enforced disappearance, in the period under review and up to the present there have been multiple reports of disappeared persons and there are still inconsistencies in the legal framework and institutional responsibilities¹⁸.

Extrajudicial killings

23. During the period under review, numerous cases continued to be reported of killings by law enforcement officers, that in several cases could amount to extrajudicial killings¹⁹. The United Nations documented at least 198 arbitrary deprivations of life by the police and military forces between 2018 and 2022²⁰. In March 2022, eleven people were executed in a military operation in Putumayo²¹.
24. There are concerns about high levels of impunity in cases of extrajudicial killing, including "false positives". According to the Public Prosecutor's Office, 1,749 people have been sentenced in relation to cases of extrajudicial killings perpetrated between 2002 and 2009²². The JEP verified 6,402 "false positives" between 2002 and 2008 alone²³. The CEV estimates that there were 8,208 extrajudicial killings between 1978 and 2016²⁴.
25. Between 2018 and 2019, the Army Command issued several guidelines to increase the number of combat casualties, reproducing previous patterns that had encouraged extrajudicial killings in the form of "false positives". One of the orders was entitled "Setting objectives". It required military units to define concrete targets for the number of combat casualties, captures, surrenders and attacks. They were also ordered to report the results achieved for these categories. Another guideline known as "Fifty Command Orders" of 19 February 2019 ordered military operations to be launched "with 60% – 70% credibility and accuracy" on the target under attack²⁵.
26. To some extent, the guidelines replicated patterns in past policies that led to so-called "false positives" – the systematic execution of thousands of civilians by members of the military forces who were subsequently presented as "Enemies killed in combat". These policies also included the order to evaluate the performance of military units based on the number of alleged combat casualties. At the same time, each supposed combat casualty was rewarded with monetary rewards, extra days off or prizes.
27. After strong criticism some of the guidelines were changed²⁶.

Peace talks

28. During the Duque administration, peace talks were not resumed between the government and the National Liberation Army (Ejército de Liberación Nacional – ELN) after the government broke off negotiations with the guerrilla group in 2019 following a car bomb attack²⁷.
29. During the period under review, the lack of a dialogue process with the ELN guerrilla meant that progress could not be made on the recommendation to reach a humanitarian agreement to protect the civilian population in conflict zones or to ensure a satisfactory political solution to the conflict, paying special attention to the situation of children and adolescents²⁸.
30. The current Government has shown willingness to move forward with the implementation of the Peace Agreement and initiate processes of dialogue and negotiation with different armed groups²⁹.
31. Negotiations with the ELN resumed in November 2022³⁰. It is considered that the implementation of the FPA, the resumption of negotiation processes with armed groups, in particular the ELN, and the implementation of the Total Peace policy, can build the foundations for a reduction in human rights violations and violations of IHL in Colombia³¹.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Business and human rights

32. Colombia remains a high-risk country for human rights defenders working in business contexts. According to the Business and Human Rights Resource Centre, between 2020-21 alone, there were 58 attacks against human rights defenders who raised concerns about business operations, particularly in the oil, gas and coal sectors³².
33. Although Colombia is part of the OECD, there are no legal mechanisms in the country that force companies to be held accountable before the courts for violating human and environmental rights in the course of

their activities, products or services and there are no instruments for effective reparation to individuals, communities or territories³³.

34. On the contrary, by taking advantage of instruments that protect foreign investment, multinationals can circumvent rules or undermine judicial independence, even to influence labour rulings or rulings to protect the environment and the rights of peasant and ethnic communities. Between 2018 and 2021, mining companies and oil companies have brought seven (7) arbitration processes against Colombia, in response to actions in favour of the environment (banning operations in Protected areas) or the rights of ethnic communities. The Cerrejón coal mine (part of Glencore) is a case in point. See the case of Arroyo Bruno in the Amicus Curiae in the process of complying with orders issued in judgment SU-698 of 2017³⁴.
35. In its final report, the CEV recognizes the need to regulate companies' operations by adopting a legal framework and policies that impose a due diligence obligation on companies to prevent, mitigate and remedy human, environmental and territorial rights violations related to business and business activities³⁵.

Free, prior and informed consultation

36. During the period examined, several extractive megaprojects were reportedly implemented without having effectively complied with the obligations resulting from the fundamental right to prior consultation in the Colombian Constitution³⁶.



Upper Negro river basin, Amazon, Jupda, 2013. Juan Pablo Gutierrez



PBI Colombia

Right to water

37. In December 2022, the Colombian Minister of Housing stated that more than three million people did not have access to drinking water and that the water situation was critical throughout the country³⁷. This declaration confirms data from civil society over many years reporting that the economic development model puts access to water at risk due to the privatization of water and sewerage sources and services, and extractive and agribusiness projects³⁸.

Right to food

38. Colombia suffers from serious violations of the right to adequate food and nutrition³⁹. National data indicates that: 54.2% of households experience food insecurity⁴⁰; 10.8 per cent of children under five have stunted growth⁴¹; and 24.4% of schoolchildren and 56.6% of adults are overweight⁴². In addition, breastfeeding figures are far from levels established in international recommendations⁴³.

39. Hunger was a trigger for the social protest of 2021. However, the Colombian State did not implement adequate measures and instead strengthened its alliances with the food industry (responsible for much of the malnutrition in the country); opposed measures by social organizations in favour of public health and food; and even went so far as to demand that international agencies be complicit in its denial of the existence of hunger⁴⁴. Particularly the warning labeling on ultra-processed edible and drinkable products, the tax on sweetened beverages and the

control of advertising of ultra-processed edible and beverage products targeted at children. Only the first two managed to become laws despite the fierce opposition of the previous government and industries.

40. The current Petro government seeks to implement an urgent plan to fight hunger. The guiding document for this has not yet been made public.

Right to land and territory

41. Colombia continues to be the country with the highest inequality in land tenure in the region with a Gini Index of 0.869. 52.7% of land tenure is informal and only 36.3% of single-owner properties are owned by women. In Colombia, the dispute over land and the lack of it for peasant farmers has been one of the main causes of the armed conflict, becoming a challenge for peacebuilding. Colombia needs to advance on issues of restitution, formalization and access for those who do not have land or have insufficient land, which implies advancing on equality and on agrarian reform. The concentration of land in Colombia is the most unequal in Latin America given that 1% of the population in Colombia owns 81% of the land.⁴⁵

42. During the period under review, Colombia abstained from voting in favour of United Nations Declaration on the Rights Of Peasants and other People Working In Rural Areas, despite requests from peasant organizations⁴⁶. Nor did it make progress in adopting national legislation on public policy for peasant farmers⁴⁷. Nor did it make progress to advance the Agrarian Jurisdiction, a provision of the FPA that seeks to resolve conflicts over land.

Land restitution

43. In terms of land restitution, of the almost 7 million hectares dispossessed from peasant families and ethnic territories according to the Land Restitution Unit, between 2011 and 2021⁴⁸, 138,958 restitution applications were submitted. However, only 34,833 were approved by the Restitution Unit, that is, only 35%. In the period examined, the State failed to comply with its policy of restitution of collective territories, violating the rights of ethnic peoples to reparation.

44. As of August 2022, the Land Restitution Unit reported that 125,047 indigenous families and 98,855 black families claiming land are part of 678 ethnic restitution cases. Of these cases, 42% are in the Pacific, the majority in the department Chocó (132) and where 20% of the national ethnic restitution is located. Of the 5,296,446.60 hectares that



Farmer, Mario Alvear, Fundación Chasquis para Comundo.

are included in the Registry of Forcibly Dispossessed and Abandoned Lands, only 6.9% (365,101.90 hectares) have been returned in more than ten (10) years of the validity of Decrees 4633 and 4635 of 2011. The slowness with which the processes are progressing includes 422 cases that are stalled at the administrative stage and only 28 cases that have reached post-judgment, showing a systematic non-compliance with court orders.

45. According to the Land Unit, as of February 2022, 10,130 individual properties and 22 ethnic territories (538,212 hectares) were returned after sentencing, benefiting 78,300 people, however, only 40% of these properties have been effectively returned. Under these rulings, 72 companies, including multinationals, palm growers, banana growers, cattle ranchers, mining companies and banks, have been ordered to return dispossessed land. However, the land remains fundamentally in the hands of these companies and certain individuals.
46. Families whose land has been returned face difficulties, due to a lack of guarantees to remain on their lands. Armed groups that exercise control of their territories, organizations and lives, mean that it is difficult to remain in their lands. On other occasions they are forced to sell the land after recovering it, a situation that has led to new modalities of dispossession and displacement⁴⁹.
47. The challenge for the current government is to advance in the effective restitution of land, and to guarantee that people whose land is returned have conditions and full guarantees for the return to their territories.

It is urgent to advance in the restitution of collective territories, in particular, and in general, in the fulfilment of reparation measures for ethnic peoples stipulated by Colombian law.

HUMAN RIGHTS SITUATION

Human Rights Defenders

48. In the period under review, the security situation for human rights defenders has deteriorated. High rates of murders and aggressions⁵⁰ continued to be perpetrated against this group, seriously affecting civic space, but also collective rights (freedom of association, expression, assembly and demonstration).
49. Human Rights organizations ask for progress on the application of collective protection measures. There are recent regulations that specifically address this issue (i.e., Decree 2078/2017 and 660/2018) but their proper implementation is notoriously precarious. Ministry of the Interior Decree 660 of 2018, which is a result of the FPA and regulates collective protection, was not implemented or insufficiently implemented in the period examined. This has been a missed opportunity to improve collective protection.
50. The implementation of reactive and material protection measures persists, which do not enable the strengthening of territorial community protection practices⁵¹, nor measures to prevent, protect and guarantee the exercise of the right to defend human rights⁵². An example of this was the disproportionate and violent response to social protest in 2019 and 2021.⁵³
51. The protection measures provided by the State through the National Protection Unit (UNP in Spanish) are insufficient. There were reports that UNP personnel responsible for the protection of human rights defenders were involved in attacks (surveillance and monitoring) against protected persons⁵⁴.
52. Attacks on human rights defenders persist due to structural impunity. Case results presented by the Public Prosecutor's Office only offer a limited view of this situation, as they do not show convictions but only cases where there is some investigative progress. In almost all cases, if there is a conviction, it is of a material author. Around 90% of killings of

defenders are committed using hired assassins, so it is important to advance in investigations into the intellectual authors of these crimes. The Public Prosecutor's Special Investigation Unit, created under the FPA, has made partial progress in cases of assassinations of social leaders and former FARC-EP combatants, but has not fully fulfilled its mandate⁵⁵.

53. The current Government's statements and actions on defenders are positively valued. It is important to highlight the multiple messages rejecting attacks against defenders as well as public policy actions on this issue⁵⁶.
54. Justice operators, including judges and lawyers, have historically been victimized, stigmatized, and pressured by state and non-state actors⁵⁷. Justice operators were also killed during the reporting period⁵⁸.
55. The state protection system is often inadequate in providing effective protection to defenders at risk. In particular, it stands out that measures for people from indigenous or Afro-Colombian communities do not usually integrate ethnic perspectives. In addition, there is insufficient coordination between state protection and ethnic self-protection mechanisms, such as indigenous guards and they lack recognition.
56. During its visit to Colombia, the VII International Caravan of Jurists (VII Caravan) also received reports about protection agents involved in threats, surveillance and sexist actions against protected persons⁵⁹.

Access to justice

57. The CEV final report recognizes the problems of access to justice for citizens living in rural areas⁶⁰.
58. In its last visit to Colombia, the VII Caravan of Jurists identified gender as another factor negatively affecting access to justice. It therefore recommends strengthening mechanisms for access to justice for women and children, particularly in cases of sexual and land-related violence⁶¹. The intention to open of Macro Case 11 by the JEP is welcomed, as it opens up the possibility for the victims of these crimes to access justice.
59. It is important to highlight that the criminalization of lawyers represents another barrier for their clients to access to justice. The VII Caravan identified multiple cases of stigmatization, surveillance and abusive detention of legal teams accompanying demonstrators during social protests in 2021⁶².

Independence of the judiciary

60. The justice sector in Colombia, particularly criminal justice, has been characterized by structural weaknesses, including vulnerability to State interference, high levels of corruption by justice operators, and lack of impartiality of judges. During the period under review, these structural problems worsened⁶³.
61. In its final report, the CEV partially addresses the problem of the independence of the justice system, recommending in particular the modification of the mechanisms for electing the Public Prosecutor⁶⁴. The CEV does not address the problem of the impartiality of judges and prosecutors in a structural way⁶⁵.
62. During its last visit to Colombia, the VII Caravan heard cases of transfers of prosecutors when their rulings affected influential economic actors⁶⁶.

Trade unionists



Bogota DC, July 2019. Myrto Hatzigeorgopoulos (@MyrtoHV)

63. Trade unionists have continued to be the targets of threats and murder in the period under review. Their security situation remains precarious, despite the emergency plan announced by the new government, to protect the lives of social leaders, reflecting the complexity of achieving long-lasting change in the country.
64. According to the International Trade Unions Confederation (ITUC) index, published in the first half of 2022, Colombia remains the most dangerous country in the world to be a trade unionist, recording the lowest score of “no guarantee of rights”. 13 murders, 6 murder attempts 99 death threats were recorded in 2021⁶⁷.
65. Colombia continues to have critically low rates of worker organization compared to rates in other countries in the region: in Colombia there is 4% union membership with 6,000 registered organizations of which less than 60% are active, and with 80% having less than 100 workers⁶⁸.
66. The Government currently is preparing labour reforms that could lead to improvements in labour rights. The proposal covers night-time pay, wage equality between men and women, elimination of precarious contracts and improved job stability.
67. It should be noted, however, that Colombia is a country with deep social inequality that continues to rise, an unemployment rate of more than 13 percent, and a formal employment rate of only just over 50 percent. There remains a huge challenge to pursue full employment with respect for the conventions of the International Labour Organization and its concept of ‘decent work’.

Journalists and freedom of the press

68. Between January and October 2022, FLIP documented 582 attacks on journalists, communicators and media outlets in Colombia. Most correspond to threats, harassment and physical aggression, obstructions to journalistic work and access to information, stigmatization, and judicial harassment. These attacks were mainly committed by public officials, unknown actors, security forces and members of armed groups such as guerrillas, dissidents and paramilitaries⁶⁹.
69. Civil society reports that the Colombian State continues to fail in its mission to investigate those who attack the press, which is an indispensable step to prevent other aggressions, such as homicides.
70. The 2022 elections and the subsequent change of government in Au-

gust 2022 caused new tensions and polarizations between the Government, the press and the public, which have been demonstrated by stigmatization of the press by public officials, an increase in citizens’ distrust in the media, and the proliferation of false or unreliable information through informal channels such as social networks and WhatsApp, among other factors.

Social protest



Day 30 National Strike 2021. Popayán, Cauca. Javier Sulé

71. Between 2019 and 2021, Colombia experienced the largest citizen mobilizations in four decades⁷⁰. Repressive and militarized responses and serious violations of freedom of assembly and expression by state agents were reported⁷¹. According to the United Nations⁷² and the Inter-American Commission on Human Rights (IACHR)⁷³, the security forces resorted in a generalized, arbitrary, indiscriminate and disproportionate manner in their use of force against demonstrators, including the premeditated use of firearms⁷⁴.

72. Excessive violence against demonstrators during protests between 2019 and 2021 resulted in 133 killings⁷⁵, 5,379 arbitrary arrests⁷⁶ and 2,607 injuries⁷⁷, as well as hundreds of cases of torture, enforced disappearance, gender-based violence and attacks against journalists and human rights defenders⁷⁸. The high rate of injuries caused by the systematic use of “potentially lethal” weapons fired at point-blank range is of concern⁷⁹.
73. It is worrying that legal provisions restricting freedom of assembly remain in place. The concept of “transfer for protection” enshrined in the Citizen Security Law has been used as a pretext for arbitrary arrests⁸⁰. The “military assistance” established in the Police Code extends the powers of the Military Forces to social protests that constitutionally fall within the competence of the police⁸¹.
74. More than 90 percent of law enforcement abuses remain unpunished⁸². Likewise, neither the 2020 Supreme Court ruling that ordered substantial reforms of the guidelines for the use of force during social protests⁸³, nor the recommendations of the United Nations⁸⁴ and the IACHR⁸⁵ to counter police violence have been implemented.

Illegal military intelligence

75. Between 2018 and 2022, reports of illegal intelligence operations persisted: According to the 2020 Archivos Secretos report⁸⁶, 130 people were victims of profiling and monitoring by the National Army, in order to prepare reports on their professional and private lives: this list included international and national journalists, human rights defenders, trade unionists, judges, and opposition parliamentarians.
76. People documenting the alleged responsibility of the Military Forces in illegal activities, such as extrajudicial killings brought before the JEP, were among those who were profiled and harassed.
77. Espionage activities, with the use of US funds, had already been reported in 2019⁸⁷: one military officer involved stated that he had been ordered to deliver information to a recognized politician from the Centro Democrático Party⁸⁸. Additionally, the “Hombre Invisible” software used for the interceptions was from a Spanish cyber-intelligence company⁸⁹.
78. The purging of intelligence files has long been requested by human rights organizations⁹⁰, as well as structural reform of the Military

Forces⁹¹. The majority of cases of illegal monitoring remain unpunished and those most responsible have not been identified⁹².

Environment and Human Rights Approach

79. From 2018 to 2022, military operations were carried out in the Colombian Amazon and Orinoquía leading to the arrest and prosecution of peasants and indigenous people for the alleged commission of environmental crimes, while the structural causes of deforestation have not been attacked. This is a policy of criminalization and displacement against peasants and ethnic groups under the pretence of fighting against deforestation and climate change.

LGBTIQ+

80. Between 2018 and 2021⁹³, Colombia Diversa has registered at least 1,788 acts of violence against the LGBTIQ+ population. An analysis of the last four years’ annual figures shows an exponential increase in this violence⁹⁴, with 2020 the year in which the most violence against the LGBTIQ+ population was registered⁹⁵.
81. The main reported victims are gay men and trans women⁹⁶, and the departments where the most violence has been registered are Antioquia, Valle del Cauca and Bogotá⁹⁷. Another pattern is a gradual reduction and lack of quality information from State institutions, which has prevented analysis of the patterns of violence against the LGBTIQ+ population⁹⁸.
82. Finally, 90% of cases of homicides, threats and other cases of police violence against LGBTIQ+ persons are under investigation. 47% are inactive⁹⁹. Despite the increase in violence, there are no state security policies that incorporate violence against the LGBTIQ+ population into their analyses¹⁰⁰.

WOMEN'S RIGHTS



Mrs Ana Ligia Mortiz Tenthoff.

Sexual and gender-based violence

83. There were 445 cases of femicide in Colombia from January to September 2022, added to 622 in 2021, 630 in 2020 and 571 in 2019.¹⁰¹
84. Gender-based violence (GBV) includes femicides, threats, sexual violence, attacks, and stigmatization. GBV is aggravated in rural areas due to the presence and control of armed actors, and some women are more vulnerable due to their ethnicity, age, socioeconomic conditions and leadership roles in the defence of rights.
85. Additionally, in areas where there are phenomena of land dispossession, advancing extractive activities and drug trafficking, women are in a situation of greater vulnerability – especially black and indigenous women, and in particular girls and adolescents¹⁰².

Implementation of the Gender Chapter of the Final Peace Agreement

86. The 122 measures related to gender in the FPA¹⁰³ were subsumed into 51 gender indicators for which no targets were set¹⁰⁴. According to the latest Gpaz report¹⁰⁵, as of December 2020, 26% of the measures did not show progress or progress was minimal. The greatest delay in implementation is observed in points 1 and 2 of the FPA: Comprehensive Rural Reform and Political Participation. 40% of the measures are delayed in point 1 and 38% in point 2.
87. In relation to Point 1 of the FPA, Comprehensive Rural Reform, it is worrying that no progress has been made on comprehensive subsidies or in the purchase of land for women, as well as in the recognition of women's land rights.
88. In relation to Point 2 of the FPA, Political Participation, there has been no progress in the protection program for human rights leaders, which has meant that killings have continued. Between 2019 and 2022, 922 human rights leaders were victims of murder, and 13% were women¹⁰⁶.

Women, peace and security (Resolution 1325)

89. At the end of President Duque's government, Conpes 4040 was approved¹⁰⁷, which contains actions aimed at "Strengthening the role of women in the construction of peace and the security agenda in line with Resolution 1325" (our translation). It is noteworthy that the government did not consult with women, ignoring the spirit of participation that forms the fundamental basis of Resolution 1325. Since October 2022, the current government, via the Ministry of Foreign Affairs' Vice-Ministry for Multilateral Affairs and the Presidential Office for Women's Equality, has begun a participatory process for the drafting of the 1325 National Action Plan.
90. On the other hand, a report by Corporación Humanas, which follows up on the implementation of Resolution 1325 during the Duque Government¹⁰⁸, indicates that: 1) sexual violence continued to be a widespread practice used by all armed actors; 2) the parity achieved in the first ministerial cabinet was lost in 2020; 3) there was an increase of 112% in domestic violence between November 2019 and November 2020 due to the measures taken by the Government during the COVID-19 health emergency and 4) These measures also affected the inclusion of women (more than men) in the labour market, with a decrease in their employment rate¹⁰⁹.

IMPUNITY

Impunity of gender based violence

91. In Colombia, there are high levels of impunity in the prosecution of crimes of violence against women, which leave women in a situation of lack of protection, discrimination and inequality in the country. In 2021, according to data from the Public Prosecutor's Office¹¹⁰, of the 82,623 cases of domestic violence reported with women as victims, 16.09% reached the procedural stage of trial, and only 0.8% of cases reached the sentencing stage.
92. In the case of femicides, there are also high levels of impunity, albeit to a lesser extent. In 2021, the Public Prosecutor reported 488 cases of femicide – the Observatorio Femicidios Colombia reported 622 cases¹¹¹. Only 13% of cases resulted in convictions, some 75% of cases remain unpunished.
93. Impunity means a lack of protection for women in situations of violence and shows the inability of the judicial system to respond to women who try to access the system. Impunity, however, cannot be measured merely as the absence of punishment, elements such as obstacles to reporting and access to justice that many women face, as well as the guarantee of measures to prevent and eradicate violence against women must also be taken into account¹¹².

Impunity in transitional justice

94. Under the law applied to the JEP, the definition of command responsibility does not meet requirements established at the international level. In particular, the applicable definition does not include civilian commanders, has a more stringent definition than that adopted by the Rome Statute of the ICC, and applies only if the commander has “current or updatable knowledge” (our translation) of the commission of a crime¹¹³.
95. Finally, the CEV has identified the lack of criminalization under domestic law of war crimes and crimes against humanity, as one of the normative problems that prevent the effective prosecution of serious violations of human rights and international humanitarian law, and therefore recommends that the Congress of the Republic act to ensure that domestic law conforms to the standards of international law¹¹⁴.

NOTES

1 El Espectador: El 37% del Acuerdo de Paz tiene avances mínimos, dice informe del Instituto Kroc, 8 June 2022. <https://www.elespectador.com/colombia-20/paz-y-memoria/informe-instituto-kroc-2022-sobre-implementacion-del-acuerdo-de-paz-en-los-primeros-cinco-anos/>

2 The PDETs must be coordinated with other instruments from the FPA and other national plans, further complicating the interconnection needed, which means that it is important to seek coordination and not only delegate responsibilities. The institutions need to gain the communities' trust, and seek citizen support.

3 According to the Fundación Ideas para la Paz (FIP), a technically focused approach was taken, which helped to create these initiatives through public investment projects that generate goods and services, however, a number of local stakeholders felt excluded from the participation process. *El dilema de los PDET, ¿cómo construir sobre lo construido sin repetir lo mismo?* Notas Estratégicas No. 24 / Febrero 2022. Fundación Ideas para la Paz. FIP.

4 The Comunes political party was originally founded under the name Fuerza Alternativa Revolucionaria del Común (FARC) in August 2017 by former combatants of the Revolutionary Armed Forces of Colombia – Peoples' Army (FARC-EP).

5 Article 2 of Decree 2027 of 2016 which created the National Reincorporation Office. <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=78416>

6 To date, 121 collective projects have been approved, covering almost 4000 people, that is to say 29% of the reincorporating population and 5227 individual projects have been agreed, benefitting around 5800 people.

7 DW: ONU: 355 exguerrilleros FARC asesinados tras firma de paz en Colombia | Las noticias y análisis más importantes en América Latina, 8 January 2023. <https://www.dw.com/es/ONU-355-exguerrilleros-farc-asesinados-tras-firma-de-paz-en-colombia/a-64316052>

8 This is in line with several of the Conclusions and/or recommendations in the Report of the Working Group on the Universal Periodic Review of Colombia during the 39th Session of the United Nations Human Rights Council.

9 BBC Mundo, Objeciones a la JEP en Colombia: la Corte Constitucional rechaza los reparos del presidente Duque a la Jurisdicción Especial para la Paz, 30 May 2019 in: <https://www.bbc.com/mundo/noticias-america-latina-48453600> and Tercera Información, Colombia: Duque recortó 30% de presupuesto al Sistema Integral de Verdad Justicia Reparación y No Repetición, 10 July 2019. <https://www.tercerainformacion.es/articulo/internacional/10/07/2019/colombia-duque-recorto-30-de-presupuesto-al-sistema-integral-de-verdad-justicia-reparacion-y-no-repeticion/>

10 Comisión de la Verdad. “Cifras de la Comisión de la Verdad presentadas junto con el informe final”, 11 July 2022. <https://web.comisiondelaverdad.co/actualidad/noticias/principales-cifras-comision-de-la-verdad-informe-final>.

11 <https://www.jep.gov.co/macrocasos/caso08.html>

12 El Espectador. “Caso secuestro: ex-jefes de Farc serán sancionados por JEP; esto propone resolución” 25 November 2022.

13 All armed actors in Colombia, including members of the security forces, Like this how groups such as the ELN or the EPL, FARC dissidents, and groups heirs to the Paramilitarism commit violations of IHL. These violations include, among many others, the installation and use of anti-personnel mines, the recruitment and forced use of children, obstructing and attacking the Medical Mission. According to the Human Rights and Political Violence Data Bank of the Cinep/PPP, Illegal armed groups are the most responsible for breaches of International Humanitarian Law between the first half of 2018 to the second half of 2022: 76 infringements first half of 2018, 57 infringements second half of 2018, 18 infringements first half of 2019, 136 infringements second half of 2019, 100 infringements first half of 2020, 130 infringements second half of 2020, 72 infringements first half of 2021, 80 infringements in the second half of 2021 and 78 infringements in the first half of 2022. For more information on violations of IHL in Colombia and the deterioration of the armed conflict between 2018 and 2022, see the OHCHR document, „Territorial Violence in Colombia: Recommendations for the New Government“ July 2022. <https://www.ohchr.org/sites/default/files/2022-07/reporta-Informe-Violencia-Territorial-en-Colombia-Recomendaciones-para-el-Nuevo-Gobierno-Oficina-ONU-Derechos-Humanos.pdf>

14 Indepaz. *Massacres 2020-2021-2022-2023*. Accessed 1/20/2023. Indepaz also reports 91 massacres in 2020, 96 massacres in 2021

15 El País, 2022: Menores muertos en bombardeos: un trágico balance del Gobierno de Duque. 31 July 2022. <https://elpais.com/america-colombia/2022-07-31/menores-muertos-en-bombardeos-un-tragico-balan->

[ce-del-gobierno-duque.html](#) ; Cuestión Pública, 2022: Gobierno sabía que había niños en Operación Atai y aun así los bombardeó. 18 August 2020.

<https://cuestionpublica.com/exclusivocuestionpublicaydejusticia-liberacion-informes-de-inteligencia-operacion-atai/>

16 Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (2022): Hay Futuro si hay Verdad. Hallazgos y recomendaciones, Bogotá. P. 137 Enforced Disappearance is a crime against humanity that affects whole families. This crime leaves families without any information about their loved one and is based on the concealment of the whereabouts of the person generating a state of anxiety and permanent fear.

17 As of January 2023, five years into the UBPD mandate, the outgoing director Luz Marina Monzon commented that to date only 667 bodies have been recovered in different parts of the country, but however, the identification has been much slower and so far there is only comprehensive information about 10 bodies. <https://www.infobae.com/america/colombia/2023/01/15/la-unidad-de-personas-dadas-por-desaparecidas-ha-encontrado-667-cuerpos-e-identificado-solo-10-de-ellos/>

18 According to data from the Colombian organization CINEP/PPP, with regard to enforced disappearances under IHL, 9 were registered in the first half of 2018, 4 in the second half of 2018, 4 in the second half of 2019, 12 in the second half of 2020, and 5 in the first half of 2022. In addition, in 2021, the ICRC documented “every two days, on average, one new case of disappearance related to armed conflict and violence”. <https://www.icrc.org/en/document/colombia-humanitarian-challenges-2022-ihl>

19 Extrajudicial killings have been defined as “the arbitrary deprivation of life by agents of the State, with their complicity, tolerance or acquiescence, without a judicial or legal process to do so” – our translation (Humberto Henderson, 2006: La ejecución extrajudicial o el homicidio en las legislaciones de América Latina. Revista IIDH, Vol. 43, pp. 284– 285. <https://www.iidh.ed.cr/IIDH/media/1625/revista-iidh43.pdf>.

20 Cases of arbitrary deprivation of life documented by the United Nations by year:

2022: 45 cases

2021: 54 cases verified, from 100 alleged cases

2020: 73 cases

2019: 15 cases

2018: 11 cases

United Nations High Commissioner for Human Rights (UNHCHR), 2022: *Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno*. July 2022. Article 103. <https://www.ohchr.org/es/documents/country-reports/violencia-territorial-en-colombia>; United Nations High Commissioner for Human Rights (UNHCHR), 2022: *Situation of human rights in Colombia*. Report of the United Nations High Commissioner for Human Rights *, **. Unofficial English version of report. A/HRC/49/19. A/HRC/49/19. 25 February 2022. Art. 34. https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_19_UnofficialEnglishVersion.pdf; United Nations High Commissioner for Human Rights (UNHCHR), 2021a: *Situation of human rights in Colombia*. Report of the United Nations High Commissioner for Human Rights**, A/HRC/46/76. 17 March 2021. Art. 15. <https://www.ohchr.org/en/documents/country-reports/ahrc4676-situation-human-rights-colombia-report-united-nations-high>; United Nations High Commissioner for Human Rights (UNHCHR), 2020: *Situation of human rights in Colombia*. Report of the United Nations High Commissioner for Human Rights**, A/HRC/43/3/Add.3. 8 May 2020. Art. 49. <https://www.ohchr.org/en/documents/country-reports/ahrc433add3-situation-human-rights-colombia-report-united-nations-high>; United Nations High Commissioner for Human Rights (UNHCHR), 2019: *Situation of human rights in Colombia*. Report of the United Nations High Commissioner for Human Rights**, A/HRC/40/3/Add.3. 4 February 2019. Art. 93. <https://www.ohchr.org/en/documents/country-reports/ahrc403add3-situation-human-rights-colombia-report-united-nations-high>

21 Statement by the Verification Mission on the military operation carried out by the national army in the village of El Remanso in the municipality of Puerto Leguizamo, Putumayo. April 3, 2022. <https://coeuropa.org.co/pronunciamento-de-la-mision-de-verificacion-putumayo/>; Verdad Abierta, 2022: *El desamparo ronda a las familias del Alto Remanso*, 8 May 2022. <https://verdadabierta.com/el-desamparo-ronda-a-las-familias-del-alto-remanso/>; La Silla Vacía, 2022: *Los ingredientes del desastre militar que terminó en una masacre en Putumayo*. 5 April 2022. <https://www.lasillavacia.com/historias/silla-nacional/los-ingredientes-del-desastre-militar-que-termino-en-una-masacre-en-putumayo/>

22 Inter-American Commission on Human Rights (IACHR), 2022: *Annual Report 2021*. Chapter V. Colombia. June 2, 2022. Article 50.: <https://www.oas.org/en/IACHR/reports/IA.asp?Year=2021>.

23 Jurisdicción Especial para la Paz (JEP), Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas, 2022: *Auto no. 033 de 2021*. 12 February 2021. <https://relatoria.jep.gov.co/do->

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25 New York Times, 2019: *Colombia army's new kill orders send chills down ranks*. 18 May 2019. <https://www.nytimes.com/2019/05/18/world/americas/colombian-army-killings.html>; Human Rights Watch (HRW), 2019: *New documents raise fears of a return to "False Positive" killings*. 8 July 2019. <https://www.hrw.org/news/2019/07/08/new-documents-raise-fears-return-false-positive-killings>

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28 Recommendations 120.12 and 120.15 of the Report of the Working Group on the Universal Periodic Review Colombia during the 39th Session of the United Nations Human Rights Council.

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30 El gobierno de Petro y el ELN anuncian la reanudación de las negociaciones de paz desde Venezuela - BBC News Mundo. <https://www.bbc.com/mundo/noticias-america-latina-63138827>

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32 Centro de Información sobre Empresas y Derechos Humanos. 9 June 2022. *Empresas y personas defensoras de derechos humanos en Colombia: Se necesita protección urgente para las personas que defienden la tierra, el territorio y el ambiente* <https://www.business-humanrights.org/es/de-nosotros/informes/empresas-y-personas-defensoras-de-derechos-humanos-en->

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33 Empresas y derechos humanos en el plan nacional de desarrollo. Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo; Mesa de la Sociedad Civil sobre Empresas y Derechos Humanos. November 2022. https://www.ciedhcolombia.org/files/ugd/739426_4f996f-1426674b82836eaceaddfca721b.pdf

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36 The cases in the Preliminary Regional Reports on Cartagena, Cúcuta, Bucaramanga of the VII International Caravan of Jurists; On the lack of effective implementation of the right to prior consultation see also Ivan Vargas-Chaves, Walter Valencia-Jimenez and Alexandra Cumbe-Figueroa, 'Hacia una consulta previa campesina: elementos para el debate desde el régimen de certificación de semillas en Colombia' (2022) 22(1) Agora U.S.B.

37 Ministerio de vivienda, ciudad y territorio 05.12.2022: La política de vivienda y agua en Colombia debe dirigirse al medio país históricamente desatendido: Minvivienda, <https://minvivienda.gov.co/sala-de-prensa/la-politica-de-vivienda-y-agua-en-colombia-debe-dirigirse-al-medio-pais-historicamente-desatendido-minvivienda>

38 Plataforma Derechos Humanos, Democracia y Desarrollo (2020): Derecho al Agua en Colombia, Informe Nacional, Bogotá.

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41 Ibid. pp: 369-370.

42 Ibid. p: 452.

43 This situation worsened in the pandemic, when 1.6 million families restricted their diet to just two meals a day. DANE. Encuesta Pulso Social. Resultados Séptima Ronda. February 2021. <https://bit.ly/3z5j7OQ>

44 FIAN Colombia. Negacionismo e irresponsabilidad. Bogotá. 2022. <https://fiancolombia.org/2022/02/03/negacionismo-e-irresponsabilidad/>

45 Oxfam, A snapshot of inequality: What the latest agricultural census tells us about land distribution in Colombia, 4 July 2017. <https://www.oxfam.org/en/research/snapshot-inequality>.

46 United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, adopted by the Human Rights Council on 28 September 2018. <https://digitallibrary.un.org/record/1650694>

47 Article 253 of Law 1955 of 2019 "National Development Plan 2018-2022 A Pact for Colombia, A Pact for Equality".

48 Of land restitution applications between 2011 and 2021, 778 correspond to Ethnic territories (74% indigenous communities and 26 black, afro, raizal and palenquera communities). Also, according to official information, the Land Fund created in the Agreement Final de Paz, has 2,133,200 hectares. Of these, 727,478 have been granted, an advance of 24% compared to the goal of three million hectares over the first 12 years. In terms of access and formalization, Afro-descendant communities have seen the least benefits with less than 1% of the total hectares. Official data as of September 2022 from the National Land Agency.

<https://www.datos.gov.co/browse?q=Restituci%C3%B3n+de+tierras>

49 Many families who are waiting for their land to be returned continue to receive threats to abandon restitution processes or are forced to live with their dispossessors on the farms. For example:

<https://rutasdelconflicto.com/notas/los-obstaculos-la-restitucion>.

50 The figures on attacks against defenders in the country continue to be alarming, with an increase of more than 70% during the government of President Iván Duque, compared to the previous government; and a 191% increase in attacks on women defenders, comparing cases documented in 2017 and 2021: Consolidated information from the Annual Reports of the Somos Defensores Program:

2018, <https://somosdefensores.org/informe-anual-2018-sistema-de-informacion-sobre-agresiones-contra-personas-defensoras-de-dd-hh-en-colombia-siaddhh/>;

2019, <https://drive.google.com/file/d/1jYXd8GjrDjOERyTOJG5g->

DA4A55UEqYVN/view;
2020, <https://drive.google.com/file/d/1Ze-GofhR6k0c23oUCVN-ZlWrEMPH03lV/view>; and 2021, <https://drive.google.com/file/d/1-cyEW-pykRlGU57cO-kNZFHmcTvlOJfLy/view>

51 Ibid

52 Lack of political will; the absence of adequate spaces for the participation of civil society and defenders; obstacles to the activation and functioning of territorial operational bodies; budgetary constraints; as well as the limiting individual approach to risk, mean that collective protection routes lack a comprehensive and situated context analysis that recognizes real needs.

53 Cuatro cambios claves para proteger a personas defensoras de derechos humanos (2022). Verdad Abierta. <https://verdadabierta.com/cuatro-cambios-claves-para-proteger-a-personas-defensoras-de-derechos-humanos/>

54 The case of Alberto Yepes. <https://coeuropa.org.co/la-cceeu-pide-garantias-al-estado-para-el-ejercicio-de-la-defensa-de-ddhh-de-alberto-yepes-palacio/>

55 The Public Prosecutor's Special Investigation Unit must fulfill its mandate to investigate and dismantle criminal structures, successors to paramilitarism, responsible for these attacks on social organizations and former FARC-EP combatants in the process of reintegration.

56 In August 2022, the Government welcomed the Emergency Plan for the protection of social leaders, defenders and signatories of the Peace Agreement Presented by human rights and peace coordination groups as an immediate response to violence against human rights defenders and social leaders. Part of the measures were implemented, such as Unified Command Posts. In the first months of the Petro administration, new impetus has been given to the Security Assurance Commission, within the framework of the FPA, for the effective dismantling of paramilitary successor groups, which had seen no progress since its creation in 2016.

57 More detail on violence against justice operators from a historical perspective can be found at Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, Informe final: Hallazgos y recomendaciones (2022), pp. 455-460.

58 On 9 June 2021, the public prosecutor from Tibú (Norte de Santander), Esperanza Navas, was killed by two hitmen. 'Fiscal Esperanza Navas fue asesinada en Tibú, Norte de Santander' and criminal lawyer Beiman Elías Mendoza González was murdered on 24 June 2022 by two hitmen in Sincelejo (Sucre). June 9, 2021. El Espectador <https://www.elespectador.com/colombia/mas-regiones/fiscal-esperanza-navas-fue-asesinada-en-tibu-norte-de-santander/> & 'Abogado fue asesinado en presencia de su hija en pleno

centro de Sincelejo' (25 June 2022) Semana. <https://www.semana.com/nacion/articulo/abogado-fue-asesinado-en-presencia-de-su-hija-en-pleno-centro-de-sincelejo/202213/>.

59 Preliminary regional report of Bucaramanga and Cúcuta of the VII International Caravan of Jurists.

60 Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, Informe final: Hallazgos y recomendaciones (2022), recomendación 38, p. 684-685.

61 VII International Caravan of Jurists

62 The case of Johan Sebastián Moreno in Bucaramanga, of the Equipo Jurídico Pueblos and in particular of the lawyer Leonardo Jaime, etc. [Regional Preliminary Reports of Bucaramanga, and Cali, VII International Caravan of Jurists].

63 World Justice Project Rule of Law Index 2022, Colombia. <https://worldjusticeproject.org/rule-of-law-index/country/2022/Colombia>; also Camilo Eduardo Umaña Hernández, La independencia judicial en Colombia, en riesgo por un régimen autoritario (June 2021; Ediciones Ántropos).

64 Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, Informe final: Hallazgos y recomendaciones (2022), Recomendación 30, p. 680.

65 For example, according to statistics collected by a coalition of civil society organizations, only 24 per cent of justice sector personnel are selected according to the merit criteria set out in Article 125 of the Constitution.

66 Bogota Prosecutor Angelica Maria Monsalve filed a request for a hearing on 23 February 2022 which, according to her account, made some powerful people uncomfortable. Now, the Prosecutor's Office has transferred her to Putumayo...In the hearing, which has not yet been held, the official hoped to formally link two businessmen and a former councilor from the capital to a criminal process, for alleged irregularities in a million-dollar contract in the city's public system.

<https://www.elespectador.com/judicial/experimentada-fiscal-fue-trasladada-tras-investigar-posible-corrupcion-en-bogota/#>

67 Murders of trade unionists in 2022 have included Felipe Andrés Pérez Pérez, of SINALTRAINAL Seccional Envigado, Julio Cesar Okedo Jara of Single Union of Educator Workers of the Valley (Sutev), Ferney Morales and Rigo Alape of Fensuagro, Jose Quitumbo Cayapú of Viva Memoria, Nicodemus Luna Mosquera of the National Association of Retired Oil Workers

(ANDOPE), Leonardo Mora Calderón, vice-president of the Arauca Welders' Association, Rengifo Salazar of the Sindicato de Maestros de Nariño (SIMANA), Sibares Lamprea Vargas of the Unión Sindical Obrera de la Industria del Petróleo (USO) and Ricardo Osorio of Sintrapintuco.

68 These figures are reinforced by the so-called “trade union parallelism”, a phenomenon which has created trade union organizations more akin to the interests of employers. See: Tercer boletín 2022 de prensa de la Asociación de Trabajo Interdisciplinario (ATI).

69 These aggressions also include the murder of journalists, such as Vóces de Córdoba journalist Rafael Emiro Moreno in the municipality of Montelíbano. According to the Fundación para la Libertad de Prensa (FLIP), only 18% cases of murder of journalists have seen some kind of conviction, while the rest are in complete impunity. See: FLIP, La impunidad de crímenes contra periodistas se fortalece de la falta de investigación y diligencia del Estado, 2 November 2022. <https://www.flip.org.co/index.php/en/informacion/pronunciamientos/item/2970-la-impunidad-de-crímenes-contra-periodistas-se-fortalece-de-la-falta-de-investigacion-y-diligencia-del-estado>

70 Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. December 2021.: <https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas>

71 During the national strike of 2021 there were 14,175 activities in 860 municipalities and 32 departments and the city of Bogotá according to (Ministerio de Defensa Nacional, 2021: Balance general – paro nacional 2021. 28 April to 27 June 2021. https://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/estudios_sectoriales/info_estadistica/InformeCorrido_Balance_Paro_2021.pdf).

It is important to note that 88.5 per cent of activities in the protests throughout the country were peaceful, as recognized by the government itself at the time (Ministerio de Relaciones Exteriores, 2021: Declaración de la Vicepresidente y Canciller, Marta Lucía Ramírez, al término de reunión con la Representante de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos en Colombia, Juliette de Rivero. 25 June 2021. <https://www.cancilleria.gov.co/newsroom/video/declaracion-vicepresidente-canciller-marta-lucia-ramirez-termino-reunion>).

72 United Nations High Commissioner for Human Rights (UNHCHR), 2021: El Paro Nacional 2021. Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia. 15 December 2021. <https://www.hchr.org.co/index.php/informes-y-documentos/documentos/10246-documentos-lecciones-aprendidas-paro-nacional-colombia-2021-juliette-de-rivero-representante-de-la-alta-comisionada>

<https://www.hchr.org.co/comunicados/pronunciamiento-sobre-el-paro-nacional-del-21-de-noviembre/>

73 Inter-American Commission on Human Rights (IACHR), 2021: Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021. Art. 25. https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf; Inter-American Commission on Human Rights (IACHR), 2020: IACHR Condemns Excessive Use of Police Force, Expresses Concern about Violence During Public Demonstrations in Colombia. Press release. 16 September 2020. https://www.oas.org/en/iachr/media_center/PReleases/2020/219.asp; Inter-American Commission on Human Rights (IACHR), 2019: IACHR Concerned about Repression by Government Agents in Colombia, Rejects All Forms of Violence in the Context of Protests. Press release. 2 December 2019. https://www.oas.org/en/iachr/media_center/PReleases/2019/313.asp

74 Amnesty International (AI), 2021: Cali: In the epicenter of repression: Human rights violations during the 2021 national strike in Cali, Colombia. AMR 23/4405/2021. 30 July 2021. <https://www.amnesty.org/en/documents/amr23/4405/2021/en/>; Amnesty International (AI), 2021: Shoots on sight: eye trauma in the context of the National Strike. AMR 23/5005/2021. 26 November 2021. <https://www.amnesty.org/en/documents/amr23/5005/2021/en/>; Human Rights Watch (HRW), 2021: Colombia: Egregious police abuses against protesters. Police reform urgently needed to prevent future violations. 9 June 2021. <https://www.hrw.org/news/2021/06/09/colombia-egregious-police-abuses-against-protesters>

75 Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. December 2021. Page 46. Available at: <https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas>

76 Ibid. p. 49.

77 Ibid. p. 51.

78 During the massive mobilizations of 2021 113 cases of gender-based violence against women and LGBTQIA* people were registered, 408 assaults against journalists and 343 attacks against human rights defenders.

United Nations High Commissioner for Human Rights (UNHCHR), 2021: El Paro Nacional 2021. Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia. 15 December 2021. Article 131. https://www.oas.org/en/iachr/media_center/PReleases/2019/313.asp

[hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/](https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/); Fundación para la Libertad de Prensa (FLIP), 2022: ¡Salvemos el periodismo! Revista Páginas para la Libertad de Expresión, no. 3. Febrero 2022. 08 February 2022, p7. <https://flip.org.co/index.php/es/publicaciones/informes-anuales/item/2846-salvemos-al-periodismo> ; Defender la Libertad, 2021: El sometimiento de la democracia. Un balance del derecho a la protesta social en Colombia en el año 2021. 16 December 2021. P. 6. <https://defenderlalibertad.com/el-sometimiento-de-la-democracia-un-balance-del-derecho-a-la-protesta-social-en-colombia-en-el-ano-2021/>

79 The use of “potentially lethal” weapons by the police is regulated by resolution 02903 of 23 June 2017 of the Ministry of the Interior.

During the mass demonstrations between 2019 and 2021 at least 107 people suffered eye injuries as a result of the unlawful use of “potentially lethal” weapons ((Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. December 2021. Page 55. <https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas>).

80 The concept of “transfer for protection” is defined in the Police Code (Law 1801 of July 29, 1801). 2016, Articles 155 and 157) and was amended by the Law on Public Safety (Law 2197 of January 25 Nov 2022, art. 40). See: Campaña Defender la Libertad (DL), 2022: Demanda de Ley de Seguridad Ciudadana. Comunicado de Prensa. 15 February 2022. <https://defenderlalibertad.com/demanda-de-ley-de-seguridad-ciudadana/> ; United Nations High Commissioner for Human Rights (UNHCHR), 2021: El Paro Nacional 2021. Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia. 15 December 2021. Chapter. V, Apart. F.

<https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/>; Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. Diciembre 2021. Chapter. 3.1.2.:

<https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas> ; Comisión Colombiana de Juristas (CCJ) et al., 2022: Acción Pública de Inconstitucionalidad contra la Ley 2197 de 2022. 2 August 2022.

https://www.coljuristas.org/nuestro_quehacer/item.php?id=704

81 The concept of “military assistance” is provided for in the Police Code

(Law 1801 of 29 July 1801). 2016, art. 170).

82 The Public Prosecutor’s Office is investigating 29 homicides committed during the 2019 national strike, but this has not led to any convictions. Similarly, it opened investigations into 278 cases of abuse of authority and personal injury but there is no published progress in these investigations. Regarding the demonstrations during 2019 and 2020, the Prosecutor opened investigations into police violence in 206 cases, none of which led to a conviction. The General Inspectorate of the National Police, for its part, opened a total of 231 disciplinary investigations into police violence during the 2021 protests, 193 of these cases are now closed; and only six cases led to sanctions. Similarly, the Attorney General’s Office opened 324 disciplinary processes, only 17 of which are being investigated, and there has been no sanction in any of these cases (See: United Nations High Commissioner for Human Rights (UNHCHR), 2021: El Paro Nacional 2021. Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia. 15 December 2021. Chapter VIII. <https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/>; Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. December 2021. Chapter. 5. <https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas> ; Human Rights Watch (HRW), 2021: Letter to Secretary Blinken on human rights in Colombia. 18 October 2021, <https://www.hrw.org/news/2021/10/19/letter-secretary-blinken-human-rights-colombia>).

The Military and Police Criminal Justice System has been a guarantor persistent impunity in cases of violence despite the fact that international human rights standards require that any human rights violations allegedly perpetrated by state agents must be investigated by the civil justice system. For the period from 2019 to 2021, 395 cases of violence were investigated by the Military jurisdiction committed by law enforcement officers, and in no case was a conviction obtained. (Fundación Comité de Solidaridad con los Presos Políticos (CSPP) y Campaña Defender la Libertad (DL), 2021: Torturar y castigar a quien protesta. December 2021. Ch. 5. <https://www.comitedesolidaridad.com/es/content/torturar-y-castigar-quien-protesta-el-informe-que-revela-las-din%C3%A1micas-de-tortura-infligidas>).

This picture of impunity for police violence is not much different from previous periods: Out of a total of 289 killings of civilians perpetrated by police officers between 2017 and 2019, judicial authorities obtained convictions in only two cases. In the same three years, 39,613 cases of physical violence were alleged to have been committed by members of the police, the Prosecutor opened investigations into 886 cases and obtained convictions in eight cases. In

addition, 102 cases of sexual violence were allegedly committed by the police but no conviction was obtained in any case. Temblores, 2019: Bolillo, Dios y Patria. Chap. 8. <https://www.temblores.org/bolillo-dios-y-patria>.

83 Corte Suprema de Justicia (CSJ), Sala de Casación Penal, 2020: Sentencia STC7641-2020 del 22 de septiembre de 2020. Núm. de radicación: 11001-22-03-000-2019-02527-02. 22 September 2020. <https://cortesuprema.gov.co/corte/index.php/2020/09/22/corte-suprema-ordena-medidas-para-garantizar-derecho-a-protesta-pacifica/>

84 United Nations High Commissioner for Human Rights (UNHCHR), 2021: El Paro Nacional 2021. Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia. 15 December 2021. <https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/>

85 Inter-American Commission on Human Rights (IACHR), 2021: Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021. https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

86 Published by the magazine Semana on 1 May 2020. <https://www.semana.com/nacion/articulo/espionaje-del-ejercito-nacional-las-carpetas-secretas-investigacion-semana/667616/>

87 On January 13, 2020, Semana magazine reported on military intelligence monitoring and interceptions of people linked to the negotiation of peace agreements in Colombia, including journalists and magistrates from the Supreme Court of Justice, and also human rights organizations, including lawyers' collectives. The report detailed the existence of hard drives, USB sticks, excerpts of conversations and audios, reports, videos and photographs of surveillance carried out against the people profiled. A few days before the publication of the report, the President of the Supreme Court of Justice had warned that she suspected the illegal interception of her communications. Creo que estamos chuzados: Presidenta de la Corte Constitucional: Chuzadas sin cuartel

88 Semana: Chuzadas sin cuartel, 13 January 2020.

89 Ibid.

90 As well as a Government Advisory Commission, chaired by the Attorney General in 2016: MOVICE: Piden a la JEP abrir un caso sobre inteligencia ilegal en el marco del conflicto, 7 February 2020.

91 El Espectador: “Los seguimientos ilegales afectan la consolidación de la paz”: Francisco de Roux, 5 May 2020.

92 Colombia has a long history of illegal intelligence actions against

defenders of human and political rights originating from the Colombian State, as reference bodies such as the United Nations and the Inter-American Human Rights System have reported. This has led to serious crimes such as attacks and murders, as evidenced in the trials against Jorge Noguera Cotes, former Director of the DAS, convicted of crimes of aggravated homicide and aggravated criminal conspiracy after having provided intelligence information to paramilitary groups. United Nations Special Rapporteur on the situation of human rights defenders: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to Development, A/HRC/13/22/Add.3, 4 March 2010; Interamerican Commission on Human Rights: Press Release 09/09 (cidh.org), 26 February 2009; FIDH, The intelligence activities of the State -DAS- serving criminal interests and political persecution (fidh.org), 21 May 2010; RCN Radio: Niegan permiso a Jorge Noguera para salir de la cárcel durante 72 horas, 30 March 2020

93 Colombia Diversa, Human Rights Reports 2017-2021. In 2018, 323 victims were registered: 109 murders, 127 threats and 87 victims of police violence. In 2019, 322 victims were registered: 106 murders, 107 threats and 109 victims of police violence. In 2020, 738 victims were registered: 226 murders, 337 threats and 175 victims of police violence.

Colombia Diversa, Informe sobre Violencia contra Personas LGBT en Colombia 2021: La Violencia no nos impide amar.: <https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/11/Informe-derechos-humanos-Colombia-Diversa.pdf> Published in 2022.

Colombia Diversa, Informe sobre Violencia contra Personas LGBT en Colombia 2020: Nada que celebrar. <https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/06/Nada-que-celebrar-cifras-asesinatos-personas-LGBT-2020.pdf> Published in 2021.

Colombia Diversa, Informe sobre Violencia contra Personas LGBT en Colombia 2019: Más que cifras <https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/03/Mas-Que-Cifras-2019.pdf> Published in: 2020.

Colombia Diversa, Informe sobre Violencia contra Personas LGBT en Colombia 2018: Aunque Intenten Borrarnos. <https://colombiadiversa.org/c-diversa/wp-content/uploads/2020/04/publicaci%C3%B3n-7--Informe-de-violaciones-a-los-derechos-humanos-de-personas-LGBT-en-Colombia-en-2018.pdf> Published in 2019.

94 Ibid. Of this violence, 668 were threats, 646 were murders and 474 were victims of police violence.

95 2022 is not far behind: between January and July there have been 53

acts of violence. This figure comes from information collected by Colombia Diversa. This year's Report will be published by June 2023. From the information recorded, the following data is available: 41 murders, 6 threats and 6 victims of police violence. The main victims are trans women (24), gay men (20), lesbian women (4), one trans man and one bisexual man. In addition, 3 people have been registered whose sexual orientation and gender identity could not be determined.

96 These records are not an accurate reflection of violence against the LGBTIQ+ population since there are multiple barriers of violence, under-reporting or poor registration that prevents knowledge of the violence faced by lesbian and bisexual women, as well as bisexual and trans men. On the other hand, we have found that gay men are often attacked with knives and in their homes, while trans women are often attacked with firearms, in public spaces or in sex work areas. In addition, trans women are the main victims of police violence.

97 The number of violent acts in these departments varies annually, however, these departments continue to be the three places where there is greatest violence against the LGBTIQ + population. This high record does not mean that they are the departments with the most violence, but it is precisely in these departments where there is a greater record. This may occur due to the high number of total inhabitants per department and/or because these three departments may have good practices in documenting and recording violence against the LGBTIQ+ population.

98 Op. Cit. Aunque nos Intenten Borrar and Mas que Cifras. Since 2018, Colombia Diversa has been warning about the lack of quality information from State institutions. This lack of quality information worsened in 2021, since, although the institutions provided some information, they did not have records of the victims, the perpetrators, the facts and the alleged motivations. This prevents analysis of patterns of violence and recommending ways to mitigate this violence through public policies on prevention, protection and access to justice for the LGBTIQ+ population.

99 These figures were obtained based on the latest access to justice report for the LGBT population, which found that 3748 LGBT people were victims of murders, threats and police violence between January 2020 and July 2022. This figure was provided by the Public Prosecutor's Office in response to a request for information.

100 For example, 2020 was the year with the lowest overall murder rate nationwide, yet for the LGBTIQ+ population it was the year with the highest record of violence.

El Espectador, Colombia alcanzó en 2020 la tasa de homicidios más baja en

46 años. 17 December 17, 2020. <https://www.elespectador.com/judicial/colombia-alcanzo-en-2020-la-tasa-de-homicidios-mas-baja-en-46-anos-article/>.

Colombia, National Police. Homicidios 2020.

<https://www.policia.gov.co/contenido/homicidios-2020>

Óp. Cit. Nothing to celebrate.

2021 saw the highest national homicide rate in 7 years, and yet violence against LGBT people remained similar to 2020. This highlights the need for security and coexistence policies to take these figures into account, as well as patterns of violence, so that they are incorporated into government policies.

101 According to data from the Observatorio Femicidios Colombia.

102 Women and girls in conflict-affected territories generally have reduced capacities to adapt and respond to contexts of generalized violence and effects on territories, based on the overloads and disadvantages to which they are exposed according to the roles they are assigned in the home and in their communities. It is likely that GBV is underreported.

103 El Grupo Género en la Paz (Gpaz) identified 122 gender measures in the Peace Agreement.

104 Plan Marco de Implementación del Acuerdo de Paz. <https://portalterritorial.dnp.gov.co/PlanMarcoImplementacion/> Accessed on 24 November 2022.

105 El Grupo Género en la Paz. 2021. La paz avanza con las mujeres. III Informe de observaciones sobre los avances en la implementación del enfoque de género del Acuerdo de Paz. https://generoy paz.co/informes/gpaz_informe_2021.pdf. Accessed on 24 November 2022.

106 Indepaz, November 11, 2022. <http://www.indepaz.org.co/lideres-sociales-y-defensores-de-derechos-humanos-asesinados-en-2021/> and <https://indepaz.org.co/lideres-sociales-defensores-de-dd-hh-y-firmantes-de-acuerdo-asesinados-en-2022/>. Accessed on 24 November 2022.

107 Departamento Nacional de Planeación. Consejo Nacional de Política Económica y Social (Conpes) 4080 (18 April 2022). Política pública de equidad de género para las mujeres: hacia el desarrollo sostenible del país. <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4080.pdf>. Accessed on 24 November 2022.

108 Caicedo, Luz Piedad (2021). Implementación de la Resolución 1325 en Colombia durante 2020. Corporación Humanas.

109 Between 2019 and 2020 there was a decrease by 12.9 percentage points and an increase in the percentage of women working in the informal sector (of up to 43.8%)

110 Corporación Sisma Mujer, Día Internacional de la Mujer 2022: violencias contra las mujeres y participación en el mercado laboral, Boletín No. 29, 7 March 2022.

111 Of these, 33.81% reached the procedural stage, and 7.17% of cases reached the sentencing stage. It should be noted that Ana Gúezmes, UN Women Representative in Colombia, warned, in December 2018, of impunity in the country. <https://www.eltiempo.com/justicia/investigacion/naciones-unidas-advierte-sobre-impunidad-en-colombia-en-crime-contras-mujeres-300772>

112 Especially within the framework of Law 1257 of 2008 which establishes norms for awareness-raising, prevention and punishment of all forms of violence and discrimination against women.

113 Angie Katherine García Atehortúa, 'Concepto restringido de la responsabilidad de mando en el marco jurídico transicional en Colombia, ¿puerta giratoria hacia la intervención de la Corte Penal Internacional?' (2019) 7 ANIDIP pp. 32-68; Héctor Olasolo & Jannluck Canosa Cantor, 'The Treatment of Superior Responsibility in Colombia: Interpreting the Agreement Between the Colombian Government and the FARC' (2019) 30 Criminal Law Forum pp. 61-107.

114 Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición, Informe final: Hallazgos y recomendaciones (2022), recomendación 33, p. 682.



INTERNATIONAL COORDINATION GROUPS AND ORGANIZATIONS ADHERING TO THE REPORT

11.11.11.; AB Colombia; ACAT France; ACT Iglesia Sueca; Agir Ensemble pour les Droits Humains; ask! - Arbeitsgruppe Schweiz-Kolumbien; Asociación Pro Derechos Humanos de España (APDHE); Associació Catalana per la Pau; Atelier ONGD; Broederlijk Delen; CAFOD; CCFD - Terre Solidaire; Comisiones Obreras (CCOO); CIDSE; Centro de Información sobre Empresas y Derechos Humanos – Programa Colombia (CIEDH); CNCD-11.11.11; Colectivo Maloka; Colectivo Sur Cacarica; Colombia Acuerdo de Paz ONG; Colombian Caravana; Comité Daniel Gillard; Consejo Noruego Solidaridad con América Latina; Cooperació; Diakonia; DKA Austria; El Movimiento Internacional de la Reconciliación de Austria (Internationaler Versöhnungsbund Österreich); Fastenaktion / Action de Carême / Azione Quaresimale; Federación Luterana Mundial, Programa Colombia y Venezuela; Fédération des Barreaux d'Europe (FBE); Felm (Finish Evangelical Lutheran Mission); FIAN – Colombia; FIAN Deutschland (FIAN Alemania / FIAN Germany); Fokus; Fonden för mänskliga rättigheter/Swedish Foundation for Human Rights/Fundación Sueca para los Derechos Humanos; Fondo Noruego para los Derechos Humanos; ForumCiv; France Amérique Latine; Fundación Mundubat, Fundació Pau i Solidaritat; International Service for Human Rights (ISHR) / Servicio Internacional para los Derechos Humanos (SIDH); Justice for Colombia; kolko – Derechos Humanos por Colombia e. V.; La Internacional de Servicios Públicos ISP en Interamericas; La Intersindical; Latin America Working Group (LAWG); Misereor; Movimiento Por la Paz (MPDL); Observatorio por la Autonomía y los Derechos de los Pueblos Indígenas en Colombia (ADPI); Oficina Internacional Acción Derechos Humanos Colombia (Oidhaco); Organización Mundial Contra la Tortura (OMCT); Pax Christi Internacional; Peace Brigades International (PBI); Protection International; El Instituto sobre Raza, Igualdad y Derechos Humanos (The International Institute on Race, Equality and Human Rights); Red flamenca de solidaridad con la CSJA; Reds - Red de solidaridad para la transformación social - Barcelona – Catalunya; RFCS Réseau France Colombie Solidarités; Secours Catholique Caritas France (SCCF); Skat Foundation; Solidarité Socialiste (SOLSOC); SWISSAID; Taula Catalana per la Pau i els Drets Humans a Colòmbia; Travailler Ensemble Jeunes et Engagé-e-s (TEJE); Universitat Internacional de la Pau (UNIPAU); Vivamos Mejor; WE Effect; Washington Office on Latin America (WOLA)





COLOMBIA

SHOOTS ON SIGHT

EYE TRAUMA IN THE CONTEXT
OF THE NATIONAL STRIKE

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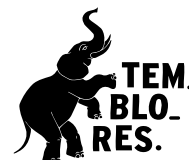
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COLOMBIA

SHOOTS ON SIGHT: EYE TRAUMA IN THE CONTEXT OF THE NATIONAL STRIKE

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GLOSSARY

EYE TRAUMA:

Eye trauma can be closed (caused by a blow or contusion from a blunt object) or open (caused by perforation by an object). It can also be caused by chemicals coming into contact with the eye.¹ An eye injury is understood to be any trauma that involves a temporary or permanent disturbance of function, as well as the loss of the organ, which is mostly caused by an open trauma. Eye injuries in the context of protests can be caused by impact from ammunition fired by weapons that use kinetic energy (rubber bullets and tear gas) and also by blows with blunt objects (batons or truncheons, boots or fists).

In this report the term eye trauma is used not only to refer to the injury to the eye but also to the consequences this has on aspects of the lives of those injured. This is because eye trauma has multiple negative effects on victims' physical and psychological health, it impacts on the work situation and on their family environment.

POTENTIALLY LETHAL WEAPONS:

According to the United Nations Human Rights Guidance on Less Lethal Weapons in Law Enforcement, such weapons include: police batons, hand-held chemical irritants, chemical irritants launched at a distance (tear gas), conducted electrical weapons (“tasers”), kinetic impact projectiles, dazzling weapons, water cannon and acoustic weapons and equipment. The Guidance states: “The list of less-lethal weapons here

.....

¹ Based on, Barcelona Ophthalmology Centre (2020),

is not exhaustive, but it includes those most commonly used in contemporary law enforcement. Certain weapons are designed to be used against individuals, while others, less discriminate, are intended for use against groups of individuals. The description of risks or potentially unlawful use is not exhaustive, but rather presents the most common problems associated with a particular type of weapon.”²

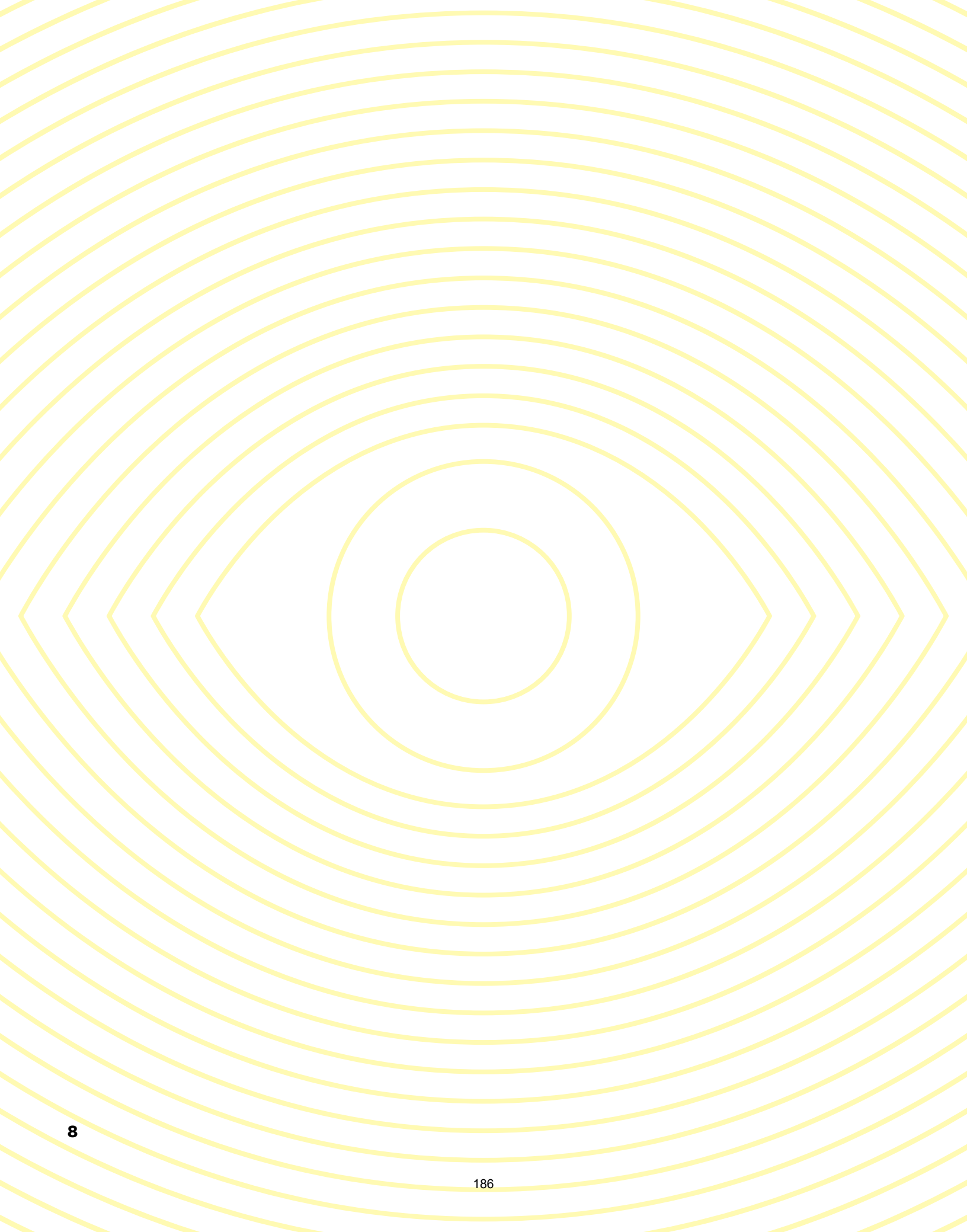
MOBILE ANTI-RIOT SQUADS (ESCUADRONES MÓVILES ANTIDISTURBIOS, ESMAD):

According to the official definition, is a unit in the Colombian National Police Special Operations Command, composed of trained and qualified personnel, responsible for riot control, crowd control, dealing with road blocks and supporting evictions from public and spaces, in urban or rural settings on national territory, and with potential manifestations of terrorist and criminal acts, in order to restore the exercise of public rights and freedoms.³

.....

2 Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement, HR/PUB/20/1 eISBN: 978-92-1-005071-5, New York and Geneva, 2021, available at: https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf

3 National Police of Colombia, Definición Escuadrones Móviles Antidisturbios, available at: <https://www.policia.gov.co/especializados/antidisturbios>



COLOMBIA: **SHOOT ON SIGHT:** EYE TRAUMA IN THE CONTEXT OF THE NATIONAL STRIKE

“THE DISSENT TOOK OVER THE DOORWAYS, THE UNJUST DEATHS

TOOK OVER THE ROADS, THE SUFFERING TOOK OVER THE STREETS

AND HOPE TOOK OVER THE CITY. THE IMPORTANT THING WAS TO

GO OUT, NOT TO THINK ABOUT HOW TO RETURN, BECAUSE DEAD,

CORRUPT AND BLOODY COLOMBIA IS LEFT BEHIND, STUCK IN A

IMPASSE OF SHAMEFUL PASTS FOR WHICH THE ROADS NO LONGER

EXIST. THIS JOURNEY IS NOT YET OVER, IF THE PEOPLE

ARE ATTACKED, THE PEOPLE STOP ONLY TO MOVE FORWARD”⁴

GARETH SELLA

.....

4 “Las inconformidades se tomaron los portales, las injustas muertes Se tomaron las carreras, los dolores se tomaron las calles y la esperanza se tomó la ciudad. Lo importante fue salir, más nunca pensar en cómo regresar, porque la Colombia muerta, corrupta y sangrienta, se queda atrás, atorada en un trancón de vergonzosos pasados para los cuales ya no existen carreteras. Este viaje aún no termina, si al pueblo lo agreden, el pueblo para, solo, para avanzar.” Gareth Sella, “Mar de gente para una tierra seca”, 21N, Edición azul, published at: <https://www.instagram.com/garethsella/>

2

EXECUTIVE SUMMARY

This report, produced jointly by the Programa de Acción por la Igualdad y la Inclusión Social (PAIIS) of the Universidad de los Andes,⁵ Temblores⁶ and Amnesty International,⁷ documents the violent repression of social protest in Colombia in the context of the National Strike that began in April 2021 and has resulted in around 100 people sustaining eye trauma.

This report aims to draw attention to the consequences of the excessive actions of the Colombian police through its Mobile Anti-Riot Squad (Escuadrones Móviles Antidisturbios, ESMAD) and the harm suffered by hundreds of seriously injured people, particularly those with eye trauma. By the time research for this report was completed, more than 100 protesters were reported to have sustained eye injuries.⁸

This report draws on documentation and analysis of 12 cases of police violence which resulted in irreversible eye trauma. Four of these cases had occurred in previous years (2003, 2007 and 2013) and eight in the context of the 2021 National

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5 El Programa de Acción por la Igualdad y la Inclusión Social - PAIIS - was founded in 2007 as one of the public interest law clinics of the Universidad de los Andes Law School in Colombia. The PAIIS Programme has focused its work on the rights of people living with disabilities and the elderly, the rights of people with diverse gender identity and orientation, and it is currently working on peace-building issues. Official website: <https://paiis.unian-des.edu.co/>

6 The NGO Temblores is a Colombian organization that seeks to mobilize community processes of social transformation. One of its areas of work is the guarantee of the right to social protest. Official website: <https://www.temblores.org/nosotros>

7 Amnesty International is a movement of 10 million people who campaign for a world where human rights are enjoyed by all. Its vision is of a world where those in power keep their promises, respect international law and are accountable. It is independent of any government, political ideology, economic interest or religion. Official website: <https://www.amnesty.org/en/who-we-are/>

8 Latest report of the register of the NGO Temblores' GRITA Platform, covering 28 April to 21 October 2021.

Strike. Although most of the cases analysed in this report were in Bogotá, some were in Popayán (Cauca), Florencia (Caquetá), Medellín (Antioquia) and Manizales (Caldas).

This report contains the statements of five victims of eye trauma, whose right to physical integrity was violated by the excessive actions of ESMAD. Linked to the physical and mental impact, victims describe the multiple barriers they face to the effective enjoyment of their rights to health, mobility, education and work, among others.

One of the emblematic cases documented in this report is that of Leidy Cadena, which occurred on 28 April 2021 in the context of the first day of the National Strike. Her statement reflects the experiences of hundreds of people who have suffered eye trauma due to the excessive actions of ESMAD. For Leidy, the eye trauma was directed at her and constitutes an act of gender-based violence. She faced significant barriers accessing primary healthcare and psycho-social as well as in securing progress in the investigation of the incident and the identification of those responsible by the authorities. One of the most worrying aspects of her situation is that the complaints filed and the visibility of her case, resulted in her being forced to leave Colombia because of constant death threats against her and her family.

Despite the differences in time and place of the cases detailed, this research once again reveals patterns in the conduct of ESMAD officials which are consistent with the repeated complaints of their systematic excessive and disproportionate use of force to punish protesters. This report seeks to contribute to the pursuit of justice for those who have suffered eye trauma for exercising their legitimate right to social protest in Colombia, and it makes specific recommendations to the state to guarantee comprehensive care for the victims and prevent repetition of these human rights violations.

In addition, this research highlights the need to strengthen healthcare for victims, both in emergency departments and in access to mental health and rehabilitation services. Victims' statements reveal the lack of a com-

prehensive healthcare pathway for people who sustain eye trauma as a result of police violence.

Based on the evidence and statements presented in this report, the national authorities are urged to comply without delay with the recommendations made by the Inter-American Commission on Human Rights (IACHR) following its working visit in June 2021. In particular, that aimed at ensuring that the use of non-lethal means of controlling public order is subject to strict protocols that prevent and punish their use in ways that gravely affect the health and safety of demonstrators.⁹ The authorities are also urged to comply with the September 2020 ruling of the Colombian Supreme Court of Justice, in order to guarantee the rights to expression, assembly, peaceful protest and freedom of the press. PAIIS, Temblores and Amnesty International are joining the calls from national civil society organizations and international organizations for structural reform of the National Police and in particular the Mobile Anti-Riot Squad, that ensure a civilian approach in their actions, as well as effective independent supervision and investigation systems.

.....

⁹ Inter-American Commission on Human Rights, Observations and recommendations, Working visit to Colombia, June 2021, para. 50, available at: https://www.oas.org/en/iachr/reports/pdfs/Observaciones-Visita_CIDH_Colombia_ENG.pdf

3

RESEARCH METHODOLOGY

This report analyses cases and patterns of eye trauma resulting from the response of the Colombian Police Mobile Anti-Riot Squad (ESMAD) to the social protests that took place between 28 April and 20 October 2021 in various Colombian cities. It also brings together statements from victims who had sustained eye trauma in previous years and which show that this is a recurring practice.

The analytical framework used is international human rights law, especially the guarantee of the right to peaceful protest, which includes standards for the lawful and proportionate use of force in this context and the protection of the human right to physical integrity. This publication is part of a series of reports that the organizations involved have been developing and will continue to produce to highlight various human rights violations in the context of the 2021 National Strike in Colombia.¹⁰ This particular report focuses solely on eye trauma, which constitutes a very common human rights violation, to document the intention to inflict harm and discourage social protest and the unlawful and disproportionate use of so-called “less lethal weapons” by ESMAD.

The report was prepared by a diverse research team made up of professional personnel and students from the Programa de Acción por la Igualdad y la In-

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¹⁰ Report by Temblores NGO, Indepaz and the PAIS Programme of the Universidad de los Andes, Informe sobre la violación sistemática de la Convención Americana y los alcances jurisprudenciales de la Corte IDH con respecto al uso de la fuerza pública contra la sociedad civil en Colombia, en el marco de las protestas acontecidas entre el 28 de abril y el 31 de mayo de 2021, presented to the IACHR during its working visit, June 2021, available at: <http://www.indepaz.org.co/informe-de-temblores-ong-e-indepaz-a-la-cidh/>; Amnesty International, Colombia: Cali: In the Epicenter of Repression, 30 July 2021, (AMR 23/4405/2021), available at: <https://www.amnesty.org/en/documents/amr23/4405/2021/en/>

clusión Social (PAIS) of the Universidad de los Andes,¹¹ Temblores¹² and Amnesty International.¹³

Quantitative and qualitative methodologies were used in this research. Firstly, contextual research was carried out on eye trauma sustained in the context of social demonstrations in the country. This analysis was informed by the creation of a standardized register of eye injuries, collected through the Temblores GRITA Platform. This register, gathered together information on the circumstances – time, manner and place – when this type of incident occurred. Drawing on this analysis, the report sets out the characteristics of this type of police violence, including the profiles of the victims, such as their gender and age, as well as the type of weapon that produced the eye trauma.

To complement this analysis, 12 semi-structured interviews were conducted with eye trauma victims, mostly from Bogotá, the city with the highest concentration of reports. Interviews were also conducted with victims from the cities of Popayán, Medellín, Florencia and Manizales. In these interviews, a more detailed description emerged of the moment in which the eyes injuries were sustained, as well as victims' experiences in accessing comprehensive care pathways.

In addition to the above, the cases of five eye trauma victims were documented in depth: Gareth Sella, Sandra Pérez and her daughter Sara Cárdenas, Leidy Cadena and Camilo Carvajal, who took part in interviews with the research team. In addition, forensic documentation as well as the formal complaints for each of these cases were studied to reconstruct what happened.

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11 El Programa de Acción por la Igualdad y la Inclusión Social - PAIS - was founded in 2007 as one of the public interest law clinics of the Universidad de los Andes Law School in Colombia. The PAIS Programme has focused its work on the rights of people living with disabilities and the elderly, the rights of people with diverse gender identity and orientation, and it is currently working on peace-building issues. Official website: <https://pais.uniandes.edu.co/>

12 The NGO Temblores is a Colombian organization that seeks to mobilize community processes of social transformation. One of its areas of work is the guarantee of the right to social protest. Official website: <https://www.temblores.org/nosotros>

13 Amnesty International is a movement of 10 million people who campaign for a world where human rights are enjoyed by all. Its vision is of a world where those in power keep their promises, respect international law and are accountable. It is independent of any government, political ideology, economic interest or religion. Official website: <https://www.amnesty.org/en/who-we-are/>



Amnesty International, through its Digital Verification Corps,¹⁴ analysed hundreds of pieces of audiovisual material, including that collected by Temblores on its GRITA Platform,¹⁵ journalists, open sources, human rights defenders and individuals and victims, on the disproportionate and repressive conduct of ESMAD between 28 April and 20 October. This audiovisual material has been rigorously digitally verified by weapons and ammunition experts, who studied more than 300 pieces of audiovisual and photographic documentation, of which 145 relate to incidents that resulted in eye injuries.¹⁶

In order to obtain the state's perspective on the events highlighted in this report, PAIIS and Temblores have submitted requests for information, both general and referring to specific cases, through the right to request process to the national authorities since June 2021. In addition, in October, Amnesty International sent letters to the authorities responsible for preventing such incidents and guaranteeing the rights of the victims, such as the Office of the Ombudsperson, the Attorney General's Office, the Ministries of Health and Defence, the National Police and the Office of the Inspector General of Colombia.

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14 The Digital Verification Corps (DVC) is a network of volunteers trained in open source research and analysis, based in universities around the world. The Berkeley Center for Human Rights of the University of California and the Centre for Human Rights of the University of Essex, in the United Kingdom, participated in this research.

15 GRITA is an NGO Temblores platform which seeks to facilitate the reporting of police violence in order to contribute to its eradication. GRITA is a collective project for the recording, investigation and triangulation of complaints about police violence.

16 This verification includes the date of capture and uploading on social media, the geolocation of the content and the identification of members of the security forces and the weapons, ammunition and vehicles used to police the demonstrations. Likewise, experts can verify the trajectory of the projectiles from the position of the police officials, the probability that they have caused the harm to the people who were injured, the proportionate and adequate use of weapons, among other details that help to determine the proportionality and lawfulness of the use of force, and especially of potentially lethal weapons, in contexts of social protest.



4

HUMAN RIGHTS VIOLATIONS BY ESMAD IN THE CONTEXT OF SOCIAL PROTESTS IN COLOMBIA

In 1999, in the framework of the so-called “war against drug trafficking” promoted by Plan Colombia,¹⁷ the Mobile Anti-Riot Squad (ESMAD) was created as a temporary police force responsible for policing protests by coca growers’ organizations in the Catatumbo region in the north of the country.¹⁸ However, in the end this police force was not temporary and it continues to operate as a police squad specializing in repressing social protest. ESMAD does not operate as a civilian body but comes under the Ministry of National Defence.¹⁹ In its report, *Silencio Oficial: un aturdido grito de justicia por los 20 años de la creación del Esmad*, Temblores documents how violence by this police force has been particularly lethal in operations against Indigenous, campesino (peasant farmer) and student social movements. In the first 20 years of ESMAD’s existence, its use of lethal force has left at least 34 people dead.²⁰

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17 Plan Colombia was a bilateral cooperation strategy between Colombia and the USA that started in 1999. Its objective was to combat illicit drugs and organized crime, in order to promote economic and peace in Colombia, while strengthening control over the supply of illicit drugs on the US streets. For more information, see Departamento Nacional de Planeación Nacional DNP, September 2006, available at: https://colaboracion.dnp.gov.co/CDT/Justicia%20Seguridad%20y%20Gobierno/BaL_plan_Co_espanol_final.pdf

18 Temblores NGO, *Silencio Oficial*, November 2019, available at: <https://www.temblores.org/silen>

19 In the report on the IACHR’s working visit to Colombia, this is one of the issues of concern raised and it recommends that the state “[s]eparate the National Police and its ESMAD from the Ministry of Defense to ensure a structure that consolidates and preserves security with a focus on citizens and human rights and prevent all possibility of military perspectives.” Inter-American Commission on Human Rights, *Observations and recommendations, Working visit to Colombia*, June 2021, para. 50, available at: https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

20 Temblores NGO, *Silencio Oficial*, November 2019, available at: <https://www.temblores.org/silen>

In Colombia, cases of eye injuries in the context of protests are not a new phenomenon that emerged in the upsurge of social protests in 2021.²¹ Currently, there are no consolidated public official records of the number of cases of eye injuries caused by ESMAD since its creation. However, numerous complaints of excessive violence by its officials have been reported by civil society organizations such as the Campaña Defender la Libertad es Asunto de Todas and Temblores. During the social unrest that began in April 2021, these reports have reached alarming levels, with more than 100 victims of this type of violence throughout the country.²²

Amnesty International has on numerous occasions denounced human rights violations and even crimes under international law committed by ESMAD officials in the context of social protests. In November 2019, the organization verified at least five incidents where human rights violations were committed by ESMAD in its response to social protests.²³ Likewise, in September 2020, the organization highlighted its excessive and disproportionate use of force, including crimes under international law, such as torture and cruel, inhuman or degrading treatment.²⁴

In September 2020, the Supreme Court of Justice of Colombia issued a landmark ruling in which it protected the right to peaceful demonstration and reiterated the duty of the national authorities to avert, prevent and punish the systematic, violent and arbitrary interventions of the security forces in demonstrations and protests, after confirming that acts of excessive violence occurred in November and December 2019.²⁵ In this ruling, the Supreme Court affirmed that, there was

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21 This type of violence had already been seen for years in several of the social mobilizations called by different sections of the population. One of the first registered cases was that of Carolina Bautista, a woman who was peacefully protesting in 2003 against the US invasion of Iraq together with union organizations when a member of ESMAD shot her directly in the eye with a rubber bullet. Juan Carlos Martínez, a union leader, was also struck in his eye on 8 June 2007 by an ESMAD official, a emblematic case that has been referred to international bodies, in particular the Inter-American Court of Human Rights.

22 NGO Temblores, GRITA Platform.

23 Amnesty International, Colombia: Authorities must impartially investigate repression of protests, 22 November 2019, available at: <https://www.amnesty.org/en/latest/press-release/2019/11/colombia-autoridades-deben-investigar-represion-de-protestas/>

24 Amnesty International, Colombia: Amnesty International condemns torture and excessive use of force by police, 11 September 2020, available at: <https://www.amnesty.org/en/latest/press-release/2020/09/colombia-amnistia-condena-tortura-uso-excesivo-fuerza/>

25 “conjurar, prevenir y sancionar la intervención sistemática, violenta y arbitraria de la fuerza pública en manifestaciones y protestas,” Dejusticia, Corte Suprema de Justicia protege el derecho a la protesta frente a la violencia policial, 22 September 2020, available at: <https://www.dejusticia.org/corte-suprema-protege-el-derecho-a-la-protesta/>

– and may continue to be – repeated and constant disproportionate aggression by the security force towards those who protest in a peaceful manner.²⁶

On 6 May 2021, human rights organizations reported that the Colombian government had systematically failed to comply with the Supreme Court ruling and requested that the President of the Republic, the Minister of Defence, the Director of the National Police, the Ombudsperson, the Attorney General and the Inspector General of Colombia be declared in contempt.²⁷

Despite the Court’s explicit orders, the executive branch has not taken adequate measures to ensure guarantees of non-repetition. On the contrary, in public statements, President Iván Duque and his cabinet seem determined to stigmatize and criminalize social protest rather than to condemn violence by state officials and calling for the rights of victims to be guaranteed. This has encouraged excessive use of force by police officers, which has constituted a pattern of repression of the social protest. The large number of people killed and injured in different cities throughout the country is indicative of a widespread practice that seeks to punish people who take to the streets to demonstrate.²⁸ The background of domestic law is significant and gives an indication of the responsibility of the state for the failure to take action aimed at guaranteeing the rights to peaceful protest, to life and to physical integrity of protesters.²⁹

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26 “existió -y puede seguir existiendo- una reiterada y constante agresión desproporcionada de la fuerza pública respecto de quienes, de manera pacífica, se manifestaron.” Supreme Court of Justice, Civilian Cassation Chamber, STC7641-2020, 22 November 2020, available at: <https://cortesuprema.gov.co/corte/index.php/2020/09/22/corte-suprema-ordena-medidas-para-garantizar-derecho-a-protesta-pacifica/> It should be noted that the Supreme Court of Justice of Colombia ordered ESMAD and all institutions that carry out “policing activities” to, within 48 hours of notification of the September 2020 judgment, suspend the use of the 12 calibre shotguns, until the constitutional “a quo”, after exhaustive verification, confirmed the existence of guarantees for the responsible and measured reuse of said the instrument.

27 Foundation for Freedom of the Press (FLIP), “Le pedimos a la Corte Suprema que declare el desacato de la sentencia que protegió el derecho a la protesta”, 6 May 2021, available at: <https://flip.org.co/index.php/en/informacion/pronunciamientos/item/2718-le-pedimos-a-la-corte-suprema-que-declare-el-desacato-de-la-sentencia-que-protegio-el-derecho-a-la-protesta>

28 Temblores ONG, report; Between 28 April and 15 July 2021 there were 4,851 cases of police violence, 35 victims of sexual violence, 2,053 arbitrary arrests and 833 violent interventions by the security forces, available at: https://www.instagram.com/p/CR6tOMaJCOP/?utm_source=ig_web_copy_link (Spanish only).

29 Colombia is a state party to various international human rights treaties and instruments, which are the legal basis for this analysis: the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the American Convention on Human Rights; the International Convention on the Elimination of all forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance; the Convention for the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of Persons with Disabilities, among others.

Since the signing of the 2016 Peace Accords, other pre-existing problems in Colombian society of social exclusion and structural violence have come to the surface, which has sparked an increase in social organization and in demands from various sections of civil society expressed through the right to peaceful protest and an increase in social mobilization. Added to this, in 2021 the economic and social effects of the pandemic, which resulted in an increase in social inequalities and poverty for many people in the country, increased social discontent. The announcement of tax reforms by the national government in this context triggered the social upheaval known as the National Strike, which began with the protests of 28 April 2021.

Potentially lethal weapons have been used in the context of protests in several countries in all regions and have resulted in a very high number of human rights violations, including permanent injuries such as various eye injuries. In various reports, it has been established that the origin of this type of weapon is rooted in colonialism and also aims to neutralize certain civil society groups considered as “less desirable”, “other” and a threat national stability.³⁰ The use of this type of weapon, indiscriminately or, on the contrary, targeted to inflict serious injury, has become a widespread practice in the context of social protests both regionally and internationally. In Bolivia, Chile,³¹ China, Spain, France, Mexico, Nicaragua, Turkey and Venezuela, among other countries, the repression of social protest has been reported.

The case of Chile is emblematic for understanding the huge number of people injured, especially with eye damage. Carabineros de Chile officials attacked protesters, firing directly at their eyes and faces with less-lethal weapons which were used in breach of international protocols and standards. Amnesty International published a report *Eyes on Chile*, in 2020, which documents 12 emblematic cases of death, torture and injuries resulting from the actions of members of the Carabineros between 18 October and 30 November 2019. The report concludes that Carabineros commanders were likely responsible for the human rights vio-

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30 International Institute for Nonviolent Action, Informe Stop Balas de Goma, Barcelona, June 2021, available at: https://novact.org/wp-content/uploads/2021/06/Final-Informe-Balas-de-Goma_compressed1.pdf

31 The outbreak of social unrest in Chile in 2019 was characterized by systematic human rights violations against protesters. One particularly notable aspect at the time was the high number of eye injuries due to the use of pellets and other devices by the armed forces during their repression of the protests. Of the 3,449 people injured during these mobilizations, between October and December 2019, the National Institute of Human Rights (INDH) of Chile stated that 352 sustained eye trauma.

lations that took place under their command.³² This report presented evidence of the use of weapons considered less lethal, such as riot-control shotguns and buckshot made of a rubber and metal alloy, to disperse demonstrations. The victims' pursuit of justice, truth and reparation is currently ongoing.

During the months of the 2021 National Strike in Colombia, there was a serious human rights crisis, widely documented by PAIIS, Temblores and Amnesty International, as well as other national and international organizations.³³ Highlighted among the reports received were hundreds of complaints from victims of police violence, some of them with serious eye trauma. The following sets out their stories.

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32 Amnesty International, *Eyes on Chile*, October 2020, available at: <https://www.amnesty.org/en/latest/research/2020/10/eyes-on-chile-police-violence-at-protests/>

33 Report by Temblores NGO, Indepaz and the PAIIS Programme of the Universidad de los Andes, *Informe sobre la violación sistemática de la Convención Americana y los alcances jurisprudenciales de la Corte IDH con respecto al uso de la fuerza pública contra la sociedad civil en Colombia*, en el marco de las protestas acontecidas entre el 28 de abril y el 31 de mayo de 2021, presented to the IACHR during its working visit, June 2021, available at: <http://www.indepaz.org.co/informe-de-temblores-ong-e-indepaz-a-la-cidh/> ; Amnesty International, *Colombia: Cali: In the Epicenter of Repression*, 30 July 2021 (AMR 23/4405/2021), available at: <https://www.amnesty.org/en/documents/amr23/4405/2021/en/>



4.1

THE FACES OF REPRESSION

A. STIGMATIZATION OF PROTESTERS AND ITS CONSEQUENCES: THE CASE OF GARETH SELLA

Gareth Sella, a 25-year-old filmmaker, lost his sight in his left eye as a result of an blow on his face from an object that, according to his statement and that of several witnesses, was thrown at close range by an member of ESMAD. The incident occurred in the centre of Bogotá on 24 February 2021 in the context of the “National Week against Police Brutality”, called by victims’ organizations,³⁴ in which dozens of protesters called for ESMAD to be disbanded and protested against repression and impunity.

In the complaint filed by the José Alvear Restrepo Lawyers Collective (Colectivo de Abogados José Alvear Restrepo, CAJAR), who represent Gareth’s case before the courts, evidence is presented of the stigmatization of the demonstration that happened before it took place. According to documents attached to the complaint, on 22 February 2021, the National Police Criminal Analysis Centre of the Directorate of Criminal Investigation (Centro de Análisis Criminal de la Dirección de Investigación Criminal, DIJIN) issued an alert entitled “Call for violent social mobilization 24 February-24F” which referred to the groups calling for protest as “radicals”, including the Escudos Azules (Blue Shields) collective.³⁵

Gareth was a member of the Escudos Azules collective and is known for his human rights activism and his criticism of police violence, which he conveys through

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34 Contagioradio, Así serán las movilizaciones contra la violencia policial este 24 de febrero, 23 February 2021, available at: <https://www.contagioradio.com/asi-seran-las-movilizaciones-contra-la-violencia-policial-este-24-de-febrero/>

35 Colectivo de Abogados José Alvear Restrepo, Nueva denuncia y reiteración de solicitud de apertura de Macro caso en la Unidad Especializada de Derechos Humanos, contra el ESMAD, por PATRÓN DE CRIMINALIDAD DE LESIONES OCULARES A MANIFESTANTES, Noticia criminal 110016000013202100969, April 2021.

his work at the production company, La Resistencia Cine. Escudos Azules is a youth movement that aims to ensure that social protest is carried out in a peaceful manner and to that end, they act as mediators between protesters and the police.³⁶ This group was created by young people following the death of Dilan Cruz as a result of being hit by an object fired by an ESMAD official during the November 2019 demonstrations.³⁷ Members of Escudos Azules accompany demonstrations, covering their faces and using shields for protection as they fear being stigmatized and attacked for belonging to the group.³⁸

Gareth has stated that on the day of the incident, he had a conversation prior to the protests with the police commander, which is a frequent practice aimed at signalling their mediation role. In these prior conversations, they showed police officers that they were not carrying weapons or explosives and that their intention was to facilitate and exercise the right to peaceful protest.

In the interview with the research team, Gareth said that the march began at the Universidad Pedagógica and planned to go to the Plaza de Bolívar. On the way, Gareth had an exchange of words with an ESMAD official and in his testimony, he states that the attack was directed at him as he had already been identified as part of Escudos Azules:

“They had been watching me for a while, I turned around and they shot me so that’s why I’m sure and one day hopefully that can be analysed in my case in court, I’m sure there was a kind of order, or at least if there wasn’t an immediate order to shoot people in the eyes, there was an order to injure Escudos members”³⁹

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36 Interview, Noticias 1, 25 February 2021, available at: <https://noticias.canal1.com.co/bogota/quien-es-gareth-sella-joven-herido-durante-protestas/>

37 Asuntos Legales, La Corte Constitucional decidió enviar el caso de Dilan Cruz a la justicia ordinaria, 18 June 2021, available at: <https://www.asuntoslegales.com.co/actualidad/la-corte-constitucional-decidio-enviar-el-caso-de-dilan-cruz-a-la-justicia-ordinaria-3187294>

38 Escudos Azules official page on Instagram, available at: https://www.instagram.com/escudos_azulesoficial2.0/?hl=es

39 Semi-structured interview with Gareth Sella, 2 June 2021.

He remember that at 23rd Street, between the 7th and 9th Street, ESMAD officials surrounded a group of protesters and began firing stun grenades:

“They were exploding stunner grenades...because they were clearly dispersing us, I went to turn into 23rd Street and as I was turning round, they shot me from behind; that is, another ESMAD block had formed, they were surrounding us. Then there was one in front that I was facing and one behind and when I turned around the one behind me shot directly at me; there was no confrontation, there was nothing I didn’t even have a shield like that [he made a gesture as if he was holding a shield in front of his body] I was holding it at my side and I was getting ready to run down 23rd Street to leave because there was no resistance or anything like that...⁴⁰ I don’t know if it was a stun grenade, if it was bean bag ammunition or a rubber bullet, but I do know that it was an ESMAD object because I turned to look and saw them pointing at me”.⁴¹

Gareth was initially helped by human rights personnel from civil society groups and officials from the Secretary of Government of Bogota, who called for an ambulance. But it took a long time to arrive, so he had to get a taxi to take him to the Santa Fe Hospital. At the first medical consultation they informed him that his retina and iris were detached and that he could not detect light in his left eye, which is why he had to receive specialist care. As no retina specialist was available there, he was referred to the San Ignacio Clinic, where his diagnosis was confirmed as blunt closed ocular trauma of the left eye, detached

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40 Semi-structured interview with Gareth Sella, 2 June 2021.

41 Semana Magazine, ¿Quién es Gareth Sella, el joven herido durante las protestas en Bogotá?, 25 February 2021, available at: <https://www.semana.com/nacion/articulo/quien-es-gareth-sella-el-joven-que-fue-herido-durante-las-protestas-en-bogota/202127/>

retina, secondary diffuse vitreous hemorrhage and secondary conjunctival injury, for which he underwent surgery on 25 February.

After the impact, Gareth recalls that, in the midst of his distress, he decided to throw away his shield, remove his fluid-resistant overalls and uncover his face to avoid being singled out⁴² and harassed by police officers.⁴³ These actions were taken by police officials as an indication of his involvement in acts of vandalism. In statements about the incident, Police General Oscar Gómez stated that:

“The tennis shoes that Gareth used when he was transferred to the hospital were the same as those worn by a person wearing a hood, black overalls and a helmet... our men were attacked with stones, we do not know if as a result of that stone throwing among themselves, this person could also have been injured... we are not accusing Gareth of having engaged in vandalism, until we have enough evidence, then we will.”⁴⁴

These official statements reveal an intention to stigmatize Gareth’s participation in the demonstrations and to divert attention to the alleged vandalism. In fact, Mayor of Bogotá, Claudia López reacted by stating:

“In addition to affecting one eye, we are not going to allow Gareth to be stigmatized for how he dresses. The investigation must determine who fired the object that damaged his eye, despite being expressly prohibited by my instructions and municipal protocols.”⁴⁵

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42 Canal Caracol interview, 26 February 2021, available at: <https://www.youtube.com/watch?v=C2qA3TA1UBM>

43 Canal Capital interview, 26 February 2021, available at: <https://www.youtube.com/watch?v=gqPqfVfn4vQ>

44 “los tennis que utilizó Gareth en el momento que lo trasladaban al hospital coincidían con una persona que estaba encapuchada, con un overol negro, con un casco (...) nuestros hombres fueron atacados con piedras, no sabemos si como consecuencia de ese lanzamiento de piedras entre ellos mismos, también pudo salir lesionada esta persona (...) no estamos sindicando a Gareth de que hubiese hecho vandalismo, hasta que no tengamos suficiente material probatorio, pues lo diremos”. Noticias Caracol interview, Estos videos son clave según la policía de Bogotá en el caso de Gareth Steven, 25 February 2021, available at: <https://noticias.caracol.com/bogota/estos-videos-son-clave-segun-la-policia-de-bogota-en-el-caso-de-gareth-steven>

45 “La investigación lo que debe determinar es quién disparó el artefacto que le afectó su ojo, pese a estar expresamente prohibido por mis instrucciones y protocolos de la Alcaldía”. Reaction of the Mayor of Bogotá Claudia López, 25 February 2021, available at: https://twitter.com/ClaudiaLopez/status/1365038540753670146?ref_src=twsrc%5Etfw%7C-twcamp%5Etweetembed%7Ctwterm%5E1365038540753670146%7Ctwgr%5E%7Ctwcon%5Es1_ref_url=https%3A%2F%2Fwww.semana.com%2Fnacion%2Farticulo%2Fquien-es-gareth-sella-el-joven-que-fue-herido-durante-las-protestas-en-bogota%2F202127%2F



Photo: Screenshot of Gareth Sella's appearance before the Colombia Congress, Canal del Congreso, March 2021.

Despite the serious injuries sustained, Gareth was calm and asserted that he would continue to exercise his right to dissent and demand that his fundamental rights are guaranteed. He stated that his activism was continuing and that, despite the injuries and harm caused, his desire to continue fighting against impunity was stronger. His public statements were forceful and conveyed the experience of a young artist who was injured by ESMAD officials in retaliation for his activism and with the intention of inflicting pain and silencing him.

"I was a victim of police brutality while protesting against it. ESMAD shot me in the eye, affecting my sight. I am an artist who is resisting. As Andrés Caicedo, one of my favourite authors, says: 'Arm yourself in dreams so as not to lose sight'.⁴⁶ On 24 February 2021, while raising my voice against police brutality, ESMAD shot me in the left eye, and I lost all sight in that eye. Hours later they hurried to sell people a false story, to discredit my image, to say that I was a vandal, to justify in some way their right to mutilate Colombian youth. People have woken up. Even if they take out our eyes, we see their state crimes. We will not forget their past and the bloody legacy that they have branded on the history of the country. That

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46 Gareth Sella's statement posted on his instagram profile, 25 February 2021, available at: https://www.instagram.com/tv/CLvE9czJHp7/?utm_source=ig_web_copy_link



is what they fear, the hope that we will arouse. We will continue to fight to the end for a country where life is respected. For a country in peace for all Colombians. Where the history of all the state's crimes is not erased, where there is reparation and non-repetition... Where when we go out into the streets, we are not confronted by people prepared to kill. I keep seeing because I see with my heart, soul and love⁴⁷.

Gareth presented an account of the incident to the Attorney General's Office on 25 February 2021 and that same day the National Institute of Legal Medicine and Forensic Sciences carried out a medical-legal examination and issued Forensic Report UBUCP-DRB-07088-2021.⁴⁸ This report acknowledged that Gareth's injury required 50 days' medical disability and stipulated that the injuries caused serious damage to the left eyeball, which could lead to loss of vision in that eye.

B. "WE MAY HAVE LOST AN EYE, BUT WE STILL HAVE OUR VOICE": LEIDY CADENA⁴⁹

The National Strike against the tax reforms proposed by the government of Iván Duque began on 28 April 2021. That day marked a historic milestone in Colombia, as thousands of people throughout the country gathered to demand their rights in the middle of the Covid-19 pandemic. Leidy Cadena, a Political Science student, decided to join the demonstrations in central Bogotá that day.

Around noon, together with her boyfriend and some friends, she went to the Plaza de Bolívar, historically the focus of social protests in the capital. Leidy said that that day she was looking to take photographs of the protests that had been

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47 Gareth Sella's speech before the Colombian Congress in the context of the International Seminar, ¿Cuál paz?, 18 March 2021, available at: https://youtu.be/RODCFn-Fq_M

48 Colectivo de Abogados José Alvear Restrepo, Nueva denuncia y reiteración de solicitud de apertura de Macro caso en la Unidad Especializada de Derechos Humanos, contra el ESMAD, por PATRÓN DE CRIMINALIDAD DE LESIONES OCULARES A MANIFESTANTES, Noticia criminal 110016000013202100969, April 2021.

49 El Espectador report, "Nos quitaron un ojo, pero seguimos teniendo nuestra voz", 17 May 2021, available at: <https://www.elespectador.com/bogota/nos-quitaron-un-ojo-pero-seguimos-teniendo-nuestra-voz-leidy-cadena-article/>

called. However, she did not manage to get there, because on the way she realized that their path was blocked.

“So we decided that this really did not look a good, that we should get out of there. We tried to leave, we reached 26th Street and we stayed there for a while because our friends got separated from us... We stayed there calling them and waiting for them... when they arrived we asked the ESMAD officials if we could turn around and get to the parking lot to pick up our bikes. And they told us no... that it was dangerous, that we’d better try to turn around, then we walked towards the National Museum... we realized that there was another demonstration, that the ESMAD officials were standing there on 7th Street, dispersing the march... One of my boyfriend’s friends went to the corner, to see if we could go up the road, but one of the ESMAD officials started to tell him to get out of there. He was very rude... The official who had yelled at him and two others approached him to hit him... I was a few metres behind, I just shouted ‘let’s go’ and immediately afterwards I my face felt very hot. I couldn’t see through either of my eyes, I was in a great deal of distress.”⁵⁰

Amnesty International’s Digital Verification Corps was able to verify a video taken after the incident in which Leidy is clearly visible and her companions are seen surrounding her after she was hit. In front of them are five ESMAD officials with shields and two of them are carrying their riot gear in their hands, including mechanical kinetic weapons. Leidy’s boyfriend directly accuses an official over what happened and apparently at that point was able to get the number of their ID badge. Leidy is covering her bleeding eye, clearly in pain.⁵¹

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⁵⁰ Interview with Leidy Cadena, 5 June 2021.

⁵¹ Pacifista tv, Video of the moments following the incident, available at: https://pacifista.tv/wp-content/uploads/2021/04/WhatsApp-Video-2021-04-29-at-10.34.09-AM.mp4?_=1

After the impact, they called for help, but the police officials did not help her. They had to walk for a long time to find an ambulance. In the ambulance she could smell tear gas and the driver had to stop because he had trouble breathing.

Leidy said this was not an accident. She thinks that it was an attack directed solely against her, since the others were unharmed. She stressed that from the beginning of the demonstrations, she noticed several attacks against women and, therefore, associates her injuries with an attack inflicted on the basis of her gender.



Photo: Leidy Cadena, © Gustavo Torrijos, El Espectador

A 30 April 2021 forensic report by the National Institute of Legal Medicine stated that she had sustained “trauma to the right eye, with vitreous hemorrhage, generalized stromal edema requiring 55 days of disability, with medico-legal sequelae to be determined”.⁵² This initial opinion was confirmed in October 2021 by a follow-up expert report that established that Leidy suffered a blunt injury that resulted in a “permanent physical deformity affecting the face and permanent functional impairment of the visual organ”.⁵³

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52 “un trauma en el ojo derecho, con hemorragia vítrea, edema estromal generalizado y definió una incapacidad de cincuenta y cinco días, con secuelas médico-legales a determinar”; National Institute of Legal Medicine and Forensic Sciences, Expert Forensic Clinical Report, 30 April 2021, UBUCP-DRB-15504-2021.

53 “deformidad física que afecta el rostro de carácter permanente y perturbación funcional de órgano de la visión de carácter permanente”; National Institute of Legal Medicine and Forensic Sciences, Expert Forensic Clinical Report, 20 October 2021, UBSC-DRBO-10334-202

In her account, Leidy states that she will continue to exercise her right to protest:

*“I lost an eye but I swear to you that I feel that I have 10,000 out there, keeping up the fight so that this does not end here⁵⁴... I think it is really good to be able to tell people that it is possible, that we can overcome these things and that, although it is very sad and painful, we have to move on and show the country that we are still fighting here”.*⁵⁵

She states that she will continue to protest peacefully for her rights and that the damage caused to her physical integrity will not act as a constraint on her.

*“Well, I am not going to stay at home, I will not stay home and I will march again... I’ll go to the demonstrations and the police officers will look at me and say ‘she didn’t learn’. I’ll think ‘I chose to come, you are the ones who didn’t learn’... I think they give them a weapon and tell them that it is not lethal. But I feel like they do have on their radar the consequences of shooting someone in the eye...it is really minimal, but [they know] there is a high possibility that it will blind someone, I do believe that they do it intentionally”.*⁵⁶

Leidy said that she acquired a disability when she lost the sight in her right eye completely. She also stated that, despite the fact that in Colombia people with

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54 Kienyke magazine, “Leidy Cadena, la joven que perdió la vista durante el Paro Nacional”, available at: <https://www.kienyke.com/bogota/leidy-cadena-perdio-la-vista-esmad-paro-nacional>

55 El Espectador report, “Nos quitaron un ojo, pero seguimos teniendo nuestra voz”, 17 May 2021, available at: <https://www.elespectador.com/bogota/nos-quitaron-un-ojo-pero-seguimos-teniendo-nuestra-voz-leidy-cadena-article/>

56 Interview with Leidy Cadena, 5 June 2021.

disabilities have fewer opportunities, she wants to continue to resolutely go on leading her daily life. Some daily activities, such as riding a bicycle, are difficult for her now and that is where she is aware of the barriers she has to face every day.

The Office of the Attorney General issued an order on 29 September 2021 to the Judicial Police to interview Leidy and to carry out fingerprint checks and full identity verification of official Danilo José Nuñez Zabaleta in order to file charges against him.⁵⁷ Leidy confirmed that she has been interviewed about what happened at least 10 times and that this has revictimized her. In addition, after lodging the complaints and clearly identifying the ESMAD agent with the ID badge 030731, she received threats on social media and on 16 October she was the victim of an attack when gunpowder was pushed under her door, which is why she fears for his life and her physical integrity, and that of her family and boyfriend.⁵⁸ As a result, Leidy, her mother and her partner have been forced to leave Colombia.

C. GENDER-BASED VIOLENCE MANIFESTED IN EXCESSIVE USE OF FORCE: SANDRA MILENA PÉREZ AND HER DAUGHTER SARA CÁRDENAS

The lives of Sandra Pérez and her 18-year-old daughter Sara Cárdenas changed dramatically on 5 May 2021 as a result of the excessive and disproportionate use of force by ESMAD officials. According to Sandra's account, that night they left their house to go to the nearby shopping centre close to the entrance to the Suba Transmilenio public transport system in Bogotá. That night a demonstration was taking place, in the context of the National Strike, and they stayed for a while to look at the dance performances that were happening there. The next thing they remember is the sound of stun grenades and the feeling of been suffocated by tear gas fired by ESMAD against the group of people gathered there. Amid the chaos and confusion, they ran for cover.

One of the ESMAD agents came within five meters of them and began to shout misogynistic insults,

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⁵⁷ Office of the Attorney General of the Nation, Office 163, Orders to the Judicial Police No. 7078910, 29 September 2021.

⁵⁸ Letter to Amnesty International from Leydi Cadena, 23 October 2021.



*“Damn bitch, go home and take your little bitch with you”.*⁵⁹

Sandra exchanged a few words with this official and reproached him for his behaviour. In her statement, she stated that the official stepped back eight meters, drew his weapon, took aim and fired. She remembers that moment when she bent down and all she could feel was several things hitting her body, one of them hit her right eye, another hit her right breast, one hit her arm, several hit her ribs, one hit her stomach and one hit her pelvic area.

*“I think they were made of rubber, because if it had been made of another material, it would have pierced my body, face and killed us... unfortunately, my daughter was behind me and she was hit in her left eye, her eyelid was pierced and the blood started pouring out... they shot me with a non-lethal weapon, which today I can see is in fact a lethal weapon... That was not a simple accident, they caught the two of us on our own, in an alley on our own, the two of us were on our own and three idiots stood in front of us, then one of them came towards us and took aim, it is not that it exploded and fell on us, no, that was targeted”.*⁶⁰

Sandra emphasized that emergency healthcare was inadequate. Despite the seriousness of the injuries, she stated that they did not have timely information on her state of health and only learned about the severity of Sara’s eye injury after requesting her medical history. Sara’s cornea became inflamed, her retina was destroyed and “the doctors told us that she would be blind because of that eye, which will barely be of use to her for crying”.⁶¹

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59 “Maldita perra, váyase para la casa y llévese a su perrita”; interview with Sandra Pérez, 5 June 2021.

60 Interview with Sandra Pérez, 5 June 2021.

61 Cerosetenta Universidad de Los Andes Magazine, article titled, “Al menos 82 personas perdieron los ojos en el Paro Nacional”, 6 July 2021, available at: <https://cerosetenta.uniandes.edu.co/al-menos-82-personas-perdieron-los-ojos-en-el-paro-nacional/>



She was given 15 days of medical disability and Sara 45 days because of the severity of the injury. In Sara's medical legal report, it states that she entered the clinic with "clinical features of one hour's development consisting of blunt trauma, apparently from a 'rubber bullet' during demonstrations, of the left eye, with subsequent pain and intense bleeding, total loss of visual acuity... physical deformity affecting the face, nature to be defined, and functional disturbance of the visual organ, nature to be defined".⁶²



Photo: Sara Cárdenas, © Camilo Rozo

Sandra reported that her search for justice has followed a tortuous path. On the one hand, she asserts that some bodies have not been diligent when receiving their testimony. For example, she claims that she filed a complaint with the National Police and they responded that his case had been closed because it was dealt with satisfactorily. The Ombudsperson's Office classified her case as injured by a tear gas grenade that was launched, an assertion that Sandra rejected and asked that her version of events not be altered. She confirmed that they had not received advice on how to pursue their cases. For example, she stated that she did not have a legal medical examination immediately, but that it was carried out when she no longer had bruises or scars.⁶³

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⁶² "cuadro clínico de una hora de evolución consistente en traumatismo contundente, aparente "proyectil de goma" durante manifestaciones, en ojo izquierdo, con posterior dolor e intenso sangrado, pérdida total de agudeza visual (...) deformidad física que afecta el rostro de carácter por definir y perturbación funcional de órgano de la visión de carácter por definir"; National Institute of Legal Medicine and Forensic Sciences, Central Headquarters Basic Unit, Expert Forensic Clinical Report No. UBSC-DRBO-05029-2021, Bogotá, 20 May 2021.

⁶³ Interview with Sandra Pérez, 5 June 2021.

Shortly after making a formal complaint⁶⁴ and making their cases public, she began to be threatened:

*“When the police persecution started... they called me ‘Damn bitch! Keep quiet, it’s better for you if you keep quiet’, and I received a call saying that if I kept talking, they were going to kill my little bitch, my little daughter, the youngest and I felt... What? It is not enough that they screwed us over and left my daughter blind, but now they want to mess with my youngest child”.*⁶⁵

For this reason, she requested protection measures from the Suba police station in Bogotá.⁶⁶ When she had a visit from police officers to confirm this measure, one of the officers handed her some documents for her to sign. When she read them, she realized that the document stated that the protection they should get was as survivors of possible crimes of domestic violence.⁶⁷ At the time of writing this report, Sandra and Sara had had to leave the country, fearing for their safety.

*“In Colombia they are killing us, they are blinding us and I want justice to be done, I have already received threats, in which they tell me that it would be better for me if I keep quiet”.*⁶⁸

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64 Office of the Attorney General of the Nation, Summons to appear before the Office of the Attorney General of the Nation, summons to conduct an interview on 20 May 2021.

65 Interview with Sandra Pérez, 5 June 2021.

66 Request for protection measures presented by Sandra Pérez before the Suba Police Station in Bogotá, 20 May 2021, Crime and Investigation File No. 110016099069202154348.

67 National Police of Colombia, Victims’ Rights Act, 6 February 2021. Document signed by a police officer, without Sandra’s agreement, with the note “act of terrorism by the ESMAD police”.

68 Caracol Radio, “Investigan presunto abuso policial contra madre e hija en Suba”, 19 May 2021, available at: https://caracol.com.co/emisora/2021/05/19/bogota/1621441536_617945.html

Despite the hardships and the physical and emotional damage, Sandra and Sara remain committed to their search for justice. Although they state that identifying the officials poses a serious challenge, given that everything happened at night and in a chaotic context, they believe that public video cameras may contain the evidence.⁶⁹

D. THE RISKS OF BEING A HUMAN RIGHTS ACTIVIST AND DOCUMENTING PROTESTS: CAMILO CARVAJAL

Camilo Carvajal, a 20-year-old member of the Jaime Garzón human rights group in Popayán, is a shoe salesman, photographer and loves tattoos. He hopes to become a professional graphic designer.

On 7 July 2021, while he taking part in a demonstration, he decided to take photos to record what was happening, as he had been doing for some time, and he was hit in the face resulting in the total loss of sight in his left eye:

“As usual, I took out my cell phone to take photos to record everything that was happening, because I have a fairly extensive record, in the context of the National Strike. I went a little higher up to get good shots. It had already been half an hour since the ‘furrusca’⁷⁰ [clash] had started, I went a little further up towards where the armoured personnel carrier was, I leaned my head out on one side and didn’t look at anyone, I leaned the other way and was hit in the face⁷¹... When I turned to look where the tank was, I saw an orange flash and at that point I

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69 El Espectador, “El caso que estudia la CIDH sobre un abogado que el Esmad dejó sin un ojo”, 1 June 2021, available at: <https://www.elespectador.com/judicial/el-caso-que-estudia-la-cidh-sobre-un-abogado-al-que-el-es-mad-dejo-sin-un-ojo/>

70 Colloquial reference to a confrontation or clash between protesters and the security forces.

71 Interview with Camilo Carvajal, 22 September 2021.

*remember, I took out my cell phone and looked at part of my eyelid, my eye had burst, it was terrible”.*⁷²



Camilo Carvajal's statement, Popayán Television News, 12 July 2021, available at: <https://www.facebook.com/watch/?v=532021864886300>

That night, after the IACHR report was made public, heated confrontations took place in which at least 50 people were injured. The demonstrations took place after Defence Minister Diego Molano made statement ordering that all blockades in the city be dismantled.⁷³ Camilo stated that he was able to document that at least 70% of the buckshot fired during the protests was aimed at the body and, therefore, ESMAD had clearly not followed the protocols on the use of force.

Camilo wanted to record the excessive use of force by ESMAD officials and he stated that he could have been targeted for attack because of the work he was carrying out at that time. On several occasions, police officers had threatened him if he continued recording and taking photos:

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72 Interview with Camilo Carvajal published in Wradio, “Al que me disparó que Dios lo bendiga: joven que perdió un ojo en Popayán” 11 July 2021, available at: <https://www.wradio.com.co/noticias/regionales/al-que-me-disparo-que-dios-lo-bendiga-joven-que-perdio-un-ojo-en-popayan/20210711/nota/4150683.aspx>

73 Noticias Uno, “Otro joven manifestante pierde ojo por disparo del ESMAD, en Popayán”, 12 July 2021, available at: <https://www.noticiasuno.com/nacional/otro-joven-manifestante-pierde-ojo-por-disparo-del-esmad-en-popayan/>



“The ESMAD, on several occasions, had already told me ‘we are going to take out the eyes of that cell phone’.. and they already had me on file or had a grudge against me”⁷⁴

In the emergency department, the doctor who treated him told him that his eye may have been hit by buckshot aimed directly at his face and not on a curved trajectory. In his expert opinion, it states that Camilo has a permanent disability, due to the total loss of his eyeball.

“I’m not the same person after what happened, this tiny part of my life changed me too much. I’ve lost my sense of food, of taste. I sleep very little, I get up and think a lot about what happened. These are things that completely traumatize you... I lost a part of me, I didn’t lose a nail, I didn’t lose a hair, I lost my eye. They’re killing us. I wanted to open eyes and they blinded me. I saw colours and in an instant, they painted my world grey”⁷⁵

Camilo was known for his activism and for documenting human rights violations in the context of protests. As a result of what happened, he confesses that he is afraid to go out on demonstrations. This attack resulted in a decisive change in the way he carries out his activism since he currently feels fearful of going out to exercise his right to protest.

“Before I’d say: we are going to do this, we are going to do that, I shared lots of ideas, I participated actively. Right now I hesitate, I hesitate it too much, I think twice before doing it... because here in Colombia marching for rights is difficult”⁷⁶

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74 Interview with Camilo Carvajal, 22 September 2021.

75 Camilo Carvajal’s statement, Popayán Television News, 12 July 2021, available at: <https://www.facebook.com/watch/?v=532021864886300>

76 Interview with Camilo Carvajal, 22 September 2021.

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PATTERNS IDENTIFIED IN THE REPRESSION OF SOCIAL PROTEST THAT RESULTED IN EYE TRAUMA

The experiences of Gareth, Sandra, Sara, Leidy and Camilo are not isolated cases. Unfortunately, they are just examples of a broader pattern of violations of human rights, and especially the right to physical integrity, in the context of social protests. This pattern is also not new and is part of a more than 20-year history of disproportionate use of force to repress social protests in Colombia, as noted in the previous chapter.

In light of the seriousness of the complaints of human rights violations committed in the context of the National Strike, the IACHR carried out a working visit in June 2021. In its report the IACHR noted that it received reports of “excessive use of force with less lethal weapons—for example, through the indiscriminate use of expired irritant gases, or the use of Venom grenade launchers, the use of which was prohibited by an administrative judge in Popayán on June 2”.⁷⁷

“It should be noted that the accounts received by the IACHR consistently described disproportionate use of force by ESMAD officers... **the testimony received describes the use of marbles and rubber bullets or munitions, as**

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⁷⁷ Regarding the state’s response, the IACHR stated that it was informed of the opening of 11 disciplinary investigations, five in Bogotá, one in Popayán, three in Risaralda, one in Medellín, and one in Neiva.

well as the indiscriminate and nonstop deployment of teargas, sometimes fired directly at the heads and chests of demonstrators. This caused a high number of injuries, including eye injuries and deaths. Specifically, the Commission received the testimony of at least a dozen persons who suffered eye injuries of varying severity.”⁷⁸ (emphasis added)

The following sections describe **common patterns of violations of the human right to physical integrity, specifically as a result of the cases of injuries and eye trauma documented between April and October 2021** in the context of the social protests that took part in various parts of the country.

A. DETAILS OF EYE TRAUMA EXPERIENCED IN THE CONTEXT OF THE NATIONAL STRIKE IN COLOMBIA DURING 2021

The Information System on Eye Attacks In Social Protest (Sistema de Información de Agresiones Oculares a la Protesta Social, SIAP) of Campaña Defender la Libertad, recorded 12 eye injuries in the context of protests between 10 October and 22 November 2019.⁷⁹ In other words, in 44 days of demonstrations, there was one case of eye injury every 3.6 days. By comparison, Temblores’ GRITA Platform recorded that between January and July 2021, at least 103 cases of eye injuries occurred; that is, one such injury every 0.81 days in the context of the National Strike.

Of the 103 cases registered on Temblores’ GRITA Platform, 54.37% occurred in the city of Bogotá, followed by Valle del Cauca, with 11.65% of cases, and Cauca with 7.77% of cases.

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⁷⁸ Inter-American Commission on Human Rights, Observations and recommendations, Working visit to Colombia, June 2021, para. 50, available at: https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

⁷⁹ Campaña Defender la Libertad es Asunto de Todas, Sistema de Información de Agresiones a la Protesta Social, available at: <https://defenderlalibertad.com/sistema-de-informacion-de-agresiones-a-la-protesta-social-siap/>

DEPARTMENT	Nº OF CASES	PERCENTAGE
Bogotá	56	54,37%
Valle del Cauca	12	11,65%
Cauca	8	7,77%
Nariño	7	6,80%
Cundinamarca	6	5,83%
Antioquia	5	4,85%
Risaralda	3	2,91%
Boyacá	2	1,94%
Atlántico	1	0,97%
Casanare	1	0,97%
Santander	1	0,97%
Tolima	1	0,97%
TOTAL	103	100%

TABLE: Consolidated figures recorded by the NGO Temblores' GRITA Platform

Regarding the demographic represented in these figures, it is important to note that the profile of the victims has been mostly young men aged between 18 and 22, who make up 26.20% of all cases. Of the total number of the victims, 90 are men, seven women and six are people whose gender could not be identified. Likewise, 20 cases involved people aged between 23 and 32 and eight cases of minors were recorded.

AGE/ AGE RANGE	Nº OF CASES	PERCENTAGE
Children	8	7,76%
18 to 22 años	27	26,20%
23 to 27 años	10	9,70%
28 to 32 años	10	9,70%
33 to 37 años	2	1,94%
38 to 42 años	0	0
43 to 47 años	1	2,90%
48 to 52 años	1	2,90%
Not known	42	40,70%
Youth*	2	1,94%
TOTAL	103	100%

TABLE: Consolidated figures recorded by the NGO Temblores' GRITA Platform

Regarding the occupation of the victims whose data it was possible to record, most of the cases involved students, thus demonstrating that the young student population was the most affected by repressive practices of police officers in the context of National Strike protests.

Regarding the type of eye trauma, the analysis is divided into five categories: a. loss of an eye; b. total loss of sight; c. partial loss of sight; d. injury without loss of sight; and d. eye injury with trauma not identified. In the 2021 records, the two injuries with the highest percentage are loss of an eye and total loss of sight – which does not necessarily involve the loss of the eye – with each accounting for 28 (13.59%).

TYPE OF INJURY	Nº OF CASES	PERCENTAGE
Loss of an eye	14	13,59%
Total loss of sight	14	13,59%
Partial loss of sight	9	8,74%
Eye injury without loss of sight	6	5,83%
Eye injury with trauma not identified	60	58,25%
TOTAL	103	100%

TABLE: Consolidated figures recorded by the NGO Temblores' GRITA Platform

It is important to note that, in the records, there is a cross-cutting figure of 18 cases of injuries that include an injury to the face or skull. The victims of this type of trauma report that they were hit by tear gas grenades thrown directly at their faces.

B. USE OF POTENTIALLY LETHAL WEAPONS AND LINKS WITH THE VIOLATION OF THE RIGHT TO PHYSICAL INTEGRITY DUE TO EYE TRAUMA

Since the start of the National Strike, the organizations PAIIS, Temblores⁸⁰ and

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80 In June 2021, the NGO Temblores, Indepaz and the Programa PAIIS of the Universidad de los Andes, denounced systematic violence by the security forces in the context of the National Strike demonstrations. According to a report presented to the IACHR, these practices were: (i) the indiscriminate, excessive and disproportionate use of firearms against protesters by the security forces; (ii) the use of less-lethal weapons against the bodies of protesters to disperse peaceful protests; (iii) horizontal shots with long-range Venom weapons in residential areas and against protesters; and (iv) inflicting eye trauma on protesters. Temblores, Indepaz and Programa PAIIS of the Universidad de los Andes, Informe sobre la violación sistemática de la Convención Americana y los alcances jurisprudenciales de la Corte IDH con respecto al uso de la fuerza pública contra la sociedad civil en Colombia, en el marco de las protestas acontecidas entre el 28 de abril y el 31 de mayo de 2021, report presented to the IACHR during its working visit, June 2021, available at: <http://www.indepaz.org.co/informe-de-temblores-ong-e-indepaz-a-la-cidh/> (Spanish only).

Amnesty International have recorded an alarming number of complaints about the excessive and disproportionate use of potentially lethal weapons by ESMAD.⁸¹ The reports describe injuries caused by the unlawful use of potentially lethal weapons, such as tear gas canisters fired directly at the faces of protesters, violating established protocols for their use and international standards.

The most serious injuries have occurred as a consequence of this type of impact as the victims have not only sustained eye trauma, but also injuries to their skulls that have required complex facial reconstruction surgery. In the Temblores record, it indicates that **18 cases of trauma occurred due to the impact of a tear gas grenade fired at the face.**⁸²

Attacking protesters in the face, and in particular the eyes by the misuse of potentially lethal weapons produces different types of damage that can inflict life-changing injuries on people. Depending on the nature and distance at which the attack is carried out, people may sustain a temporary trauma or permanent loss of sight. Types of trauma that can occur include: destruction of the iris, detached retina, vitreous hemorrhage, and eye and eye socket trauma. These result in either temporary or permanent damage to victims. In the cases that have been reported linked to the mobilizations that began on 28 April 2021, there is uncertainty about the definitive effects of these injuries, since they are still being treated with surgery, medication and therapies.

Amnesty International has received and verified hundreds of pieces of audiovisual material on the disproportionate and repressive actions of state security forces between 28 April and 20 October 2021. This audiovisual ma-

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81 Amnesty International, Cali: In the Epicenter of Repression, 30 July 2021, (AMR 23/4405/20201), available at: <https://www.amnesty.org/en/documents/amr23/4405/2021/en/> ; Colombia: Open letter to president Iván Duque about the serious human rights crisis in Colombia, 14 May 2021, (AMR 23/4121/20201), available at: <https://www.amnesty.org/en/documents/amr23/4121/2021/en/> ; Amnesty International, Colombia: 650 civil society organizations call for exhaustive investigation of repression of protests and call on the IACHR to act, 6 May 2021 (AMR 23/4100/2021), available at <https://www.amnesty.org/en/documents/amr23/4100/2021/en/> ; Amnesty International published a report on 4 May, with audiovisual evidence verified by its Digital Verification Corps, confirming that the National Police had used lethal weapons against protesters in several incidents, as well as less lethal weapons, such as tear gas and water cannon, indiscriminately. See, Colombia: Amnesty International denounces the militarized response and police repression of demonstrations, 4 May 2021, available at: <https://www.amnesty.org/en/latest/news/2021/05/colombia-amnistia-denuncia-respuesta-militarizada-represion-policia/>

82 ONG Temblores, GRITA Platform.

terial has been rigorously digitally verified by experts in weapons and ammunition and by Amnesty International’s Digital Verification Corps (DVC).⁸³

THE VIDEOS VERIFIED REPORT A PATTERN OF:

I indiscriminate use of tear gas launchers

II use directed at the body of protesters.

In several of the videos verified it is possible to determine that the weapons from which tear gas was launched were used unlawfully and in breach of human rights standards, targeting the bodies of protesters, especially the head. According to the Amnesty International’s Digital Verification Corps, it is possible to detect in several videos the use of these as “projectiles”, at close range and at an average angle of 45 degrees. The grenade launcher weapons identified were 40mm Penn L140-1 weapons, made in the USA. These kinetic impact grenade launchers are considered potentially lethal if their use is targeted at individuals and fired at close range, as they were in these cases.

In several videos and photos it was also possible to identify the disproportionate use of potentially lethal weapons, such as truncheons, which should be used in limited situations to respond to an imminent danger. However, the audiovisual evidence collected suggests that police officers in Colombia used them to beat protesters, targeting the head and neck, which clearly carries a high risk of causing serious injuries, including eye trauma.⁸⁴ The indiscriminate use of these weapons in cases in which it is not possible to determine a situation of serious threat, is conduct contrary to international law.

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⁸³ The DVC is a network of volunteers trained in open source research and analysis, based in universities around the world. The Berkeley Center for Human Rights of the University of California and the Centre for Human Rights of the University of Essex, in the United Kingdom, participated in this research.

⁸⁴ Amnesty International, Evidence of excessive use of force against protesters around the world, the Case of Colombia, April 2021. The verified video shows a young man being beaten by three police officers with batons, available at: <https://youtu.be/UQxVUD8htJ8>



Screenshot of one of the videos verified by Amnesty International's DVC in which a person can be identified with their hands up in front of an armoured personnel carrier. In the shot one can see a tear gas grenade being fired directly at his body and hitting him in the head. Cali, Valle del Cauca, 3 May.⁸⁵

State bodies, such as the Ombudsperson's Office, have reiterated their concern regarding the excessive use of force, in particular by ESMAD. In the report presented by the Office of the Ombudsperson to the IACHR on social protests during the period April to June, the Office of the Ombudsperson indicated that, in most cases, violent interventions by ESMAD were:

“perceived by the protesters as a form of confrontation affecting the exercise of a right. The confrontations can result in violations when National Police officials do not adhere strictly to human rights regulations, breaching principles of proportionality, rationality and differentiation in the use of force. This has led to the disproportionate use of force being seen in various interventions, violating the right to physical integrity and even the right to life of some protesters or passers-by who are in areas where a protest is taking place... Extreme violence is manifested

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⁸⁵ Video published on 3 May on Facebook, available at <https://www.facebook.com/100000297729291/posts/4277256132294269/?sfnsn=scwspwa>. Material verified by Amnesty International's Digital Verification Corps (DVC).



in those cases where death occurs as the result of the use of firearms, which ESMAD and the Available Police Forces are prohibited from carrying”.⁸⁶

The decision to resort to the use of force in the context of protests must respect the **principles of legality, necessity, proportionality and accountability**.⁸⁷ In those cases in which force has to be used, it should only be directed at people who are involved in acts of violence or who actually represent a threat and not against other people who are participating peacefully in the meeting or demonstration or are simply passers-by. In these cases, the authorities must take the necessary measures to identify the specific people who have committed acts of violence and continue to facilitate the right to peaceful assembly of those who wish to exercise it. Only in cases where the violence has become genuinely widespread and there is no other way to stop it may law enforcement officials use reasonable and limited force to disperse an assembly.⁸⁸

There are also very clear rules in international human rights law regarding the use of so-called “less lethal weapons” (as opposed to firearms) because, depending on how they are used, they can be potentially lethal or inflict severe

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86 “percibida por los manifestantes como una forma de confrontación que altera el ejercicio de un derecho. De la confrontación pueden generarse vulneraciones cuando agentes de la Policía Nacional no se ciñen de manera estricta a los reglamentos en materia de derechos humanos, incumpliendo principios de proporcionalidad, racionalidad y diferenciación en la aplicación de la fuerza. Esto ha generado que en diversas intervenciones se observe el uso desproporcionado de la fuerza, transgrediendo el derecho a la integridad personal e incluso el de la vida de algunos manifestantes o transeúntes que se encuentran en las zonas donde se desarrolla la protesta. (...) El caso extremo de violencia se presenta en aquellos casos en que la muerte se produce por arma de fuego, cuyo porte por parte del ESMAD y la Fuerza Disponible de la Policía está prohibido”. Ombudsperson’s Office, Informe defensorial visita CIDH Colombia protesta abril-junio 2021, June 2021.

87 United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

The principle of legality establishes that the power of law enforcement officials to use force must be established by law, which will describe under what circumstances and for what purpose the use of force may be considered;

The principle of necessity establishes that force will only be used when no other means is available (beforehand or after having exhausted all available means) to achieve the legitimate objective. It should also be clear that only minimal force will be used; that is, no more force will be used than is necessary to achieve the objective.

The principle of proportionality states that law enforcement officials may not attempt to achieve their objectives at all costs. The law should set a clear boundary and require law enforcement officials to weigh their legitimate objective against the possible harm they may cause by resorting to the use of force.

Finally, the principle of accountability requires that law enforcement agencies be held accountable for the fulfilment of their duties and their compliance with the legal and operational framework, including not only law enforcement officials acting in a specific situation, but also those who have responsibility in the chain of command.

88 Human Rights Committee, General Comment 37 (2020), on the right to peaceful assembly (Article 21), CCPR/C/GC/37, 17 September 2020, para. 85.

and irreversible harm to the physical integrity of protesters, such as the cases of eye trauma documented in this report.

The United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement states that:

“Less-lethal weapons and related equipment may also kill or inflict serious injury, especially when they are not used by trained personnel in accordance with the specifications, with general principles on the use of force, or with international human rights law.”⁸⁹

The Guidance states that targeting the face or head with kinetic impact projectiles “may result in skull fracture and brain injury, damage to the eyes, including permanent blindness, or even death.”⁹⁰ **Therefore directing them at the head, face or neck constitutes unlawful use.**⁹¹

According to statements by Vice-President and Foreign Minister Marta Lucía Ramírez, 88.5% of the demonstrations in the context of the National Strike have been peaceful.⁹² Although individual incidents of violence were recorded in some Colombian cities, in general, the demonstrations have been characterized by their peaceful nature. However, the national authorities appear to justify the disproportionate use of force by citing acts of vandalism and terrorism.⁹³

The Presidential Council for Human Rights has maintained that: “the state can intervene, within the framework of the law and the relevant protocols, to curtail a meeting or public demonstration when those involved disregard the peaceful

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89 Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement, HR/PUB/20/1 eISBN: 978-92-1-005071-5, New York and Geneva, 2021, para. 1.2.

90 Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement, HR/PUB/20/1 eISBN: 978-92-1-005071-5, New York and Geneva, 2021, para. 7.5.3.

91 Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement, HR/PUB/20/1 eISBN: 978-92-1-005071-5, New York and Geneva, 2021, para. 7.5.8.

92 Statement by the Vice-President and Chancellor, Marta Lucía Ramírez, at the end of the meeting with the Representative of the United Nations High Commissioner for Human Rights, Juliette de Rivero, 25 June 2021, available at: <https://www.cancilleria.gov.co/newsroom/video/declaracion-vicepresidente-canciller-marta-lucia-ramirez-termino-reunion> (last accessed 5 July 2021), (Spanish only).

93 Presidency of the Republic of Colombia, address by Iván Duque, 1 May 2021, available at: <https://twitter.com/infopresidencia/status/1388692317922631680?s=20> (Spanish only).



element; that is, when they become violent thus affecting aspects such as national security, public order, public interest and, especially, the life or physical integrity of citizens in general... The position of the National Government of absolute rejection, in the face of the evidence, of the involvement of a very small number of public security officials in irregular conduct in the context of protest scenarios is noted; officials who should be subject to exemplary penalties and sanctions. All in all, it is necessary to reiterate that acts such as those that are criticized are not the general conduct of members of the security forces, institutions that could be seriously brought into disrepute for the deviant behaviours of some officials involved in such conduct.”⁹⁴

It is important to highlight that the Human Rights Committee in General Comment 37 (2020) on the right to peaceful assembly, in explaining Article 21 of the ICCPR,⁹⁵ **established a presumption in favour of considering that meetings are peaceful and that isolated acts of violence by some participants should not be attributed to others.** In addition, the measures that impose restrictions on participation in peaceful assemblies should be based on a **differentiated or individualized assessment of the conduct of the participants and the assembly concerned. Blanket restrictions on peaceful assemblies are presumptively disproportionate”.** (Emphasis added)⁹⁶ The right of peaceful assembly, “together with other related rights also “constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism.”⁹⁷

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94 La Consejería Presidencial para los Derechos Humanos, sostiene que “el Estado puede intervenir, en el marco de la ley y los protocolos pertinentes, para limitar una reunión o manifestación pública cuando quienes las ejercen prescinden del elemento pacífico, esto es, cuando se tornan violentas afectando así dimensiones tales como la seguridad nacional, el orden público, el interés general y, especialmente, la vida o la integridad personal de los ciudadanos en general. (...) se resalta la postura del Gobierno Nacional de absoluto rechazo frente a hechos que involucran actuaciones irregulares de un muy reducido número de agentes de la Fuerza Pública en escenarios de protesta; funcionarios respecto de los cuales se pide la aplicación de penas y sanciones ejemplares. Con todo, es menester reiterar que, actos como los que se reprochan no son la generalidad en el comportamiento de integrantes de la Fuerza Pública, instituciones que mal podrían ser descalificadas por la conducta desviada de algunos funcionarios involucrados en tales conductas.” Presidential Council for Human Rights, OFI21-00086955 / IDM 13050000, 15 June 2021, Response on assessments related to the Right to Assembly and Public and Peaceful Protest in Colombia.

95 The right to freedom of peaceful assembly is enshrined in Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and Article 15 of the American Convention on Human Rights (ACHR), instruments to which Colombia is a state party. Likewise, the Constitution of Colombia recognizes, in Article 37, the right to assemble and demonstrate publicly and peacefully. The exercise of the right to freedom of peaceful assembly is linked to freedom of expression (Articles 19 of the ICCPR and 13 of the ACHR) and freedom of association (Articles 22 of the ICCPR and 16 of the ACHR).

96 Human Rights Committee, General Comment 37 (2020), on the right to peaceful assembly (Article 21), CCPR/C/GC/37, 17 September 2020, para 38.

97 Human Rights Committee, General Comment 37 (2020), para. 1.

6

DISABILITY AND THE HARM INFLICTED ON LIFE PROJECTS DESCRIBED THROUGH VICTIMS' STORIES

A. DISABILITY LINKED TO POLICE VIOLENCE: INJURIES, TRAUMA AND CHANGED LIFE PROJECTS

Eye trauma has caused irreparable damage to protesters on various levels. More than 100 people reported suffering eye trauma during the protests in 2021 alone.⁹⁸ Beyond the high numbers of people who have suffered eye injuries as a result of the disproportionate use of potentially lethal weapons, these accounts are a vivid reflection of the irreversible damage caused to their lives.

This analysis is based on the social approach to disability established in the Convention on the Rights of Persons with Disabilities (CRPD), to which Colombia is a state party. The CRPD adopts what is known as the “social model” according to which a person with some kind of functional difference (as some framed it and what the Convention calls “*impairment*”) is considered to have a disability to the extent that that the environment is not adapted to accommodate them, which prevents them from accessing and exercising rights on equal terms with others. In this way, the social model locates disability outside the person who has the functional difference, indicating that it is found in the inadequate social response to that difference.⁹⁹

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⁹⁸ [NGO Temblores, GRITA Platform.](#)

⁹⁹ This conceptual construct is the product of the activism of people living with disabilities who, by promoting the negotiation of the Convention, sought to be recognized, as never before, as rightsholders and not as objects of assistance or charity.

The positive and optimistic stance of the social model, however, is problematic when that *functional difference* is the result of violent action; even more so, when the violence comes from the state. It is difficult for a person who has been violated for exercising a right and who, as a consequence, experiences a deterioration in a sense or functionality, to embrace the discourse of the value of diversity. Not only are people damaged by the violence of an armed conflict or police violence as a result of the permanent wounds inflicted on their bodies by that attack, but they also face psychological impacts that are very complex to overcome. This is largely due to the fact that the consequences imprinted on the body are a living and permanent reminder of that violence and it becomes a permanent source of revictimization.

This aspect is extremely significant. The life and identity of the person is penetrated, for the rest of their lives, by the violence inflicted on them by those officials who are tasked internationally and constitutionally with protecting them. In cases of injuries of this type, it has been observed that, through the victimizing action at the hands of state forces and in an environment in which social protest is almost associated with an act of war, disability becomes a weapon used by the security forces to confront that constructed enemy.¹⁰⁰

Acquiring a disability as a result of a victimizing act at the hands of the armed forces turns that condition into the constant memory of a violent episode that should never have happened, into a perpetual revictimization that highlights the vulnerability of citizens faced with a state that is attacking them. Thus, when and how a disability is acquired has a determining impact on the way in which a person comes to terms with it, since one's perspective when the disability is the product of a victimizing event is very different from when it is not.¹⁰¹

Another fundamental aspect that increases the complexity of this violence and that requires a detailed study – which should take place over a longer

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100 This situation is similar to that which occurs with the use of antipersonnel mines in a context of armed conflict as a mechanism for weakening the opponent.

101 For more information, see the report presented by the PAIIS Programa de Acción por la Igualdad y la Inclusión Social de la Universidad de los Andes in December 2020 to the Commission for the Clarification of Truth, Coexistence and Non-repetition titled, *Discapacidad y conflicto armado en Colombia: en busca de un relato ausente*, which discusses to the issue of the identity of victims with disabilities, available at: <https://paiis.uniandes.edu.co/en-busca-de-un-relato-ausente/> (Spanish only).



period – is that injuries of this type are accompanied by a *psycho-social impact*. This is because, in addition to the traumatic effect of the violent act itself, these are visible injuries that alter the way the person presents themselves to the world, leaving them exposed to social judgements and profound effects on their self-esteem and security. That emotional impact is part of the harm that is done and must be integrated throughout case studies and the care pathway designed to address it.

As will be seen in this section, people who have sustained eye trauma as a result of police violence have to face barriers resulting from bearing on their faces a mark that makes them a symbol of what should be rejected: the dissident, the riotous, the rebel. **Those people who cannot see do not want to be seen either** and, therefore, getting a job, for example, becomes an odyssey because the stigma generates fear and mistrust of them. Requesting health services generally means being revictimized trying to access treatments that are often unaffordable and that public services are not in a position to provide. In addition, this new condition creates new expenses to deal with a new daily reality that is often beyond people's economic resources. The lack of pathways for dealing with these situations means people have to go around to figure out a system that rejects those who do not conform to its categories.

B. OBSTACLES TO GUARANTEEING THE HUMAN RIGHTS OF THE VICTIMS OF THE EYE TRAUMA

An aspect common to all the interviews regarding the cases documented in this report is that as a result of these violent incidents, people feel a deep mistrust and fear of National Police officials and, in particular, ESMAD. In several cases, the victims stated that the officers who shot at their faces did so deliberately and in a premeditated manner. Such is the case of Camilo Carvajal, who was threatened that they would “take out his eyes” if he continued to record police abuses with his cell phone. Other victims had a previous exchange of looks and words with ESMAD officials, which they consider a key factor in determining why they were shot directly in the face. Many of them saw the officers take aim and fire directly at them, with the intention of causing serious harm.

RESTRICTION OF THE RIGHT TO PEACEFUL PROTEST

Several of the victims whose statements are cited in this report, said that the eye trauma sustained has had a major impact on their decisions about exercising their right to social protest in the future. The eye trauma has created a sense of fear and insecurity related to the marches which makes it difficult to participate again. Camilo Carvajal nervously points out that thinking about a demonstration makes his heart race and that, although he used to actively participate in these spaces, today he would think twice before going on a demonstration again.¹⁰² For some of the people interviewed, such as Gareth Sella, Leidy Cadena and Juan Carlos Martínez Gil, their experiences have not diminished their political activism or their involvement in social protest. Gareth Sella has continued to be active in spaces such as assemblies or meetings, but he has not taken part in demonstrations.

José Romero said that, although he has gone on other demonstrations after the eye trauma, he continues to feel afraid when he sees ESMAD officials and that when he has been on demonstrations, his family has asked him to be very careful and they've already "screwed up" one eye.¹⁰³ Carolina Bautista, after the sustaining eye trauma, continued to be part of the student movement, but stopped participating in marches and demonstrations for at least two years because she was very afraid. In fact, Carolina says that after so many years she still has a feeling of fear and insecurity when she sees a policeman nearby, regardless of where in the world she happens to be.¹⁰⁴

Juan Villaquirán said that he would march again if necessary, but that he would do so with a feeling of fear because now one of his greatest fears is being totally blind.¹⁰⁵ He also said that, due to his experience and to other acts of police violence that he has witnessed, he feels very uncomfortable when police officers are nearby. Dickson Ramírez said that he is

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102 Interview with Camilo Carvajal, 22 September 2021 "¿Qué lo haría? Lo haría en cantidad de veces, inclusive pues si me genera la muerte eso pues que hijuemadre, pero si lo pienso dos veces antes de hacerlo, porque aquí en Colombia es complicado salir a marchar por los derechos" ["Would I do it again? I would do it many times over, even if it results in my death, goddammit! But if I think twice before doing it, it's because here in Colombia it is difficult to go out and march for rights."]

103 Interview with José Romero, 28 September 2021.

104 Interview with Carolina Bautista, 9 June 2021.

105 Interview with Juan David Villaquirán, 16 September 2021.

afraid of going on a demonstration again and does not want to do it again “because you do not know when they might do something to you.”¹⁰⁶

IMPACT ON THE RIGHT TO HEALTH AND REHABILITATION

One of the main barriers encountered by victims of eye trauma who seek medical attention is discrimination and stigmatization. Camilo Carvajal described how when he arrived at the hospital where he was treated after the incident, the doctors did not want to treat him because he was wearing a helmet and a gas mask. He said that, despite the fact that he arrived at the hospital in a serious condition and vomiting blood, he heard discriminatory comments, such as a doctor who said: “oh, these are one from the Frontline,¹⁰⁷ not those from the demonstration, and for what?”¹⁰⁸ He also said that getting seen at the hospital took so long that the person who accompanied him started recording the situation to attract attention and that when the person responsible for examining him finally reviewed his case, she said: “Why have you got this boy here? Please! During this time, you should already have sent him to have a CT brain scan. He might have arrived with an internal concussion”¹⁰⁹ Camilo said that recording the situation, together with the announcement by several protesters that they were going to demonstrate in front of the hospital, created pressure for him to be given the medical attention he sought.¹¹⁰

As regards victims’ access – within an adequate and reasonable time – **to the medical procedures and prostheses needed for the eye trauma, several problems have arisen.** Initially people often do not know how to access the system or the services available, in terms of Colombian law. As a result, lack of economic resources becomes a major obstacle to accessing these services adequately. Daniel Jaimes said that he had to raise money through donations to be able to pay all the expenses

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106 Interview with Dickson Ramírez, 15 September 2021.

107 The “Frontline” are the group of protesters who place themselves in front of the National Police Mobile Anti-riot Squad, with shields and helmets, in order to defend the group from a possible attack with tear gas or stun grenades. Such groups were also formed during protests in Chile and Hong Kong.

108 Interview with Camilo Carvajal, 22 September 2021.

109 Interview with Camilo Carvajal, 22 September 2021.

110 Interview with Camilo Carvajal, 22 September 2021.

related to his health.¹¹¹ José Romero said that, at the time of the incident, he was not enrolled in the health system and so he and his family had to deal with the debt resulting from the urgent medical care he received after the eye trauma. In addition, access to the prosthetics and glasses he now needs has also been paid for by his family.¹¹² Juan Villaquirán,¹¹³ Wilmar Lopera¹¹⁴ and Camilo Carvajal¹¹⁵ have also had to manage accessing prostheses, glasses and medicines themselves and with the help of their friends and the community.

Further evidence of the **lack of availability and accessibility of services** is that victims often have to undertake lengthy journeys in order to access treatment. José Romero said that in order to get his prosthesis he had to travel from Caquetá to Bogotá,¹¹⁶ while Virgilio Mosquera said that even though he lives in Popayán, he has had to go to Cali to receive his medical treatment, which involves a considerable increase in his expenses because he has to pay for the stay and transport himself.¹¹⁷

As regards rehabilitation services, of the 13 victims of eye trauma interviewed for this report who sustained total or partial loss of sight in one eye, none said they had had access to public rehabilitation services that would have enabled them to adjust more easily and be better equipped to deal the consequences of the eye trauma, especially the reduction in visual capacity.

PSYCHO-SOCIAL SUPPORT

Regarding the **psycho-social support for the consequences of eye trauma**, only three of the victims interviewed said they received any psychological counselling.¹¹⁸ Gareth Sella says that it was provided by officials of the Bogotá Secretary of Government, and that it consisted of about three half-hour

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111 Interview with Daniel Jaimes, 23 September 2021.

112 Interview with José Romero, 28 September 2021.

113 Interview with Juan David Villaquirán, 16 September 2021.

114 Interview with Wilmar Lopera, 28 May 2021

115 Interview with Camilo Carvajal, 22 September 2021.

116 Interview with José Romero, 28 September 2021.

117 Interview with Virgilio Mosquera, 22 September 2021.

118 Interview with Gareth Sella, 2 June 2021. Interview with Camilo Carvajal, 22 September 2021, and interview with Juan David Villaquirán, 16 September 2021.

sessions.¹¹⁹ The victims who said that they were receiving or had received continuous psychological support linked to eye trauma said that it was provided by institutions such as universities¹²⁰ and human rights organizations;¹²¹ some paid for this support themselves.¹²² Only two of the victims said that they were offered any kind of psychological support within the health system beyond that in the immediate aftermath of the eye trauma.¹²³

In addition to the precarious psycho-social care received – when it has been provided at all – victims also state that the treatment by health personnel was not always adequate, given the traumatic nature of the injury. Carolina Bautista, for example, referring to the time when the doctor examined her for the first time, said:

“He examined me and the first thing he said to me was ‘uh, they shot you in the eye’, that is to say, without taking the utmost care given the situation or what was happening to me and what I was feeling, not in the least.”¹²⁴

As a corollary to the above, it must be said that, while the direct victims do not receive adequate psycho-social care or rehabilitation, support for their families, who also see their lives impacted by these violent events, is also lacking.

One of the most significant points that victims of eye trauma highlight is the physical damage and its impact on their life project. Some describe how they have had additional barriers in carrying out daily activities or in exercising their right to work.

BARRIERS TO ENSURING THE RIGHTS TO WORK, EDUCATION AND MOBILITY

Camilo Carvajal said that he lost his job due to the situation and, although

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119 Interview with Gareth Sella, 2 June 2021.

120 Interview with Juan David Villaquirán, 16 September 2021, and interview with Wilmar Lopera, 28 May 2021.

121 Interviews with Leidy Cadena, 5 June 2021; Gareth Sella, 2 June; and Daniel Jaimes, 23 September 2021.

122 Interview with Carolina Bautista, 9 June 2021.

123 Interviews with Camilo Carvajal, 22 September 2021, and Virgilio Mosquera, 22 September 2021.

124 Interview with Carolina Bautista, 9 June 2021.



he can return to it once he feels better, he pointed out that because of the care he needed and that his mother provided, she also lost her job.¹²⁵

Some of the barriers that have been created to access education are related to the recovery time after eye trauma, others to the impairments caused by eye trauma for which the victims have not received support or reasonable adjustments to reduce the barriers, while others are linked to the financial resources necessary to access the educational system. Carolina Bautista said that when she sustained the eye trauma she was in her last semesters at university and it was difficult for her to read – she said that she still misses lines of the texts if she spends a lot of time reading – and that she had considerable difficulty in getting used to using the computer again.¹²⁶ José Romero said that he was forced to postpone the semester he was studying at the university and that the following semester he still felt weak and it was difficult for him to read with one eye; that is why he took fewer courses and although at the time of sustaining the eye trauma he was two years away from graduating, he ended up taking between six and seven more years to graduate.¹²⁷

Regarding the last point, Camilo Carvajal said that before the injury, he was working and saving to go to university, but that this money was used for expenses related to the eye trauma.¹²⁸ Daniel Jaimes was also planning to study at the Universidad Distrital before the eye trauma, but said that now he has wait a bit to realize these plans.¹²⁹

In relation to mobility barriers, Gareth Sella said that his loss of sight means that he sometimes crashes into other people while walking¹³⁰ and that he will have to modify his bicycle before using it again to compensate for the lack of vision in one of his eyes. Leidy Cadena expressed concern regarding her mobility because she travelled mainly by bicycle and now

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125 Interview with Camilo Carvajal, 22 September 2021.

126 Interview with Carolina Bautista, 9 June 2021.

127 Interview Jose Romero, 28 September 2021; his case occurred in 2013.

128 Interview with Camilo Carvajal, 22 September 2021.

129 Interview with Daniel Jaimes, 23 September 2021.

130 Interview with Gareth Sella, 2 June 2021.



that her vision “is reduced by 50%”¹³¹ and that she has developed photophobia in her left eye, this will affect her ability to cycle and also to operate other vehicles like a car or a motorcycle.¹³² Virgilio Mosquera described a similar situation, adding that he had a motorcycle and that due to the sensitivity to light resulting from the eye trauma, he can only use it on days when it is not very sunny or wearing very dark glasses.¹³³

EMOTIONAL AND SOCIAL BARRIERS

Finally, there are emotional and psycho-social consequences – in addition to those mentioned above – that have a major impact on victims. These include the changes in their family and friendship relationships, the impact and perception they have of their physical appearance following the eye trauma and the feeling of vulnerability that persists for some victims.

Regarding the impact that the change in their appearance had on the victims, Gareth Sella said that when he was assessed by the forensic services he was informed “this is permanent damage, it is also permanent cosmetic damage.”¹³⁴ Carolina Bautista explained that a few months after the eye trauma, she took some professional photos and when she saw them she did not recognize her own face. She said that when she saw the photo she thought: “that’s how I’m left, this is me now”¹³⁵ and sat down and cried. Finally, Juan Villaquirán recalled that the first time he shaved after being hit in the eye had an huge effect on him, not looking the same as before and not having one of his eyes. Juan said: “When you go to look in the mirror the first thing you look at are your defects; you always think ‘oh I’m fat, oh I’ve got a pimple, oh I’ve got this.’ In my case, I don’t have an eye”.¹³⁶

In relation to the feeling of vulnerability and fear experienced by victims of eye trauma, Juan Villaquirán stated that in addition to eye trauma, he witnessed a lot of mistreatment by the police and that he

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131 Interview with Leidy Cadena, 5 June 2021.

132 Interview with Leidy Cadena, 5 June 2021.

133 Interview with Virgilio Mosquera, 22 September 2021.

134 Interview with Gareth Sella, 2 June 2021.

135 Interview with Carolina Bautista, 9 June 2021.

136 Interview with Juan Villaquirán, 16 September 2021.



can't handle seeing police officers, especially when they behave in an aggressive way; for Juan "that's like a trauma there that stays with you."¹³⁷ Juan described how after the impact that caused the eye trauma, he feels very unsafe.¹³⁸

Virgilio Mosquera said that he suffers from trauma as consequences of the injuries inflicted by police, one of them is that he has difficulties sleeping. Virgilio said that he wakes up at various times during the night, sweating, in distress and dreaming that someone is going to hit him on the head or detain him. In addition, when he sees police officials, he is afraid that they will hit him again and so he stays still or walks away. Virgilio said that although he is recovering slowly, he still has the feeling that he is going to be beaten when he is asleep.¹³⁹ Wilmar Lopera also finds it traumatic when he sees a man in uniform now because feels intimidated rather than protected.¹⁴⁰

Regarding other emotional consequences of eye trauma for the victims, José Romero stated that he felt emotionally depressed after the eye trauma because the relationship with his girlfriend ended, he fell behind in college and the eye trauma affected his social life because when he went out "everyone looks at you like, like a weirdo, because of a defect especially to your face."¹⁴¹ José also said that he is affected when people who know him refer to him as "tuerto" (a one-eyed person), and because his girlfriend does not like it when he removes the prosthesis and tells him to put it back in.¹⁴² Finally, Wilmar said: "for me emotionally that is the hardest, the most difficult thing that I have had to face in life. I think it would have been better if they'd killed me. Perhaps if I'd died I could have avoided this intense emotional pain that I have to carry for the rest of my life."¹⁴³

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137 Interview with Juan Villaquirán, 16 September 2021.

138 Interview with Juan Villaquirán, 16 September 2021.

139 Interview with Virgilio Mosquera, 22 September 2021.

140 Interview with Wilmar Lopera, 28 May 2021.

141 Interview with José Romero, 28 September 2021.

142 Interview with José Romero, 28 September 2021.

143 Interview with Wilmar Lopera, 28 May 2021.

7

CONCLUSIONS AND RECOMMENDATIONS

PAIIS, Temblores and Amnesty International have concluded that, during the social protests in the context of the National Strike in Colombia, members of the Mobile Anti-Riot Squad (ESMAD) committed widespread human rights violations against protesters, by inflicting eye injuries through the disproportionate use of potentially lethal weapons.

Based on the statements of the victims of eye trauma, together with the documentation on their cases and the exhaustive verification of audiovisual material, it is possible to assert that these injuries were caused deliberately and in breach of human rights protocols and standards. In some of the cases documented in this report, they deliberately caused suffering and serious harm to demonstrators with the intention of punishing their decision to protest or the fact that they were women taking part in a protest.

The deliberate use of potentially lethal weapons to injure people's eyes caused irreversible damage to the physical and mental integrity and to the lives of peaceful protesters, the majority of whom are young people. The information collected in the statements and in the verified audiovisual materials show conclusively that there was an intention to inflict harm and send a chilling message to those who decide to protest in the streets. In some cases documented in this report ESMAD officials caused suffering and serious harm to the people on the demonstrations with the intention of punishing their decision to protest.

The failure of the national authorities to issue a strong message that these acts would not be tolerated, together with impunity, sent a permissive message to

ESMAD officials and violated the rights of the victims to justice, reparation and guarantees of non-repetition.

Although the majority of the victims were men on the demonstrations, some testimonies suggest that this violence was sometimes also targeted based on the gender of the victims. This was the case of the threats and violence documented in this report against women who decided to exercise their right to protest. This is shown by way officials treated women before attacking them, using insults and deprecating terms based on their gender and stereotypes of a woman's role.

Despite the complaints of repression, there is still no protocol setting out the pathway that should be followed should this sort of case be presented at a health centre or providing information on access to justice. According to the statements, cases were treated like those of any other person injured in non-violent acts. This, in many cases resulted in their revictimization. The response of public institutions was fragmented, the various bodies were not clear about how to proceed and there was no practical follow-up to the cases. Psycho-social support was not sustained, intensifying the mental damage experienced by victims and the impact of these injuries on their life projects.

The violent acts that produced the injuries, and the possible visual disability inflicted as a consequence, affected and changed the life projects of the people experiencing them, reducing access to opportunities, for example work, and altering the quality of life of these individuals. This had the effect of exacerbating the situation of need and marginalization that largely motivated the protests in the first place. Thus, people found themselves in a vicious circle of gaps aggravated by the violent action of the state, which not only failed to address them but made them more complex.

The human rights violations and crimes under international law documented in this report are not isolated or sporadic incidents, but rather reflect a pattern of violent actions by ESMAD aimed at punishing those who decide to protest and discouraging peaceful protest. These incidents deserve emphatic condemnation from the international community in order to demand concrete actions that result in the prevention of this type of incident and respect for the rights of the victims.



Taking into account that a significant part of the problem of police violence is due to the stigmatization of the right to protest, it is also important to call on various social sectors, such as the education sector and the media, to promote the rights to freedom of expression and peaceful assembly.

PAIIS, TEMBLORES AND AMNESTY INTERNATIONAL RECOMMENDATIONS TO THE COLOMBIAN AUTHORITIES:

1. Give an unequivocal order to the security forces and in particular the Mobile Anti-Riot Squad (ESMAD), to stop the abusive use of force.
2. Recognize, publicly, the seriousness of the human rights violations and crimes under international law that were committed during the protests in the context of the National Strike and adopt all necessary measures to provide reparation to the victims and to prevent events such as those detailed in this report from being repeated.
3. Ensure ESMAD fully complies with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by:
 - ending of the use of the Venom system in public order operations in general and in the policing of demonstrations in particular,
 - ensure that tear gas is only used for crowd dispersal in situations of widespread violence and not indiscriminately or targeted to cause serious injury;
 - comply with human rights standards on the use of potentially lethal weapons, in compliance with the principles of lawfulness, absolute necessity and proportionality.¹⁴⁴
4. Remove the National Police, including ESMAD, from the Ministry of Defence in order to ensure that their actions are consistent with a civilian and not a military approach.

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¹⁴⁴ Amnesty International recommends using as reference documents its Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and 30 Rules for the Use of Chemical Irritants in Law Enforcement.

5. Comply without delay with the recommendations of the Inter-American Commission on Human Rights, in particular Recommendation 10, in order to ensure that the use of non-lethal means to control public order is subject to a strict and public protocol that prevents and punishes their use to cause serious harm to the physical integrity and health of protesters.¹⁴⁵
6. Comply with the provisions of the 22 September 2020 ruling of the Colombian Supreme Court of Justice in a way that guarantees and facilitates the exercise of the fundamental rights of freedom of expression, assembly and peaceful protest and freedom of the press.
7. Undertake a structural reform of the National Police, in particular the Mobile Anti-Riot Squad (ESMAD), which establishes the protection and guarantee of human rights as the basis of its actions. This reform must include, as a minimum:¹⁴⁶
 - Independent and effective monitoring systems;
 - Significant participation by various social sectors in the development of a reform of ESMAD, which includes the creation of roundtables in which victims of police violence can participate and the principle of diversity is guaranteed;
 - The adoption of adequate and independent protocols to investigate abuses committed by the police in order to guarantee greater transparency;
 - Addressing unlawful police violence as a structural problem;
 - Including the role of commanders and other superior officers in human rights violations;
 - Developing protocols to ensure that ESMAD officials against whom serious complaints of human rights violations have been made are temporarily suspended from service in order to contribute to non-repetition.

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¹⁴⁵ Inter-American Commission on Human Rights, Observations and recommendations, Working visit to Colombia, June 2021, para. 50, available at: https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

¹⁴⁶ For further information on see principles see Amnesty International, *Policías Bajo la Lupa: Cinco claves para la supervisión y la rendición de cuentas de la policía en las Américas*, 15 October 2021, available at: <https://www.amnesty.org/en/wp-content/uploads/sites/4/2021/10/AMR0148112021SPANISH.pdf> (Spanish only).

8. Establish independent ESMAD accountability mechanisms in order to ensure the thorough, prompt and impartial investigation of complaints of human rights violations.
9. Develop a joint protocol between the Public Prosecutor's Office, local governments (specifically the Ministries of Health and of the Interior) and the National Police to guarantee immediate initial care for people injured in the context of demonstrations. This protocol must include concrete actions to guarantee they receive priority healthcare, including pathways for immediate treatment and comprehensive follow-up.
10. Establish a comprehensive care plan that guarantees victims of eye trauma are able to enjoy their fundamental rights and freedoms. This plan should be developed with the participation of victims of eye trauma and their families.
11. Guarantee access to justice and comprehensive reparation for victims of eye trauma, recognizing them as victims of human rights violations.

TO THE ATTORNEY GENERAL 'S OFFICE

12. Initiate diligent, independent and impartial investigations into human rights violations and crimes under international law committed in the context of the National Strike, specifically the cases presented in this document, and, if there is sufficient and admissible evidence against those suspected of criminal liability, including commanders, subject them to fair proceedings before ordinary civilian courts.

TO THE OMBUDSPERSON 'S OFFICE

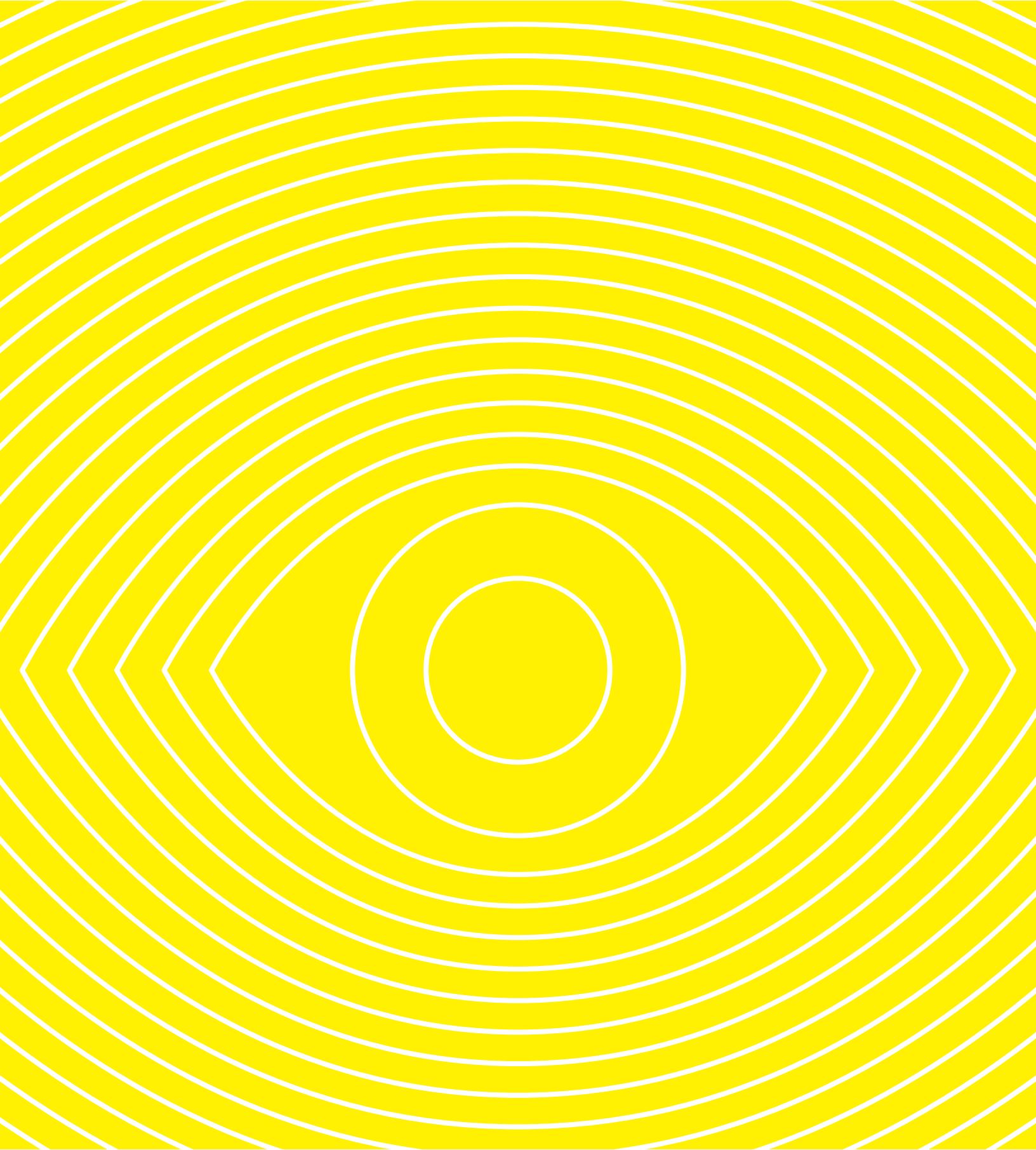
13. Fulfil the constitutional mandate to ensure the promotion, exercise and awareness of human rights, with independence and impartiality and free from interference and influence by political authorities.

14. Fully comply with the provisions of the 22 September ruling by the Supreme Court of Justice, in particular to that relating to ensuring strict, rigorous and intensive monitoring of all ESMAD actions during demonstrations and of their activities in each of their operations.

TO THE INSPECTOR GENERAL

15. Carry out disciplinary investigations into ESMAD agents, and their commanders, accused of excessive and unnecessary use of force and who have caused eye trauma due to the misuse of potentially lethal weapons.





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June 9, 2021 12:00AM EDT

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Colombia: Egregious Police Abuses Against Protesters

Police Reform Urgently Needed to Prevent Future Violations



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On April 28, thousands of people took to the streets in dozens of cities across Colombia to protest proposed tax changes. The government withdrew the proposal days later, but demonstrations about a range of issues – including economic inequality, police violence, unemployment, and poor public services – have continued. Police officers have responded by repeatedly and arbitrarily dispersing peaceful demonstrations and using excessive, often brutal, force, including live ammunition. Human Rights Watch has documented multiple killings by police, as well as beatings, sexual abuse, and arbitrary detention of demonstrators and bystanders.

“These brutal abuses are not isolated incidents by rogue officers, but rather the result of systemic shortcomings of the Colombian police,” said [José Miguel Vivanco](#), Americas director at Human Rights Watch. “Comprehensive reform that clearly separates the police from the military and ensures adequate oversight and accountability is needed to ensure that these violations don’t occur again.”

While the protests have been mostly peaceful, some individuals have committed grave acts of violence in the context of the protests, including burning police stations and attacking police officers, two of whom died.

Human Rights Watch interviewed more than 150 people, most by phone, including victims, their relatives and lawyers, witnesses, justice sector officials, officials of the human rights Ombudsperson’s Office, and human rights defenders, in 25 cities across Colombia. Human Rights Watch also met with Colombia’s vice president, who is also the foreign minister; the police chief; the attorney general; and the head of the Military Justice System.

Members of the Independent Forensic Expert Group (IFEG) of the International Rehabilitation Council for Torture Victims (IRCT), an international group of prominent forensic experts, provided [expert opinion on some evidence of abuses](#). Human Rights Watch also reviewed police and medical records, necropsy reports and photos of the victims, publications by local rights groups, and media reports. Human Rights Watch also corroborated more than 50 videos posted on social media and obtained information about the government’s response to past police abuses from the Ombudsperson’s Office, the Inspector General’s Office, and the Defense and Interior Ministries.

Human Rights Watch has received credible reports of 68 deaths occurring since the protests began. Human Rights Watch received reports of these deaths through local groups, including Temblores and

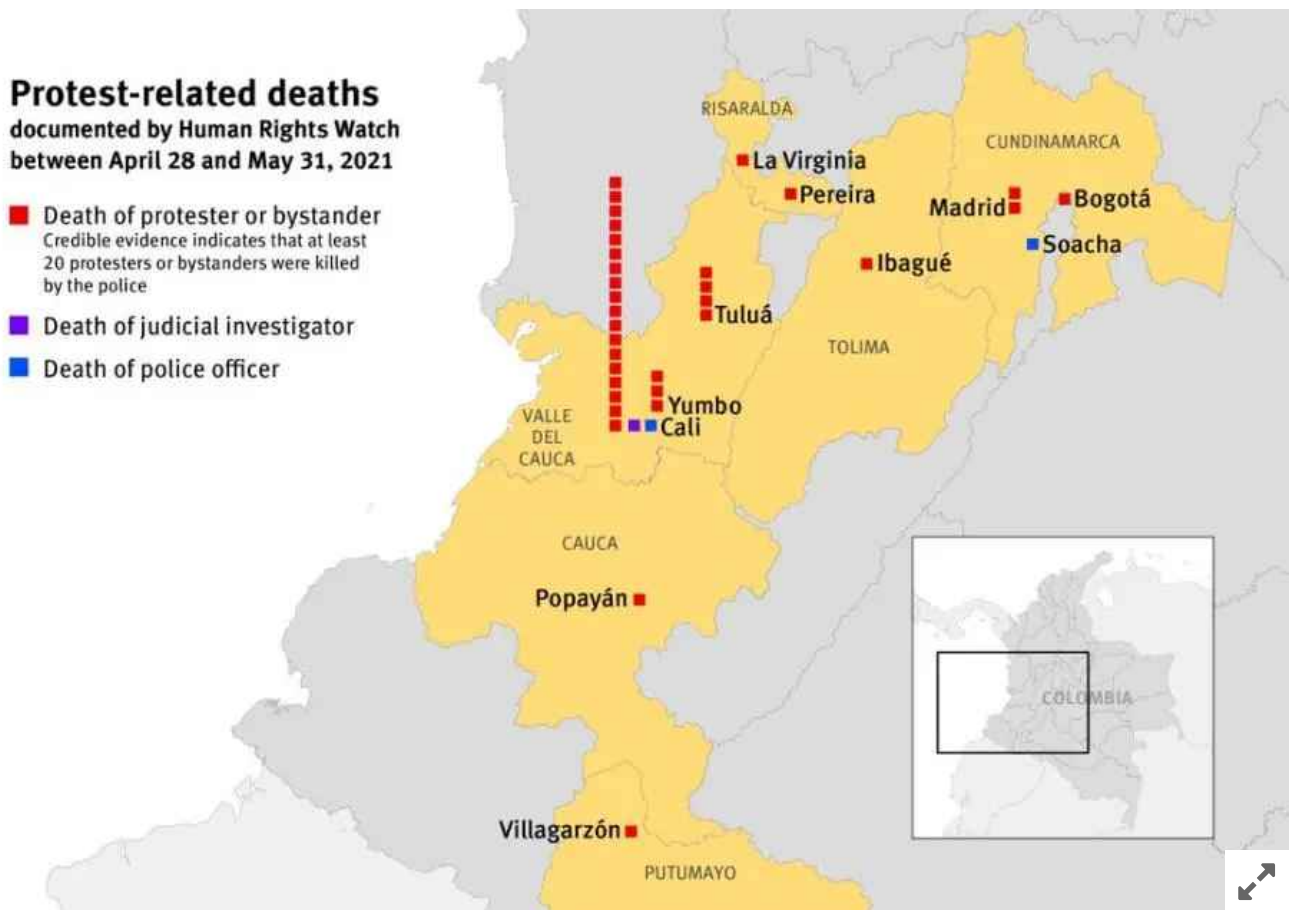
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Colombian authorities should carry out prompt and independent investigations into all cases of police abuse and other serious acts of violence, including by armed people in civilian clothes who have attacked protesters, Human Rights Watch said. They should also investigate any officers who may have failed to protect demonstrators from attacks by others.

Credible evidence indicates that the police killed at least 16 protesters or bystanders with live ammunition fired from firearms, Human Rights Watch found. The vast majority of them had injuries in vital organs, such as the thorax and head, which justice sector officials said are consistent with being caused with the intent to kill.

At least one other victim died from beatings and three others from inappropriate or excessive use of teargas or flash bang cartridges.



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Victims injured include journalists and human rights defenders who were covering the protests, including many who wore vests identifying them as such.

On June 3, [the Ministry of Defense said](#) that, since April 28, police officers had detained over 1,200 people for crimes allegedly committed during the protests. Prosecutors had only charged 215. Hundreds were released after a judge or prosecutor concluded that there was no evidence linking them to a crime, or that their due process rights were violated during detention, the Attorney General's Office told Human Rights Watch.

In addition, the police took into custody [over 5,500](#) people using a legal provision that allows police officers to “transfer” a person to an “assistance or protection center” to “protect” them or others. Human Rights Watch documented multiple cases of arbitrary detention, including by misusing the “protection” provision.

On May 14, the Ombudsperson's Office reported 2 cases of rape, 14 cases of sexual assault, and 71 other cases of gender-based violence by police officers, including slapping and verbal abuse. [Colombian rights groups have reported additional cases](#). Human Rights Watch documented two cases of sexual violence by police officers against protesters.

Human Rights Watch also documented 17 beatings, often with police truncheons. One victim, Elvis Vivas, 24, died in a hospital after a brutal beating by police officers.

At least 419 people have been reported missing since the protests began. On June 4, the Attorney General's Office said that it had found 304 of them. In some cases, the people who reported them missing were not aware that they had been detained.

While most demonstrations were peaceful, some individuals engaged in serious acts of violence, including attacking police officers and police stations with rocks and Molotov cocktails, looting, and burning public and private property. As of June 2, over [1,200 officers had](#) been injured, at least 192 severely, 2 officers had died and 7 officers remained hospitalized, according to the Defense Ministry. Twenty police officers had been injured by firearms, the police chief said. On April 29, several people beat up and sexually abused a woman police officer as they attacked a police station in Cali.

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“Violence against police officers and road blocking that impedes access to food or health services are unjustifiable, but they are no excuse for police brutality,” Vivanco said.

Incidents of abuse by the police in 2019 and 2020 prompted calls for comprehensive police reform, [including from Human Rights Watch](#).

The Colombian police force is under the authority of the Defense Ministry and has been deployed to fight armed groups alongside the armed forces, in a manner that has often blurred their distinct functions. In situations involving armed conflict, the use of force is governed by international humanitarian law, and the rules are very different than in a civilian context, such as in protests. Police officers implicated in abuses are also often [tried in military courts](#), where there is little chance of accountability.

Colombia needs a civilian force that is trained to respond to protests in a manner respectful of human rights, and whose members are held accountable for abuses, Human Rights Watch said. Establishing a clear separation between the police and the military is a key first step.

On June 6, President Iván Duque [announced](#) that his government would take steps to “transform” the police. Some of the initiatives, such as a proposed reform of the police’s disciplinary system, could have a positive impact on police abuses if properly designed and implemented, Human Rights Watch said. But other proposals seem cosmetic, and, overall, the changes announced fall short of the reforms needed to prevent human rights violations and hold those responsible to account.

President Duque [has acknowledged](#) that the police committed some abuses and said officers involved would be prosecuted and punished. But Duque has rejected other major proposals for police reforms, claiming that his government has “zero tolerance” toward abuse.

Yet the police’s internal disciplinary system, which lacks necessary independence, has failed to hold officers responsible for abuses in protests in 2019 and 2020, data obtained by Human Rights Watch shows. The Attorney General’s Office, which conducts criminal investigations, has also failed to achieve meaningful progress in investigations into abuses committed during those protests.

For detailed recommendations and further information on Human Rights Watch’s findings,

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responding to peaceful demonstrations every two years, but do not receive anti-riot training, the police chief told Human Rights Watch.

Additionally, since May 1, President Duque has [deployed](#) the army to “assist” the police, though not to use force against protesters. On May 28, Duque [increased](#) the number of deployed soldiers, and [ordered](#) several governors and mayors to work with security forces to “adopt the necessary measures” to disperse “blockades.”

Under international human rights law, the authorities should protect peaceful assemblies and should not disperse them even if they consider them unlawful. They should avoid using force unless necessary and proportionate to respond to specific incidents of violence. Peaceful protests that block traffic may be dispersed, as a general rule, only if they cause serious and sustained disruptions.

However, Human Rights Watch has documented repeated instances in which the ESMAD or police violated these principles, arbitrarily dispersing peaceful protests, or using indiscriminate and excessive force, including firearms.

Unlawful Use of Lethal Weapons

Under international human rights standards, firearms may only be used when strictly necessary to address an imminent risk to life or physical integrity. The use of firearms to disperse an assembly is always unlawful.

Under Colombian law, police can use lethal weapons to defend themselves or others “when there is imminent threat of death or serious injury, or to prevent a particularly serious crime that involves a serious threat to life.”

The Colombian police chief told Human Rights Watch that police, including regular officers and members of the anti-riots squadron (ESMAD), have not used lethal weapons during the demonstrations.

However, Human Rights Watch corroborated several videos showing police officers shooting in the context of the demonstrations, in circumstances in which there appeared to be no risk to life or

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Indiscriminate and Improper Use of Less Lethal Weapons

Police repeatedly used teargas against peaceful protesters, demonstrators and officials of the Human Rights Ombudsperson’s Office said.

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including Bogotá and Popayán (Cauca state). The system is supposed to shoot projectiles in a “parabolic” trajectory – that is, toward the sky – to avoid “direct impact” against protesters, police told Human Rights Watch [in a letter](#). But the letter also says it shoots from an angle as small as 10 degrees, which would not make it “parabolic.”

Human Rights Watch corroborated videos of police shooting the Venom from the ground straight toward demonstrators in Popayán.

This launching system has wide-area indiscriminate effects and cannot be used in a way that distinguishes any legitimate threats, Human Rights Watch said. Its usage is inappropriate for peaceful protests. Even if isolated events of violence occur in the context of protests, police need to respond in a proportionate, not indiscriminate, manner.

Human Rights Watch documented cases of five people apparently injured by the impacts of teargas cartridges and three killed, including:



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In 2019, Colombian police fired pellets using 12-gauge pellet shotguns against protesters, [killing one protester](#). In January 2020, the Inspector General’s Office, an independent body, [found](#) that police officers had limited, if any, training on how to use the weapon. In September 2020, the Supreme Court

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been injured by these kinetic impact projectiles.

Some were hit by multiple projectiles at the same time, suggesting they were shot at close range, given that these projectiles scatter over a distance.



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Gender-Based Violence

On May 14, the Ombudsperson’s Office reported 2 cases of rape, 14 cases of sexual assault, and 71 other cases of gender-based violence by police officers, including slappings and verbal abuse. Colombian rights groups have reported additional cases. Human Rights Watch documented two cases of sexual violence by police officers against protesters:

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18, Student Palmira, Valle del Cauca [More »](#)

Arbitrary Detention; Disproportionate Charges

Hundreds of protesters were detained by police and released after a judge or prosecutor concluded that there was no evidence linking them to a crime, or that their due process rights had been violated during detention, the Attorney General’s Office said. Human Rights Watch documented in detail 27 cases of people who appear to have been arbitrarily detained. Prosecutors, human rights officials, and victims’ lawyers reported scores of additional cases.

Prosecutors have also filed disproportionate charges of “terrorism” against some demonstrators who allegedly engaged in vandalism. While the penalty for destruction of property is between 16 and 90 months, the penalty for terrorism is up to 22 years-and-a-half in prison. International human rights standards require that criminal charges and penalties be proportionate to the gravity of the conduct at issue and the culpability of the alleged offender. Authorities should not arbitrarily use “terrorism” charges to address lower-level offenses, Human Rights Watch said.

The police also took into custody [over 5,500](#) people using a legal provision that allows police officers to “transfer” a person to an “assistance or protection center” for their own “protection” or that of others. Human Rights Watch documented several cases in which police officers appear to have misused this [provision](#).

The law allows for such “transfer” only when it is the “only means available to prevent a risk to life or physical integrity” and requires first contacting relatives of the person to see if the person can be transferred to their care; if the relatives cannot assume their care, police are to take them to an “assistance center,” health center, hospital, or other location specifically designated for such transfers by the municipal government, or to their homes if possible.

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Police detained José Mauricio García Nieto, 24; Dan Brayer Andrade Bolaños, 22; José Mario Ramírez Álzate, 22; Daniel Navarrete Varón, 22; Jorge Andrés Noguera Flórez, 23; and Santiago Ramírez Duque, 26; in the afternoon of May 25 in Tuluá, Valle del Cauca. The police report said that at the time of their arrest, four of them were throwing rocks at buildings, one was lighting a plastic bottle to supposedly throw it at a police station, and the sixth was “inciting” people to “oppose a police operation.”

At an online hearing before a judge next day, whose video recording Human Rights Watch reviewed, the prosecutor charged the six individuals arrested in Tuluá with “terrorism.” The only evidence he presented was the police report and statements by police. The prosecutor acknowledged that the specific acts allegedly committed could amount only to a crime of destruction of property, but said the “terrorism” charge was justified because the detainees were part of a “mob” that “agitated” them. The prosecutor did not present any evidence that they were acting in coordination with each other or with other protesters, and acknowledged that they were not involved in the burning of the Tuluá courthouse, which happened that night. Colombian law does not allow pretrial detention of defendants charged with destruction of property, a minor crime, but it does for terrorism.

The prosecutor also said at the hearing the detainees had told him through WhatsApp calls that the police had beaten them. However, the detainees were not taken to see a medical examiner to document

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lawyers and relatives told Human Rights Watch.

Alleged Participation of Armed Groups and Civilians

The Colombian government said that several armed groups, including the National Liberation Army (ELN) and groups that emerged from the Revolutionary Armed Forces of Colombia (FARC), had “infiltrated” the protests to commit vandalism and attack the police. The Attorney General told Human Rights Watch on June 4 that the authorities arrested 11 alleged members of armed groups in connection with violence during demonstrations.

Separately, armed people in civilian clothes have engaged in violence against protesters. In Pereira, Risaralda state, a group of people in civilian clothes appeared when Lucas Villa, a protester and social leader, was delivering a speech against the government during a protest on May 5. One of them shot and killed him, a witness who was also severely wounded told Human Rights Watch. Justice sector officials familiar with the case said that the evidence indicates local drug trafficking groups may be responsible.

In some cases, police officers failed to respond when people in civilian clothes engaged in violence against protesters. Human Rights Watch corroborated videos showing armed men firing at protesters while standing next to police officers in Cali on May 28. The police did not appear to take action to prevent or stop the attacks. The next day, a police commander [acknowledged](#) that the agents had “failed to comply with their duty” and said they would be investigated.

The director general of the Police, General Jorge Luis Vargas, said that no plainclothes police officers had been deployed for crowd control operations or to arrest protesters. However, Human Rights Watch corroborated videos showing that police officers in civilian clothes arrested protesters who were blocking a highway in Cali on May 17.

Limited Accountability for Police Abuses

Colombian authorities, including the Attorney General’s Office, which conducts criminal investigations, and the police and the Inspector General’s Office, which can carry out disciplinary proceedings, have made limited progress in investigating police abuse against protesters.

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The director of the Military Justice System told Human Rights Watch on May 28 that military judges had opened 34 investigations in connection with the protests, including for 10 killings and 11 cases of injuries. Under regional human rights norms, grave human rights violations should not be tried before military courts.

The police chief said on May 31 that the police had [opened](#) disciplinary investigations into 170 officers for possible misconduct during the current wave of protests. Of those, three are under disciplinary investigation for homicide and have been temporarily suspended, two have been suspended for other alleged infractions, and the rest continue their regular work. The Inspector General's Office, which also conducts disciplinary investigations, said on May 31 [that it had opened 78 investigations into possible abuses of power and excessive use of force by police officers](#); the vast majority remained in preliminary stages.

Progress in investigating police abuses in previous protests has also been lacking. On June 4, the Attorney General's Office told Human Rights Watch that it had opened 90 investigations into police abuses during the 2019 protests and other 116 during the 2020 protests. The office said a trial had started in five of the 2020 cases and that it had brought charges in two others. No officer has been charged in connection with abuses committed during the 2019 protests.

The Inspector General's Office has also failed to achieve meaningful progress. On May 10, the office told Human Rights Watch that it had opened 24 investigations of police abuses during the 2019 protests and another five during the 2020 protests. No officer had been disciplined and most cases remained in preliminary stages.

On April 17, 2021, the Defense Ministry told Human Rights Watch that police had opened 40 disciplinary investigations in connection with the 2019 protests. Of those, 24 had been closed without any officer being disciplined, the ministry said, while the others were pending. The ministry said that 54 of the 92 disciplinary investigations the police had opened in connection with the 2020 protests had been closed, in most cases because the investigators could not identify the police officer involved. Only two officers had been disciplined in cases that appeared connected to human rights violations and four others had been acquitted.

The police disciplinary system lacks independence, Human Rights Watch found. There is no separate

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concerning “serious human rights violations” to the Inspector General’s Office, an independent body.

Possible Contempt of Supreme Court Ruling

In September 2020, the Supreme Court ordered several police reforms to prevent abuses during protests. Yet Human Rights Watch found that efforts to comply with the court’s ruling have been mostly pro forma and have had little impact on police actions. The main exception is the Supreme Court’s ban of the 12-gauge shotgun, a weapon which, to Human Rights Watch’s knowledge, police have not used during the current wave of protests.

The Supreme Court ordered the Colombian government to establish a new protocol on the “use of force during peaceful demonstrations.” The government did publish a [new protocol](#) in January 2021, but it does not include any new measures or oversight mechanisms to prevent excessive use of force during protests and ensure accountability when it occurs.

The court also ordered that human rights groups and UN organizations be allowed to “verify” detentions and “protection” transfers during protests. In October 2020, after that year’s protests, the Inspector General’s Office and the police created a committee for that purpose including the United Nations Office of the High Commissioner for Human Rights (OHCHR) but excluding local human rights groups. Human Rights Watch learned that the police and the Inspector General’s Office have in many cases failed to convene the committee during the recent protests.

The court also mandated the government to order, by October 2020, all executive branch officials to protect and respect all “non-violent protests,” including anti-government ones. The government has failed to do so.

The court also ordered the Ombudsperson’s Office to closely monitor ESMAD abuses against protesters. Officials of the Ombudsperson’s Office have been monitoring the response to the protests and seeking dialogue with protesters to end road blocking. But the limited staff devoted to the protests has struggled to keep up and the Ombudsperson has failed to periodically report on and unequivocally condemn police abuses.

On May 27, the Supreme Court initiated a formal review to determine whether the government had

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- Take immediate steps to end human rights abuses in the context of protests and begin to repair the harm done, including by:
 - Unequivocally condemning human rights violations, including instances of excessive use of force and sexual violence by police, as well as cases in which police agents failed to stop attacks committed by armed people in plainclothes.
 - Apologizing, on behalf of the Colombian state, for police abuses committed during the protests.
 - Ensuring that all government officials refrain from using language that may be perceived as stigmatizing protesters.
 - Ensuring that the police, including the ESMAD, protect and do not disperse peaceful protests and pursuing approaches that do not involve use of force in any efforts to end instances of streets blockings.
 - Prioritizing disciplinary investigations into police abuses committed at least since the 2019 protests and committing to report periodically on progress in these investigations. The police should hold accountable through disciplinary investigations police officers who committed abuses during the protests and unit and operation commanders who may have ordered abuses, or who may bear responsibility under Colombian law for failing to take appropriate steps to prevent crimes or hold those responsible to account. They should also investigate any officers who may have failed to protect demonstrators from attacks by others.
 - Banning the use of kinetic impact projectiles and the Venom launching system, pending an independent assessment of the danger they pose, of the protocols for their use, and of the training provided to officers.
- Conduct a thorough review of police crowd control protocols, practices, and equipment, as well as of police training on the use of force, to ensure respect for the right of peaceful assembly and other human rights.
- Provide reparations, as well as health services, to victims of police violence, including post-rape care and comprehensive services for victims of sexual violence.

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- Strengthen systems to prevent and punish gender-based violence by police officers.

To the Colombian Congress:

- Initiate a process with meaningful participation by civil society groups and international human rights agencies operating in Colombia to reform Colombia's National Police including by:
 - Transferring the police from the Defense Ministry to the Interior Ministry or to a new Ministry of Security to ensure that the police are clearly separated from the military.
 - Establishing strong safeguards to ensure that "protection transfers" are not used arbitrarily.
 - Reforming the police's disciplinary system to ensure its independence.
 - Ensuring that the military justice system does not handle investigations into human rights violations committed by police officers.
 - Reviewing police protocols on the use of force to ensure strong mechanisms are put in place to prevent excessive use of force by police officers.
 - Ensuring strong independent oversight and control over police officers.
 - Strengthening mechanisms to prevent and punish gender-based violence by police officers.
- Reform the Criminal Code to ensure that prosecutors are required to investigate *ex officio* any injuries, including those caused by police officers, regardless of whether they have received a criminal complaint.

To the Attorney General's Office:

- Prioritize criminal investigations into police abuses, including by investigating officers directly involved in abuses committed in the context of protests at least since 2019, as well as unit commanders and police commanders in charge of operations who may have ordered abuses, or who may bear responsibility under Colombian law for failing to take appropriate steps to prevent crimes or hold those responsible to account.

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- Investigate *ex officio* any cases where judges have ruled that police officers have violated detainees' due process rights in ways that may amount to a crime under Colombian law.

To the Inspector General's Office:

- Ensure disciplinary accountability for police abuses, including by investigating officers directly involved in abuses committed in the context of protests at least since 2019, as well as unit commanders and police commanders in charge of operations who may have ordered abuses, or who may bear responsibility under Colombian law for failing to take appropriate steps to prevent crimes or hold those responsible to account.
- Support lawsuits that seek to transfer cases of human rights violations from the military justice system to regular prosecutors and courts.
- Convene the committee created to oversee detentions and "protection transfers" during demonstrations, and reform the protocol that created the committee to ensure participation of civil society representatives in it.
- Investigate *ex officio* any cases where judges rule that police officers have violated detainees' due process rights in ways that may amount to a disciplinary infraction under Colombian law.

To the Human Rights Ombudsperson's Office:

- Closely monitor abuses by the ESMAD during protests, as ordered by the Supreme Court in the September 2020 ruling.
- Increase the number of officials involved in monitoring police abuses during protests and ensure that they receive protection and adequate support to conduct their work.
- Report publicly and periodically on cases of police abuses documented during the protests.

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CALI:

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**HUMAN RIGHTS
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Cover photo: Candlelight vigil at the Siloé roundabout, Cali, 3 May 2021.

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1. EXECUTIVE SUMMARY

“The hopes and dreams of our future generations are gradually being extinguished. Young people are full of hatred, they see their friends dying without anything being done. You cannot meet violence with more violence”.

Erlendy Cuero, human rights defender¹

Since 28 April 2021, in the city of Cali, capital of the department of Valle del Cauca in western Colombia, there have been mass demonstrations. At the same time, the gravest human rights violations and crimes under international law committed in the country in this period have been concentrated in this city. Hundreds of reports and urgent appeals from local human rights organizations and complaints from victims and their families, many of which Amnesty International has been able to verify, detail the violent repression of young protesters on the streets of Cali at the hands of the security forces and armed civilians.²

A law on tax reform, which contained economic measures that were not seen as fair by the public, triggered a wave of demonstrations throughout much of the country, which quickly encompassed historical social claims and demands. In one of the most unequal countries in the region,³ protesters have demanded greater equality and guarantees of economic, social and cultural rights, such as the rights to health, education, work and social security, challenges exacerbated by the COVID-19 pandemic. At the same time, thousands protested against the non-compliance with the Peace Agreement signed in 2016 and the worsening violence against human rights defenders and civil society leaders.

The majority of demonstrations were peaceful. Vice President and Chancellor Marta Lucía Ramírez has acknowledged that 88.5% of the demonstrations were peaceful.⁴ However, damage to public and private property, such as damage to public transport service stations and buses, has also been recorded. Some protesters built barricades, which resulted in the temporary obstruction of public roads in several Colombian cities.

Faced with these mass protests, the government of President Iván Duque Márquez responded by stigmatizing protesters, describing them as “vandals”, “terrorists” and using other terms suggesting they had committed criminal offences and criminalizing them and with police repression. On 28 May, President Duque issued a decree to deploy the military in several cities in the country, including Cali, Valle del Cauca. The presence of

¹ “Los sueños y esperanzas de nuestras futuras generaciones poco a poco se acaban. Los jóvenes se llenan de odio, ven morir a sus amigos sin que pase nada. No se puede atacar violencia con más violencia”. Interview with Erlendy Cuero Bravo, Afrodes, 15 June 2021.

² Armed private individuals.

³ IDERE Latam, Índice de Desarrollo Regional – Latinoamérica, 2020, available at: <http://www.iderelatam.com/wp-content/uploads/2020/10/IDERE-LATAM-2020-Resumen-Ejecutivo.pdf> (last accessed 23 July 2021).

⁴ Statement by Vice President and Foreign Minister Marta Lucía Ramírez following a meeting with the Representative of the United Nations High Commissioner for Human Rights, Juliette de Rivero, 25 June 2021, available at: <https://www.cancilleria.gov.co/newsroom/video/declaracion-vicepresidente-canciller-marta-lucia-ramirez-termino-reunion> (last accessed 5 July 2021).

soldiers shaped by more than six decades of armed conflict, on the streets of urban centres, far from giving a message of dialogue, fuelled the protests.

Amnesty International carried out thorough digital verification of audiovisual material; this confirmed that National Police officials, in particular members of the Mobile Anti-Riot Squad (Escuadrón Móvil Antidisturbios, ESMAD), used excessive and unnecessary force. ESMAD was created at the end of the 1990s as a temporary measure to address disturbances and re-establish public order. However, it remains operational and is the subject of persistent complaints of excessive and unnecessary use of force during its interventions in protests resulting in hundreds of violent deaths and serious injuries to protesters; impunity prevails for most of these incidents.

Human rights organizations have reported that at least 28 people were killed between 28 April and 28 June 2021⁵ as a result of the unlawful actions of the security forces. In addition, they have documented at least 90 cases of eye injuries⁶ and 28 cases of sexual violence in the context of the demonstrations.⁷ The number of arbitrary detentions reported by the organizations consulted by Amnesty International stands at approximately 2,000.⁸ These organizations also reported that more than 300 people were believed to have disappeared in the framework of the protests,⁹ at least two are known to have died in circumstances that have yet to be clarified¹⁰ and the whereabouts of the remainder remain unknown.

Amnesty International focused the research for this report on human rights violations in the city of Cali because of the scale of the crisis and the concentration of complaints. Cali is a city connected to Colombia's Pacific region, one of the areas hardest hit by the internal armed conflict and where currently there are reports that illegal armed actors are proliferating and continue to operate, displacing and killing thousands of people.¹¹ The city of Cali has historically welcomed Afro-descendant communities forcibly displaced by the armed conflict from the departments of Chocó, Cauca, Nariño and cities like Buenaventura.¹² According to its mayor, Cali is the third largest city in Colombia and has the second largest Black/Afro-descendant population in Latin America.¹³ Organizations that defend the rights of Afro-descendants in Cali, such as Afrodes,¹⁴ have highlighted the fact that Cali is a city characterized by inequality, exclusion and structural racism. It is, therefore, not surprising that Cali has become the epicentre of the wave of demonstrations in recent months and that the response to these protests was so violent.

By means of rigorous research into and verification of audiovisual material, Amnesty International has documented attacks by armed civilians who accompanied National Police officials and, with their acquiescence or consent, attacked protesters and human rights defenders, constituting acts of urban paramilitarism.

The organization conducted more than 50 in-depth interviews with victims, their families, witnesses, human rights defenders and organizations, and journalists who exposed the violent repression of the demonstrations. In addition, it carried out thorough verification and analysis of more than 500 pieces of audiovisual material showing excessive and unnecessary use of force and the violence deployed against people exercising their right to peaceful protest.

⁵ Campaña Defender la Libertad: Asunto de Tod@s, Boletín informativo 19, 22 June 2021, available at: <https://defenderlalibertad.com/boletin-informativo-20-paronacional/> (last accessed 5 July 2021).

⁶ Tembroles ONG, Indepaz and University of Los Andes PAIS programme, Boletín, available at: <https://www.instagram.com/p/CQeyeEQJjub/>

⁷ Tembroles ONG, Boletín, 26 June 2021, available at: https://www.instagram.com/p/CQr4h6TJ9vK/?utm_source=ig_web_copy_link (last accessed 5 June 2021).

⁸ Tembroles ONG, Boletín, 26 June 2021, available at: https://www.instagram.com/p/CQr4h6TJ9vK/?utm_source=ig_web_copy_link (last accessed 5 June 2021).

⁹ Coordinación Colombia Europa Estados Unidos, Comunicado conjunto, Después de un mes de Paro Nacional continúan desaparecidas 327 personas, 27 May 2021, available at: <https://coeuropa.org.co/despues-de-un-mes-de-paronacional-continuan-desaparecidas-327-personas/>

¹⁰ Campaña Defender la Libertad: Asunto de Tod@s, Boletín informativo 21, 22 July 2021, available at: <https://defenderlalibertad.com/boletin-informativo-nacional-21-paronacional/> (last accessed 22 July 2021).

¹¹ Ombudsperson's Office, 28.509 personas fueron desplazadas y confinadas en 2020 por hechos violentos, 7 January 2021, disponible <https://www.defensoria.gov.co/es/nube/destacados/9802/28509-personas-fueron-desplazadas-y-confinadas-en-2020-por-hechos-violentos.htm> (last accessed 5 July 2021).

¹² Government of Valle del Cauca, Desplazamiento Forzado en las Comunas de Santiago de Cali: Análisis Espacial de Efecto de Vecindad, 15 November 2021, <https://www.valledelcauca.gov.co/loader.php?lServicio=Tools2&lTipo=viewpdf&id=28753> (last accessed 5 July 2021).

¹³ Santiago de Cali Mayor (2013), Cali, segunda ciudad con mayor población afrodescendiente en el país, available at: https://www.cali.gov.co/bienestar/publicaciones/51642/cali_segunda_ciudad_con_mayor_poblacion_afrodescendiente_en_el_pas/ (last accessed 3 July 2021).

¹⁴ Interview with Erlendy Cuero Bravo, Afrodes, 15 June 2021.

The organization also sent requests for information to the Ministry of Defence, the National Police, the Attorney General's Office and the Valle del Cauca Ombudsperson's Office; the latter and the 158th Military Investigative Judge were the only institutions that had responded to the request by the date this report was finalized.¹⁵

This report analyses **three specific incidents that bring together various cases of human rights violations in Cali.**

The **first, called "Operation Siloé" took place on 3 May 2021**, when a joint incursion took place by National Police officials, members of ESMAD and members of the Special Operations Group of the Colombian National Police (Grupo de Operaciones Especiales de la Policía Nacional de Colombia, GOES) during which lethal weapons, such as Tavor 5.56mm rifles, were used against peaceful protesters. That night, at least three people died from a gunshot wounds, hundreds of people were injured and several people were arbitrarily detained.

The **second incident occurred on 9 May when the Indigenous Minga** was attacked by armed civilians, in the presence of and with the acquiescence and tolerance of National Police officials. That day, the Indigenous human rights defender Daniela Soto and 10 Indigenous people were injured.

Finally, the report describes the events that occurred on 28 May, when National Police officials used excessive force in an attack, coordinated with armed civilians, on demonstrators in the neighbourhood around Valle University. That day a dozen young protesters, including Álvaro Herrera, Noé Muñoz, and Sebastián Mejía, were beaten and detained by armed civilians, who later handed them over to the National Police. Álvaro and Sebastián alleged that they were subjected to torture and other cruel and inhuman treatment during their unlawful detention

The practices documented in Cali – which include the use of lethal weapons against protesters, excessive and unlawful use of less lethal weapons such as tear gas, unlawful detentions and torture – are representative of hundreds of reports by protesters and human rights defenders and organizations and illustrate the modus operandi implemented throughout the country. **Amnesty International believes that human rights violations and crimes under international law, such as torture and enforced disappearances, by law enforcement officials are not isolated or sporadic incidents, but rather form part of a pattern of violent actions aimed at instilling fear and discouraging peaceful protest.**

This report is one of several documents that Amnesty International will publish on human rights violations and crimes under international law committed in Colombia in the context of the National Strike. Its analysis focuses on Cali in view of the disproportionate and violent response by state authorities against unarmed youth, mostly Afro-descendant and from low-income families, and against Indigenous peoples.

In this report Amnesty International highlights how in Cali the essence of the repressive response of the Colombian state and the real objectives behind this repression are manifested. Cali shows the positives and negatives of a country seeped in inequality and the proud, courageous, creative and diverse struggle of its communities, who are resisting and demanding to live in a fairer country. The events and cases documented in this report show the context of discrimination, stigmatization and violence against Indigenous peoples and Afro-descendant communities, who have historically been disproportionately impacted by the consequences of the armed conflict and the lack of protection from the authorities.

In this report Amnesty International makes a series of recommendations including calling on the Colombian authorities to:

- Give an unequivocal order to the security forces to stop the violent repression;
- Urgently address the structural causes that affect the exercise of human rights and the social demands that give rise to peaceful protests;
- Recognize the mostly peaceful nature of the demonstrations and take all measures to guarantee the rights to freedom of expression and peaceful assembly of everyone in the country, without distinction;
- Refrain from issuing statements that stigmatize and criminalize the protest and those who take part in it;
- Withdraw the military from public order operations, including during protests;
- Ensure that security forces undertaking law enforcement fully comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Acknowledge the repressive actions of the security forces in the context of the National Strike and adopt measures to ensure a thorough, independent and impartial investigation into them and refrain

¹⁵ The cut-off date for this report was 23 July 2021.

from preventing the prosecution and punishment of those who are found responsible for human rights violations and crimes under international law, as appropriate;

- Establish a plan to provide immediate support and comprehensive reparation for the victims of repression and their families;
- Publicly acknowledge the legitimate work of human rights defenders and organizations in the context of the National Strike;
- Adopt measures to guarantee that journalists and social communicators are able to work in the context of the National Strike;
- Comply without delay with the recommendations of the Inter-American Commission on Human Rights;
- Cooperate with and avoid placing obstacles in the way of the work of the IACHR's Special Monitoring Mechanism on Human Rights in Colombia; and
- Initiate thorough, independent and impartial investigations into human rights violations and crimes under international law committed in the context of the National Strike, specifically in the city of Cali and the cases presented in this report, and, if there is sufficient and admissible evidence against people suspected of criminal responsibility, bring them to justice in fair proceedings before ordinary civilian courts. The investigation must include all chain of command responsibilities within the security forces, as well as the participation of armed civilians acting with their acquiescence or consent.

2. METHODOLOGY

Amnesty International researched, by means of hundreds of pieces of audiovisual material from open sources, as well as those received from journalists, human rights defenders and organizations and victims of repression, the disproportionate and repressive actions of the security forces between 28 April 2021, the date on which the National Strike began, and the date this report was finalized.

Amnesty International's Crisis Evidence Lab analysed and verified more than 500 pieces of audiovisual material relating to three emblematic events that took place in the city of Cali that illustrate the seriousness of the human rights crisis there. In addition, an Amnesty International weapons expert provided an in-depth analysis of some of the videos.

The first incident is the armed incursion into the Siloé neighbourhood on the night of 3 May during which a young man, Kevin Agudelo, was killed. The second is the armed attack on the Indigenous Minga on 9 May in which the Indigenous human rights defender Daniela Soto was seriously injured. The third and final case is that of the attacks by armed civilians, acting in coordination with the National Police, that occurred on 28 May in the context of which Sebastián Mejía, Noé Muñoz and Álvaro Herrera reported that they were arbitrarily detained and tortured.

Amnesty International conducted interviews with relatives of victims, witnesses to the events of the night of 3 May, as well as people from the community. Based on their testimonies and the verification of audiovisual material, Amnesty International documented this incident which it considered emblematic because of the levels of violence recorded that left at least three people dead and dozens injured.

The organization also conducted interviews with victims of the armed attack on 9 May, as well as representatives of the human rights organizations supporting them, leaders of the Indigenous Guard, spokespersons for the Indigenous Association of Cauca (Asociación Indígena del Cauca) and witnesses. The organization also had access to audiovisual material, which it verified, and received numerous reports from Indigenous organizations such as the Regional Indigenous Council of Cauca (Consejo Regional Indígena del Cauca, CRIC) and the National Indigenous Organization of Colombia (Organización Nacional Indígena de Colombia, ONIC), which described the level of violence and repression they experienced during the days of protest.¹⁶

Regarding the 28 May events, Amnesty International conducted interviews with witnesses, victims of violence, human rights organizations and officials from the Ombudsperson's Office and carried out thorough verification of audiovisual materials which showed that on that day armed civilians attacked protesters and human rights defenders, with the acquiescence and consent of police officers. In addition, the organization documented cases of people being violently apprehended by armed civilians, who later handed those detained over to the police. Victims reported arbitrary detentions, torture and other cruel and inhuman treatment.

Research of these events included some 50 interviews with victims, their families, journalists and human rights organizations supporting them.

For security reasons, the identity of the victims or relatives who gave statements to Amnesty International has been withheld.

¹⁶ Organización Nacional Indígena, ONIC, Informe Ejecutivo sobre el contexto y las afectaciones a los derechos de los Pueblos Indígenas dentro del Paro y Minga Nacional en Colombia, 10 June 2021, available at: <https://www.onic.org.co/comunicados-onic/4304-informe-ejecutivo-sobre-el-contexto-y-las-afectaciones-a-los-derechos-de-los-pueblos-indigenas-dentro-del-paro-y-minga-nacional-en-colombia> (last accessed 3 July 2021).

Research for this report included a desk review of documents including reports from civil society and official reports from national authorities at different levels, the security forces and representatives of supervisory bodies and the Attorney General's Office.

Amnesty International also interviewed officials from the Ombudsperson's Office who monitored the demonstrations on the ground and, on 23 June 2021, sent a request for information to the Valle del Cauca Regional Ombudsperson's Office,¹⁷ to which a response was received on 6 July 2021.¹⁸ The organization also sent a request, dated 12 July 2021, to the Minister of Defence, the National Director of Police and the Attorney General for specific information on the events described in this report, with a view to including this, as appropriate, in this report.¹⁹ However, by the end of the 10-day deadline, Amnesty International had only received responses from the 158th Military Investigative Judge.²⁰

Given that only a short time has elapsed since the events documented, this report does not address the progress and conduct of criminal investigations in accordance with international human rights standards. However, Amnesty International notes that it is contrary to international human rights law for violations of these rights and crimes under international law to be tried by the military criminal justice system.

¹⁷ Reference TG AMR 23/2021.1809 of 23 June 2021 received and logged on the same date.

¹⁸ Communication with file No. 20210060341662842, replied with No. 20210060342301041 6 July 2021.

¹⁹ Reference TG AMR 23/2021.1854 of 12 July 2021. The communication gave the aforementioned institutions a period of 10 days for their comments or observations to be received so that they could be included, as appropriate, in this report.

²⁰ Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

3. NATIONAL CONTEXT

Since 28 April 2021, thousands of people have demonstrated, most peacefully, on the streets of various Colombian cities, within the framework of the so-called “National Strike”. This public mobilization was triggered by a tax reform bill promoted by President Iván Duque at a time when the country was experiencing a social and public health crisis in the context of the COVID-19 pandemic.²¹ In response to the social pressure exerted by the demonstrations in various cities, on 2 May the government announced the withdrawal of the reform bill and on 5 May the third and fourth Congressional committees approved its withdrawal.²² However, the demonstrations continue and reflect broader social demands, to which were added the demand for justice for the human rights violations committed by the security forces in the context of the demonstrations.

The protests have raised awareness of the historical claims of marginalized communities in the country. Inequality, racism, violence and the consequences of the internal armed conflict are structural causes of the social unrest in Colombia. Social claims are rooted in the failure to guarantee economic and social rights,²³ such as the rights to education and health, as well as measures to mitigate the effects of the pandemic, in one of the most unequal countries in the region.²⁴ According to figures from the National Administrative Statistics Department (Departamento Administrativo Nacional de Estadística, DANE),²⁵ in 2020, 42.5% of the Colombian population was living in poverty, an increase of 6.8 percentage points compared to 2019. This means that, in a total population of 48,258,494 (in 2018)²⁶ more than 21 million people are living in poverty and 7.5 million in extreme poverty.

According to the protesters, the pandemic has exacerbated inequalities and exposed the shortcomings of the health and social security system. In April 2020,²⁷ Amnesty International called on Colombia to take adequate measures to guarantee the right to health, water and food of groups in situation of vulnerability, including Indigenous peoples, to mitigate the effects of the emergency declared in March of that year.

Despite the high level of COVID-19 infections and the fact that the virus was responsible for more than 100,000 deaths²⁸ in Colombia, people have remained in the street. The National Strike has brought together diverse social perspectives and human rights demands: compliance with the Peace Agreement signed in 2016; the need to take decisive action to protect human rights defenders²⁹ and civil society leaders; the implementation of measures to prevent violence and protect women, girls and people with diverse sexual orientation and

²¹ Senate of Colombia, Bill 439 of 2021, available at: <http://leyes.senado.gov.co/proyectos/index.php/textos-radicados-senado/p-ley-2020-2021/2191-proyecto-de-ley-439-de-2021> (last accessed 4 July 2021).

²² The Senate, <https://twitter.com/senadogovco/status/1389994803186839560> (last accessed 4 July 2021).

²³ Strike Committee Statement, 3 May 2021, available at: <https://twitter.com/CGTCol/status/1389240895501967362/photo/1> (last accessed 2 July 2021).

²⁴ Forbes Magazine, Colombia es el país más desigual de toda América Latina, 30 October 2020, available at: <https://forbes.co/2020/10/30/economia-y-finanzas/colombia-es-el-pais-mas-desigual-de-toda-america-latina/> (last accessed 2 July 2021).

²⁵ National Administrative Statistics Department, Press conference on financial poverty 2020, 29 April 2021, available at: <https://www.facebook.com/DANEColombia/videos/598775167673122/> (last accessed 2 July 2021).

²⁶ DANE, National Census on Population and Housing 2018, <https://www.dane.gov.co/index.php/estadisticas-por-tema/demografia-y-poblacion/censo-nacional-de-poblacion-y-vivenda-2018/cuantos-somos> (last accessed 4 July 2021).

²⁷ Amnesty International, “Colombia: Indigenous Peoples will die from COVID-19 or from hunger if the state does not act immediately”, 17 April 2020, available at: <https://www.amnesty.org/en/latest/news/2020/04/colombia-pueblos-indigenas-covid19-hambre/>

²⁸ Colombian Ministry of Health, 26 June 2021 figures available at: https://www.minsalud.gov.co/salud/publica/PET/Paginas/Covid-19_copia.aspx (last accessed 2 July 2021).

²⁹ Amnesty International, “Colombia: Why do they want to kill us? Lack of safe space to defend human rights in Colombia”, 8 October 2020, available at: <https://www.amnesty.org/en/documents/amr23/3009/2020/en/>

gender expressions; and the fulfilment of agreements reached with Black and Indigenous communities in previous years, to guarantee their lives, their physical integrity and autonomy.

In several cities, such as Bogotá, Pereira, Cali, Facatativá, Barranquilla and Pasto – among many others – there have been mass demonstrations, mostly peaceful. However, in its observations on its visit to Colombia, the Inter-American Commission on Human Rights (IACHR) also reported complaints from the state and civil society organizations about the infiltration of the protests by groups or individuals who carried out acts of violence or “vandalism” during the course of the demonstrations. Likewise, official sources reported that, between the start of the protests and 10 June, there were 1,660 complaints of damage to private property, 706 of damage to police property (556 institutional vehicles and 116 Immediate Attention Commands) and more than 2,158 of damage to public utilities (1,251 vehicles and 240 public transport stations).³⁰

Colombia also informed the IACHR of roadblocks/barricades and indicated that several of these had caused violations of the right to life, health, freedom of movement and work and affected different sectors of the country’s economy, including the production and distribution of food and basic supplies, the transfer of patients and medical supplies and the supply of fuel,³¹ and that in specific cases criminal actions had been carried out against transport system infrastructure.³² The IACHR observed that at some roadblocks there were many peaceful and cultural expressions covered by the protection of the right to protest and met with groups of young people who repeatedly and consistently complained of acts of repression by the security forces, as well as a situation of food insecurity and family and institutional alienation.³³

The IACHR pointed out that each of the roadblocks involved different people, demands and potential effects on the fundamental rights of third parties who are not part of the protest and that the circumstances must be evaluated on a case-by-case basis, ensuring coexistence between the exercise of the human right to protest and the fundamental rights of third parties. The Commission urged that the use of generalizing and prohibitive approaches to the various forms of demonstrating in the exercise of the right to protest be avoided, since some of them are forms of protest that provide a channel for society to listen to some voices that otherwise would have great difficulty making it onto the agenda or being part of public debate.³⁴

Cali has been the epicentre of alarming levels of reports of violent repression and human rights violations. The capital of the department of Valle del Cauca has seen at least 70% of the reported killings in the context of civil society demonstrations, as well as serious complaints of possible enforced disappearances, sexual violence, arbitrary detention and armed violence by civilians acting with the acquiescence or consent of the security forces. For this reason, this document focuses on the serious human rights violations and crimes under international law documented in this city in the Colombian Pacific region.

Since the start of the demonstrations, Amnesty International has reported that the response of the Colombian authorities has focused on the stigmatization of civil society protest, accompanied by violent repression through the excessive and unlawful use of force by members of the security forces. Although there have been isolated instances of damage to public and private property during more than 50 days of protests, most of the demonstrations have been peaceful. However, on 1 May, President Iván Duque authorized the deployment of a military presence in urban centres, arguing that, there was violence, vandalism and “terrorism”, aimed at intimidating society and bring down institutions.³⁵ The discourse of the President and government authorities has focused on delegitimizing and criminalizing civil society protest and in so doing justifying violent repression while ignoring their international human rights obligations.

Amnesty International has also received complaints about the partial fulfilment of the mandate to monitor, verify, report and support victims and their families by oversight bodies, specifically the Public Prosecutor’s

³⁰ IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia that took place 8-10 June 2021, paras 133 and 134, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

³¹ IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia that took place 8-10 June 2021, paras 144, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

³² IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia that took place 8-10 June 2021, paras 145, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

³³ IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia that took place 8-10 June 2021, paras 146, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

³⁴ “a que se evite el uso de enfoques generalizantes y prohibitivos a las diversas formas de manifestarse en el ejercicio del derecho a la protesta, en tanto que algunos de ellos son modalidades de la protesta que canalizan la escucha social de algunas voces que de otro modo difícilmente ingresarían a la agenda o serían parte de la deliberación pública, IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia that took place 8-10 June 2021, paras 152 and 153, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

³⁵ Address by President Iván Duque, 1 May 2021, available at: <https://twitter.com/infopresidencia/status/1388692317922631680> (last accessed 2 July 2021).

Office, made up of the Inspector General's Office, the Human Rights Ombudsperson's Office, and district and municipal authorities.

Amnesty International believes that it is possible to discern a pattern in the human rights violations committed in the context of civil society demonstrations in different parts of the country. The events denounced by national human rights organizations are not isolated or sporadic events, but rather reflect a modus operandi of violent repression documented during demonstrations in previous years. The organization has highlighted the excessive use of force by state agents in the context of the policing of demonstrations in November 2019³⁶ and September 2020.³⁷ Amnesty International documented the excessive use of force by state forces in various parts of the country when applying isolation measures during the pandemic and reported that National Police officials used torture and made excessive use of lethal force, resulting in the deaths of 10 people in September 2020.³⁸

3.1 REPORTS OF HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF THE NATIONAL STRIKE

At the opening of the 47th session of the Human Rights Council, held between 21 June and 13 July 2021, the UN High Commissioner for Human Rights, Michelle Bachelet, expressed her deep concern at the allegations of serious human rights violations by the security forces in Colombia and noted that the Office had registered allegations of 56 deaths (54 civilians and two police officers) in the context of the protests, mainly in the city of Cali, as well as 49 alleged victims of sexual violence.³⁹

The reports of national and international human rights organizations and platforms document the constant police repression since the beginning of the National Strike. In this context, between 8 and 10 June, the IACHR undertook a working visit to Colombia, during which it visited Bogotá, Cali, Tuluá, Buga, and Popayán, in order to observe the human rights situation and issue recommendations. On 7 June 2021, the IACHR published its observations and recommendations. Amnesty International has highlighted the importance of the visit and the announcement of the setting up of a Special Monitoring Mechanism for Human Rights in Colombia and reiterates that the authorities must comply with the IACHR's recommendations regarding human rights violations reported in the context of the National Strike.⁴⁰

Temblores ONG, Indepaz and the Los Andes University Action Programme for Equality and Social Inclusion (Programa de Acción por la Igualdad y la Inclusión Social, PAIS) have criticized the systematic violence of the security forces in the context of the 2021 demonstrations. According to a report presented to the IACHR, these include:

(i) the indiscriminate, excessive and disproportionate use of firearms against demonstrators by the security forces; (ii) less lethal weapons fired at the bodies of demonstrators to disperse peaceful protests; (iii) firing of shots horizontally using long-range Venom weapons in residential areas and at protesters; (iv) the firing of tear gas and stun grenades into homes and in residential neighbourhoods; (v) the violation of the principle of making public police procedures; (vi) the imposition of conditions and paralegal measures on people arbitrarily detained by the National Police in exchange for their release; (vii) sexual and gender-based violence against protesters; (viii) inflicting eye trauma on protesters; and (ix) the enforced disappearance of protesters.⁴¹

³⁶ Amnesty International, "Colombia: Authorities must impartially investigate the repression of protests", 22 November 2019, available at: <https://www.amnesty.org/en/latest/news/2019/11/colombia-autoridades-deben-investigar-represion-de-protestas/>

³⁷ Amnesty International, "Colombia: Amnesty International condemns torture and excessive use of force by police", 11 September 2020, available at: <https://www.amnesty.org/en/latest/news/2020/09/colombia-amnistia-condena-tortura-uso-excesivo-fuerza/>

³⁸ Amnesty International, *Annual Report 2020/21* on the situation of human rights in Colombia, available at: <https://www.amnesty.org/en/countries/americas/colombia/report-colombia/>

³⁹ Office of the United Nations High Commissioner for Human Rights, Statement, "La Alta Comisionada informa de retrocesos graves de los derechos humanos en el mundo", 21 June 2021, available at: <https://news.un.org/es/story/2021/06/1493562> (last accessed 2 July 2021).

⁴⁰ Amnesty International, "Colombia: The IACHR must listen to the voices of victims of human rights violations", 7 June 2021, available at: <https://www.amnesty.org/en/latest/news/2021/06/colombia-cidh-debe-escuchar-victimas-violaciones-derechos-humanos/> and

"Colombia: the authorities must implement the IACHR's recommendations regarding human rights violations reported in the context of the National Strike", 7 July 2021, available at: <https://www.amnesty.org/en/latest/news/2021/07/colombia-las-autoridades-deben-cumplir-con-las-recomendaciones-de-la-cidh-relativas-a-las-violaciones-de-derechos-humanos-denunciadas-en-el-contexto-del-paro-nacional/>

⁴¹ Temblores NGO, Indepaz and PAIS Programme of the Universidad de Los Andes, Informe sobre la violación sistemática de la Convención Americana y los alcances jurisprudenciales de la Corte IDH con respecto al uso de la fuerza pública contra la sociedad civil en Colombia, en el marco de las protestas acontecidas entre el 28 de abril y el 31 de mayo de 2021, presented to the IACHR during its working visit, June 2021, available at: <http://www.indepaz.org.co/informe-de-temblores-ong-e-indepaz-a-la-cidh/> (last accessed 2 July 2021). Updated as at 20 July 2021.

KILLINGS AND INJURIES

The Campaña Defender la Libertad: Asunto de Tod@s – a network of civil society, student, cultural, community and human rights organizations – reported in its latest bulletin of 30 June,⁴² that since 28 April there had been 84 deaths in the context of the National Strike, of which 28 were allegedly attributable to the security forces and seven to armed civilians and 16 of which were pending verification of their relationship with social protest. The Campaña reported that 1,790 people had been injured as a result of the disproportionate actions of ESMAD and unidentified armed civilians.

Temblores ONG, Indepaz and PAIS recorded 90 cases of eye trauma, 42 of which were reported in Bogotá.⁴³

GENDER-BASED VIOLENCE

There are concerns about reports of grave gender-based violence by police, including various forms of sexual violence. According to a report presented to the IACHR, by Campaña Defender la Libertad, Sisma Mujer, Humanas Colombia, Ruta Pacifica de las Mujeres, Women's Link Worldwide and the Corporación Casa de la Mujer, among others, between 28 April and 2 June, 491 cases of police violence against women in the context of the demonstrations were recorded.⁴⁴ Temblores ONG reported in its bulletin that 28 women had been the victims of sexual violence by the security forces as of 26 June.⁴⁵ In a joint report presented to the IACHR, the organizations Caribe Afirmativo, Colombia Diversa and the Fundación GAAT, among other organizations, reported five cases of violence against LGBTIQ+ people who participated in the demonstrations.⁴⁶

ENFORCED DISAPPEARANCES

As of 27 May, there were alarming levels of reports of people allegedly disappeared in the context of the National Strike. The Working Group on Enforced Disappearance reported that 775 people were disappeared, there whereabouts of 327 of whom remained unknown.⁴⁷ On 22 July, Campaña Defender la Libertad: Asunto de Todas stated that in July the bodies had been found of at least two people who were reported disappeared in the context of the protests; the circumstances surrounding their deaths remain unclear.⁴⁸ The Director of the Search Unit for People Believed Disappeared (Unidad de Búsqueda de Personas dadas por Desaparecidas, UBPD) Luz Marina Monzón, urged that euphemisms, such as the expression “person not located” not be used in relation to disappeared people, because denying that there is a disappearance means that the existing search mechanisms at the national and international level that guarantee people's protection from disappearance are not activated.⁴⁹

In addition to the above, in the report that the Ombudsperson's Office presented to the IACHR on social protest in the period between April and June,⁵⁰ it is notable that the organization used concepts such as “persons not located” (“*persona no localizada*”) to refer to people believed to have been disappeared and “deceased” (“*fallecidas*”) to refer to people who died in violent circumstances.

⁴² Campaña Defender la Libertad: Asunto de Tod@s, Boletín informativo 19, 22 June 2021, available at: <https://defenderlalibertad.com/boletin-informativo-20-paronacional/> (last accessed 5 July 2021).

⁴³ Temblores ONG, Indepaz and University of Los Andes PAIS programme, Boletín, available at: <https://www.instagram.com/p/CQeyeEQJjub/>

⁴⁴ Sisma Mujer, Resumen del informe presentado a la CIDH durante su visita a Colombia entre el 8 y el 10 June 2021, 10 June 2021, available at: https://www.sismamujer.org/2021/06/10/resumen-del-informe-presentado-a-la-cidh-durante-su-visita-a-colombia-entre-el-8-y-el-10-de-junio-de-2021/?utm_source=rss&utm_medium=rss&utm_campaign=resumen-del-informe-presentado-a-la-cidh-durante-su-visita-a-colombia-entre-el-8-y-el-10-de-junio-de-2021 (last accessed 2 July 2021).

⁴⁵ Temblores ONG, Boletín, 26 June 2021, available at: https://www.instagram.com/p/CQr4h6TJ9vK/?utm_source=ig_web_copy_link (last accessed 5 June 2021).

⁴⁶ Caribe Afirmativo, Fundación Grupo de Acción & Apoyo a Personas Trans, Santamaría Fundación, Plataforma LGBTI por la Paz, Corporación Instituto Internacional Raza, Igualdad y Derechos Humanos, Raza e Igualdad, Colombia, Colombia Diversa y Asociación Líderes en Acción, Informe sobre la situación de violencia policial contra personas LGBTI en el marco del Paro Nacional, 9 June 2021, available at: <https://caribeafirmativo.lgbt/caribe-afirmativo-junto-con-otras-organizaciones-entrega-informe-ante-la-cidh-sobre-violencia-en-el-marco-de-la-protesta-social-contra-personas-lgbt/> (last accessed 2 July 2021).

⁴⁷ Coordinación Colombia Europa Estados Unidos, Comunicado conjunto, Después de un mes de Paro Nacional continúan desaparecidas 327 personas, 27 May 2021, available at: <https://coeuropa.org.co/despues-de-un-mes-de-paronacional-continuan-desaparecidas-327-personas/>

⁴⁸ Campaña Defender la Libertad: Asunto de Tod@s, Boletín informativo 21, 22 July 2021, available at: <https://defenderlalibertad.com/boletin-informativo-nacional-21-paronacional/> (last accessed 22 July 2021).

⁴⁹ “no utilizar eufemismos en relación a la desaparición de personas, como por ejemplo la expresión ‘persona no localizada’, pues al negar que hay una desaparición, no se activan los mecanismos de búsqueda existentes a nivel nacional e internacional que garanticen la protección de las personas contra la desaparición” Unidad de Búsqueda de Personas dadas por Desaparecidas UBPD, comunicado público, 28 May 2021, available at: <https://www.ubpdbusquedadesaparecidos.co/actualidad/urge-dejar-de-negar-la-desaparicion-de-personas-en-las-protestas-ubpd/>

⁵⁰ Ombudsperson's Office, Informe defensorial visita CIDH Colombia protesta abril-junio 2021, junio de 2021, (last accessed 2 July 2021).

ARBITRARY DETENTION

According to Temblores ONG, between the start of the National Strike and 26 June, 2,005 arbitrary detentions of protesters were reported.⁵¹ Amnesty International calls on Colombia to guarantee that the detention processes comply with human rights standards and that the right to due process and the right to information are respected.

ATTACKS ON JOURNALISTS

Civil society organizations have reported serious attacks and threats against journalists for their role reporting on the demonstrations. The Foundation for Press Freedom (Fundación para la Libertad de Prensa, FLIP) reported that, between 28 April and 26 June, 91 physical attacks were reported against journalists covering National Strike demonstrations. They also reported 42 threats, nine arbitrary detentions and 14 acts of destruction of journalistic material. These reports must be investigated by the national authorities. The organization recalls that state authorities have, under international law, an obligation to guarantee freedom of expression and freedom of the press in a context of a human rights crisis.

ATTACKS ON HUMAN RIGHTS DEFENDERS AND ORGANIZATIONS

Human rights defenders and organizations play a fundamental role in the current context. The Colombian authorities have a responsibility to protect them and to recognize their legitimate work and their contribution in supporting the victims and relatives of grave human rights violations. There is concern at reports of threats, attacks and violence by police officers and members of ESMAD against human rights defenders accompanying the demonstrations, as well as the report of the killing of the young Indigenous defender Sebastián Jacanamejoy on 28 May in Cali.⁵² Amnesty International received numerous reports of assaults, armed attacks, intimidation and threats against human rights defenders throughout the country and, particularly, in the city of Cali. In addition, the organization received numerous reports of attacks, threats and violence against medical missions, to the point that they hindered the possibility of saving the lives of people who had been injured.

In particular, the organization is concerned about numerous reports of violence against women human rights defenders⁵³ in Cali, Bogotá, Popayán and Palmira. Amnesty International has documented the case of Daniela Soto, an Indigenous human rights defender, who was injured on 9 May in Cali as a result of the armed attack allegedly carried out by armed civilians and with the acquiescence of the National Police, against the Indigenous Minga. The Colombian authorities must investigate these incidents immediately, thoroughly and without delay to identify those responsible for these serious events and guarantee justice, truth and reparation to the victims.

Amnesty International has expressed its concern at these grave reports⁵⁴ and reiterates that the Colombian authorities must investigate them without delay and guarantee human rights standards regarding the right to information and due process of those detained in the context of demonstrations, in strict compliance with their duty of due diligence and accountability.

3.2 REPEATED REPORTS OF EXCESSIVE USE OF FORCE BY THE NATIONAL POLICE'S MOBILE ANTI-RIOT SQUAD (ESMAD) AGAINST CIVIL SOCIETY PROTESTS

Amnesty International has on numerous occasions reported human rights violations and crimes under international law committed by National Police officials in the context of civil society demonstrations. In June 2017, the organization denounced the excessive use of force against protesters in the context of the Buenaventura Civic Strike.⁵⁵ In November 2019, Amnesty International documented at least five human rights

⁵¹ Temblores ONG, Boletín del 26 June 2021, available at: https://www.instagram.com/p/CQr4h6TJ9vK/?utm_source=ig_web_copy_link (last accessed 5 June 2021).

⁵² Indepaz, comunicado, 28 May 2021, available at: <https://twitter.com/indepaz/status/1398682228641746945?s=24>.

⁵³ Manifiesta org, "Doble amenaza: ser mujer y defensora de Derechos Humanos en Colombia", 9 June 2021, available at: <https://manifiesta.org/doble-amenaza-ser-mujer-y-defensora-de-derechos-humanos-en-colombia/?fbclid=IwAR2G8lgnJLkyLI9h2OJ-SPchsgX8f4dXPQTK9kkz3u3RvmW17ABypEbMKCg>

⁵⁴ Amnesty International, "Colombia: Concerning reports of disappearances and sexual violence against protesters", 7 May 2021, available at: <https://www.amnesty.org/en/latest/news/2021/05/colombia-preocupan-las-denuncias-de-desapariciones-y-violencia-sexual-contra-manifestantes/>

⁵⁵ Amnesty International, "Colombia: violence against protesters in Buenaventura Civic Strike must stop", 1 June 2017, available at: <https://www.amnesty.org/en/latest/news/2017/06/colombia-hechos-violentos-en-el-marco-del-paro-civico-de-buenaventura-deben-parar/>

violations committed by ESMAD in response to civil society protests.⁵⁶ In September 2020, the organization denounced the excessive and disproportionate use of force by the security forces including crimes under international law, such as torture and other cruel, inhuman or degrading treatment.⁵⁷

In September 2020, the Colombian Supreme Court of Justice issued a historic ruling protecting the right to peaceful protest and reiterated the duty of the national authorities to avert, prevent and punish the systematic, violent and arbitrary intervention of the security forces in demonstrations and protests, after verifying acts of excessive violence that occurred in November and December 2019.⁵⁸ In this ruling the Supreme Court affirmed that there was – and may continue to be – repeated, constant and disproportionate aggression by the security forces against those who demonstrate in a peaceful manner.⁵⁹

On 6 May 2021, human rights organizations highlighted the systematic failure of the Colombian government to comply with the orders of the Supreme Court of Justice and, therefore, requested that the President of the Republic, the Minister of Defence, the Director of the National Police, the Ombudsperson, the Inspector General and the Attorney General be declared in contempt.⁶⁰

Amnesty International believes this domestic legal precedent is significant and constitutes an indication of the responsibility of the authorities for the failure to take actions aimed at guaranteeing protesters' rights to peaceful protest, life and physical integrity. Despite this explicit ruling, the Executive has so far not taken the appropriate measures to ensure non-repetition. On the contrary, the public statements of President Iván Duque and his cabinet have focusing on stigmatizing and criminalizing civil society protests rather than condemning violence by state agents and calling for the rights of the victims to be guaranteed. This has encouraged the excessive use of force by police officials and it is possible to say that the repression of civil society protest has become a pattern in the conduct of the security forces.

The Ministry of Defence, in its report of 24 June 2021, stated that four disciplinary investigation case files had been opened by the Inspector General against members of the security forces and 34 investigations had been initiated by the Military Criminal Justice system.⁶¹ The Director of Police, Jorge Luis Vargas, publicly declared that information was being sent to the Military Criminal Justice system in the city of Cali on already identified uniformed personnel suspected of having committed acts contrary to the law or to have omitted to carry out their duties.⁶²

The response of the Colombian authorities must focus on guaranteeing independent, thorough and impartial investigations into allegations of grave human rights violations and crimes under international law.

It should be remembered that the military courts should not have jurisdiction over trials of members of the Army and the security forces for human rights violations⁶³ or crimes under international law. Given that most

⁵⁶ Amnesty International, "Colombia: Authorities must impartially investigate the repression of protests", 22 November 2019, available at: <https://www.amnesty.org/en/latest/news/2019/11/colombia-autoridades-deben-investigar-represion-de-protestas/>

⁵⁷ Amnesty International, "Colombia: Amnesty International condemns torture and excessive use of force by police", 11 September 2020, available at: <https://www.amnesty.org/en/latest/news/2020/09/colombia-ampnista-condena-tortura-uso-excesivo-fuerza/>

⁵⁸ "conjurar, prevenir y sancionar la intervención sistemática, violenta y arbitraria de la fuerza pública en manifestaciones y protestas". In this ruling, the Court affirmed that "there was - and may continue to be - repeated and constant disproportionate aggression by the security forces towards those who demonstrate peacefully." ["existió -y puede seguir existiendo- una reiterada y constante agresión desproporcionada de la fuerza pública respecto de quienes, de manera pacífica, se manifestaron"] Supreme Court of Justice, STC7641-2020 File No. 11001-22-03-000-2019-02527-02, Presiding Judge Luis Armando Tolosa Villabona, 22 September 2020, available at: <https://cortesuprema.gov.co/corte/index.php/2020/09/22/corte-suprema-ordena-medidas-para-garantizar-derecho-a-protesta-pacifica/> (last accessed 4 July 2021). Dejusticia, Corte Suprema de Justicia protege el derecho a la protesta frente a la violencia policial, 22 September 2020, available at: <https://www.dejusticia.org/corte-suprema-protége-el-derecho-a-la-protesta/> (last accessed 2 July 2021).

⁵⁹ "existió -y puede seguir existiendo- una reiterada y constante agresión desproporcionada de la fuerza pública respecto de quienes, de manera pacífica, se manifestaron". Corte Suprema de Justicia, Sala de Casación Civil, STC7641-2020, 22 de septiembre del 2020, disponible en: <https://cortesuprema.gov.co/corte/index.php/2020/09/22/corte-suprema-ordena-medidas-para-garantizar-derecho-a-protesta-pacifica/> (último acceso el 4 de julio de 2021)

⁶⁰ Fundación para la Libertad de Prensa FLIP, Le pedimos a la Corte Suprema que declare el desacato de la sentencia que protegió el derecho a la protesta, 6 May 2021, available at: <https://flip.org.co/index.php/en/informacion/pronunciamientos/item/2718-le-pedimos-a-la-corte-suprema-que-declare-el-desacato-de-la-sentencia-que-protegio-el-derecho-a-la-protesta>

⁶¹ Ministry of National Defence, balance del paro nacional del 28 de abril al 24 de junio, available at: https://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/estudios_sectoriales/info_estadistica/InformeCorrido_Balance_Paro_2021.pdf (last accessed 2 July 2021).

⁶² "está enviando a la Justicia Penal Militar a la ciudad de Cali información sobre uniformados ya identificados, donde presuntamente hayan cometido actos contrarios a la ley o haya omitido sus funciones. Revista Semana, "Balance trágico: 13 personas perdieron la vida anoche en Cali en medio de actos violentos", available at: <https://www.semana.com/nacion/articulo/balance-tragico-11-personas-perdieron-la-vida-anoche-en-cali-en-medio-de-actos-violentos/202100/> (last accessed 2 July 2021).

⁶³ Principle 29, Updated Set of principles for the protection and promotion of human rights; see also Principles 5, 8 and 9 of Issue of the administration of justice through military tribunals, Doc. ONU: E/CN.4/2006/58; Special Rapporteur, Question of torture and other cruel, inhuman or degrading treatment or punishment, Doc. UN: A/56/156 (2001), para. 39.j; Conclusions and recommendations of the Committee

military courts are composed of members of the military, they would render respect for the right to trial by an independent and impartial tribunal, both in fact and appearance unattainable.⁶⁴

The Inter-American Court of Human Rights has reiterated its jurisprudence defining the limitations that must be observed regarding military jurisdiction that: a) it is not the competent jurisdiction to investigate and, where appropriate, judge and punish the perpetrators of all human rights violations; b) it can only judge military personnel on active duty; and c) it can only judge the commission of crimes or misdemeanours (committed by active military personnel) that inflict harm, due to their nature, the legally protected interests of the military order.⁶⁵

3.3 STIGMATIZATION OF PEACEFUL PROTEST TO JUSTIFY VIOLENCE AND POLICE REPRESSION

Vice President and Chancellor Marta Lucía Ramírez has acknowledged that 88.5% of the demonstrations have been peaceful.⁶⁶

Indeed, since the first days of the protests, mass peaceful demonstrations have taken place. However, Amnesty International has also received reports of destruction and damage to public and private property, as well as the setting up of roadblocks/barricades. According to the Ministry of Defence, violent incidents have resulted in an appalling number of injuries to police officers and the deaths of two officers nationwide.⁶⁷ In the city of Cali as of 18 May 2021,⁶⁸ seven civilian deaths, 494 injured civilians and 204 injured officers had been recorded; no National Police officer deaths were recorded. The Ministry's report also lists that 116 gatherings, 47 marches, 243 barricades affecting main thoroughfares and four mobilizations took place. The National Police also reported a serious complaint of sexual violence committed against one of its women officials.⁶⁹

Some protesters have informed Amnesty International that the violence during the demonstrations was isolated and that, in some cases, the people responsible were not part of the protest and were seeking to undermine its legitimacy and justify the excessive use of force. In analysing and weighing up possible violence by some people and guaranteeing the right to protest, Amnesty International recalls General Comment 37 of the Human Rights Committee, which establishes a presumption in favour of considering assemblies to be peaceful and that isolated acts of violence by some participants do not make the entire protest violent. In addition, measures that place any type of restriction on participation in peaceful assemblies must be based on a differentiated or individualized assessment of the conduct of the participants, since blanket restrictions are presumptively disproportionate.⁷⁰

For example, the number of cases of police violence reported by local organizations in Cali is alarming. The Campaña Defender la Libertad: Asunto de Tod@s warned that, between 28 April and 25 June, in Cali 28 people were killed, allegedly by law enforcement officials and armed civilians acting with the acquiescence or consent of the National Police. In addition, the Campaña reported that 1,435 people were injured in the context of demonstrations, of whom 145 sustained firearm wounds.⁷¹ Temblores ONG reported that at least 26 people were allegedly killed by the security forces in Cali between the start of the National Strike and 16 June.⁷²

against Torture: Perú, Doc. UN: CAT/C/PER/CO/4 (2006), para. 16.a. Report of the Working Group on Arbitrary Detention: Ecuador, UN: A/HRC/4/40/Add.2 (2006), para. 101.e in: Amnesty International, *Fair Trial Manual - Second Edition*, 2014, p. 244.

⁶⁴ Amnesty International, *Fair Trial Manual - Second Edition*, 2014, p. 244.

⁶⁵ Inter-American Court of Human Rights, Case of Quispilaya Vilcapoma v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment of 23 November 2015, Series C No. 308, para. 146.

⁶⁶ Declaración de la Vicepresidenta y Canciller, Marta Lucía Ramírez, al término de la reunión con la Representante de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos Juliette de Rivero, 25 June 2021, available at: <https://www.cancilleria.gov.co/newsroom/video/declaracion-vicepresidente-canciller-marta-lucia-ramirez-termino-reunion> (last accessed 5 July 2021).

⁶⁷ Ministry of Defence, Balance general- paro nacional 2021, corte 24 June 2021, available at: https://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/estudios_sectoriales/info_estadistica/InformeCorrido_Balance_Paro_2021.pdf

⁶⁸ Ministry of Defence, Balance Cali paro nacional 2021, 18 de mayo de 2021, available at: <https://twitter.com/mindefensa/status/1395205375322886151?s=20> (last accessed 2 July 2021).

⁶⁹ Colombian National Police, Pronunciamiento de la CIDH sobre el grave abuso de la patrullera en Cali, 23 May 2021 available at: <https://www.policia.gov.co/noticia/pronunciamiento-cidh-sobre-grave-abuso-patrullera-cali>, (last accessed 5 July 2021).

⁷⁰ Human Rights Committee, General Comment 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, para. 38.

⁷¹ Campaña Defender la Libertad: Asunto de Tod@s, report sent to Amnesty International on 25 June 2021.

⁷² Temblores ONG, report on Cali sent to Amnesty International on 19 June 2021.

Despite the constant warnings from human rights organizations and appeals by Amnesty International, the Colombian government has focused its intervention on stigmatizing civil society protest and in so doing has legitimized and encouraged the excessive use of the force by security force officials and the militarization of cities.

Members of the ruling party have made public calls encouraging a military handling of the protests:

“The Army being on the streets is urgent and better than recording the news of murder and vandalism”

Álvaro Uribe Vélez⁷³

Likewise, the President stated:

“We are not going to allow non-legal recourses, the destruction of public and private property or the message of hatred to have a place in our country... as the supreme commander of the armed forces, military assistance will continue to be deployed in urban centres where there is a high risk to the physical integrity of citizens and where the full capacity of the state to protect the population is required”

Iván Duque⁷⁴

Amnesty International published a report on 4 May,⁷⁵ with audiovisual evidence verified by the organization’s Digital Verification Corps, confirming that the National Police used lethal weapons against peaceful protesters in various incidents nationwide, as well as less lethal weapons, like tear gas and water cannon, indiscriminately. In an incident in Cali, the use was confirmed a Galil Tavor rifle on April 30. According to publicly available information, this is a long-range support weapon with greater firepower specially for urban and rural combat.⁷⁶ The use of this type of weapon to disperse protests constitutes a violation of international standards on the use of firearms.⁷⁷

Despite serious allegations of human rights violations and crimes under international law, President Duque has refrained from condemning the excessive use of force by state agents and has not made an emphatic call to ensure that these crimes are investigated and the officials responsible punished. On the contrary, he has focused his concern on attacks on police stations, toll booths, supermarkets and the destruction of public and private property and has justified militarization as a response to this.

“The threat of vandalism that we face is a criminal organization that hides behind legitimate social aims in order to destabilize society, foster terror among citizens and divert the actions of the security forces. The extreme vandalism and urban terrorism that we are seeing is financed and coordinated by drug-trafficking mafias, as the Attorney General has stated”.

Iván Duque⁷⁸

For his part, the Attorney General has on several occasions focused in his statements on affirming that the demonstrations are “violent” and have been infiltrated by armed groups. Such statements should be supported by robust public investigations that ensure accountability for the imminent risks to the lives and physical integrity of the protesters.

⁷³ “El Ejército en las calles es urgente y mejor que estar registrando la noticia de asesinato y destrucción vandálica”, Álvaro Uribe Vélez, 29 April 2021, available at: <https://twitter.com/AlvaroUribeVel/status/1387724558111842307?s=20> (last accessed 2 July 2021)

⁷⁴ “No vamos a permitir que las vías de hecho, la destrucción de bienes públicos y privados o el mensaje de odio tenga cabida en nuestro país [...] como comandante supremo de las fuerzas armadas, la figura de asistencia militar seguirá vigente en los centros urbanos donde existe un alto riesgo para la integridad de los ciudadanos y donde se requiere emplear toda la capacidad del Estado para proteger a la población”, Presidency of the Republic of Colombia, address by Iván Duque, 1 May 2021, <https://twitter.com/infopresidencia/status/1388692317922631680?s=20> (last accessed 2 July 2021).

⁷⁵ Amnesty International, “Colombia: Amnesty International denounces the militarized response and police repression of demonstrations”, 4 May 2021, available at: <https://www.amnesty.org/en/latest/news/2021/05/colombia-amnistia-denuncia-respuesta-militarizada-represion-policial/>

⁷⁶ “con mayor poder de fuego especial para combate urbano y rural”, National Police of Colombia, Medios Técnicos de las unidades de protección a dignatarios e instalaciones de la Policía Nacional, available at: <https://www.policia.gov.co/especializados/proteccion/medios-tecnicos> (last accessed 2 July 2021).

⁷⁷ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

⁷⁸ “La amenaza vandálica que enfrentamos consiste en una organización criminal que se esconde detrás de legítimas aspiraciones sociales para desestabilizar a la sociedad, generar terror en la ciudadanía, distraer las acciones de la fuerza pública. El vandalismo extremo y el terrorismo urbano que estamos observando se encuentra financiado y articulado por mafias del narcotráfico como lo denunció el Fiscal General de la Nación”, Presidency of the Republic of Colombia, address by Iván Duque, 5 May 2021, available at: <https://twitter.com/infopresidencia/status/1389982704138170371?s=20> (last accessed 2 July 2021).

“[Public protest] is constitutionally protected, and its limits are the commission of crimes. Therefore, what we have seen in southwestern Colombia, for example in Cali, Tuluá, Buga, Bugalagrande and Popayán, have two phases. One, takes place in the morning when people go out to march or protest calmly, and another, in the afternoon, when some people join in to generate violence, destruction and terrorism... we have evidence about the participation in the city of Cali of the ‘second Marquetalia’, as well as illegal armed structures such as Dagoberto Ramos, dissidents from the former FARC and the ELN”

Francisco Barbosa, Attorney General⁷⁹

In a country that has lived through more than 60 years of internal armed conflict, the narrative of describing mass civil society demonstrations as “the enemy within” puts people who protest legitimately at serious risk. In its statement, the IACHR recommended that the Colombian state separate the Police and its ESMAD unit from the Ministry of Defence in order to ensure that there is a structure that consolidates and maintains security using a civilian and human rights approach and avoids any possibility of a military perspective.⁸⁰

On 28 May, the government published Decree 575 of 2021 in which it set out instructions for maintaining and restoring public order (“por el cual se imparten instrucciones para la conservación y restablecimiento del orden público”). This decree ordered the governors of the departments of Cauca, Valle del Cauca, Nariño, Huila, Norte de Santander, Putumayo, Caquetá and Risaralda, as well as the mayors of Cali, Buenaventura, Pasto, Ipiales, Popayán, Yumbo, Buga, Palmira, Bucaramanga, Pereira, Madrid, Facativá and Neiva, to coordinate military assistance to deal with events affecting security and remove roadblocks.⁸¹ The decree has been widely rejected by civil society organizations⁸² who believe “military assistance” should not be used to deal with demonstrations. In addition, this decree does not set a time limit for this military deployment, which means it could be prolonged indefinitely and, therefore, intensify the risks of human rights violations. On 23 July 2021, the Council of State temporarily suspended Decree 575 of 2021 on the grounds that it posed a threat to the right to social protest.⁸³

Similarly, the Minister of the Interior announced a modification to Decree 003 of 2021, which states that a demonstration that promotes the use of means to temporarily or permanently obstruct roads or infrastructure does not constitute a peaceful protest.⁸⁴ These legal manoeuvres are a warning that there is an intention to limit the right to civil society protest and justify the actions of the security forces regarding protesters, even when the use of public space for peaceful meetings is legitimate and by its nature implies a degree of obstruction of public roads.

A Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies states that:

Assemblies are an equally legitimate use of public space as commercial activity or the movement of vehicles and pedestrian traffic. Any use of public space requires some measure of coordination to protect different interests, but there are many legitimate ways in which individuals may use public spaces. A certain level of disruption to ordinary life caused by assemblies, including disruption of traffic, annoyance and even harm to commercial

⁷⁹ “[La protesta pública] se encuentra protegida constitucionalmente, teniendo como límite la comisión de delitos. Por tanto, lo visto en el suroccidente colombiano, como fue en Cali, Tuluá, Buga, Bugalagrande y Popayán, tiene relación con dos tiempos. Uno, que se da por las mañanas cuando la gente sale a marchar o protestar tranquilamente, y otro, en horas de la tarde, cuando entran algunas personas a generar violencia, destrucción y terrorismo [...] tenemos evidencia en la ciudad de Cali sobre la participación de la “segunda Marquetalia”, además de mencionar estructuras armadas ilegales como Dagoberto Ramos, disidencias de las antiguas FARC y el ELN”] Attorney General’s Office, statement of 31 May 2021, “En el marco de las manifestaciones violentas registradas en el país, 308 personas han sido localizadas y se mantiene activo el mecanismo de búsqueda urgente en 111 casos”, available at: <https://www.cali.gov.co/gobierno/publicaciones/161367/cifras-y-datos-en-cali-y-el-valle-entrego-el-fiscal-general-de-la-nacion-a-la-cidh/> (last accessed 2 July 2021).

⁸⁰ “a fin de garantizar una estructura que consolide y preserve la seguridad con un enfoque ciudadano y de derechos humanos, y evite toda posibilidad de perspectivas militares”, IACHR, Observations and Recommendations of the IACHR’s working visit to Colombia 8-10 June, 2021, Recommendation 14, available at: https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf

⁸¹ Ministry of the Interior, Decree 575 of 2021, 28 May 2021, available at: <https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%20575%20DEL%2028%20DE%20MAYO%20DE%202021.pdf> (last accessed 2 July 2021).

⁸² Uprimny Rodrigo, Dejusticia, “Protesta, proporcionalidad, bloqueos. A propósito del decreto 575”, 31 de mayo de 2021, available at: <https://www.dejusticia.org/column/protesta-proporcionalidad-y-bloqueos-a-proposito-del-decreto-575/> (last accessed 2 July 2021).

⁸³ Consejo de Estado suspende provisionalmente decreto de asistencia militar para conjurar problemas de orden público durante protestas, 23 July 2021, available at: <https://www.consejodeestado.gov.co/news/consejo-de-estado-suspende-provisionalmente-decreto-de-asistencia-militar-para-conjurar-problemas-de-orden-publico-durante-protestas/> (last accessed 23 July 2021).

⁸⁴ “no constituye manifestación pacífica, aquella que promueva el empleo de medios para obstaculizar temporal o permanentemente vías o infraestructura”, Minister of the Interior, Daniel Palacios, public statement, available at: <https://twitter.com/DanielPalam/status/1405895059556474884?s=20> (last accessed 2 July 2021).

activities, must be tolerated if the right is not to be deprived of substance. [footnotes omitted]⁸⁵

In addition, according to public information, the Cali Secretary for Civil Security was replaced by a retired National Army colonel.⁸⁶

Amnesty International has received hundreds of reports of the presence of the National Army in various parts of the city of Cali, a situation that generates fear and deters those who wish to protest peacefully from doing so. The military presence was justified by the need to protect the public, however, this city has seen the most serious reports of excessive use of force, repression of peaceful demonstrations, wounded and injured, among other serious incidents that are analysed in Chapter 4.

In this regard, the Inter-American Court of Human Rights has established that states parties to the American Convention on Human Rights, such as Colombia, must “restrict to the maximum extent the use of armed forces to control domestic disturbances, since they are trained to fight against enemies and not to protect and control civilians, a task that is typical of police forces”.⁸⁷

In its judgment in the case of *Alvarado Espinoza et al. v. Mexico*, the Court determined that “maintaining internal public order and public safety should, above all, be reserved to civil police agencies”⁸⁸ and that where the exceptional involvement of the armed forces is contemplated, their tasks must be:

- a) Exceptional, so that any intervention is justified and exceptional, temporary and restricted to what is strictly necessary in the circumstances of the case;
- b) Subordinated and supplementary to the work of civil agencies, and their tasks may not extend to functions inherent to the institutions for the administration of justice or the judicial police;
- c) Regulated, by legal mechanisms and protocols on the use of force, under the principles of exceptionality, proportionality and absolute necessity and based on the relevant training; and
- d) Supervised, by competent, independent and technically capable civil authorities.

As these conditions have not been met, Amnesty International condemns the deployment of the military by the Colombian authorities with the sole objective of suppressing demonstrations, as well as attempts to limit the right to social protest, as it is contrary to international human rights standards and can lead to the commission of serious crimes under international law.

The organization also recalls that in terms of individual criminal responsibility, not only must security force personnel who may materially commit human rights violations or crimes under international law be held accountable, but all superiors who issue unlawful orders or supervise or consent to them should also be held responsible.

⁸⁵ Human Rights Council, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, 4 February 2016, para. 32.

⁸⁶ Mayor of Cali, Carlos Javier Soler Parra nuevo Secretario de Seguridad y Justicia, 30 May 2021, available at: <https://www.cali.gov.co/seguridad/publicaciones/161140/carlos-javier-soler-parra-nuevo-secretario-de-seguridad-y-justicia/> (last accessed 5 July 2021).

⁸⁷ Inter-American Court of Human Rights, *Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 5 July 2006, Series C No. 150, para. 78; *Case of Zambrano Vélez et al. v. Ecuador*, Merits, Reparations and Costs, Judgment of 4 July 2007, Series C No. 166, para. 51; *Case of Cabrera García and Montiel Flores v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 26 November 2010, Series C No. 220, para. 88.

⁸⁸ Inter-American Court of Human Rights, *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 370, para. 182.

4. CALI: EPICENTRE OF VIOLENCE AGAINST DEMONSTRATORS BY THE SECURITY FORCES AND ARMED CIVILIAN GROUPS

Cali is a city connected to the Colombian Pacific region, one of the areas hardest hit by the internal armed conflict. Currently, there are reports of the proliferation in the city of illegal armed actors who continue to operate, leaving thousands of people being displaced and killed.⁸⁹ Cali is known for hosting Afro-descendant communities forcibly displaced from the departments of Chocó, Cauca and Nariño and cities such as Buenaventura.⁹⁰ Currently, as a consequence of the pandemic, violence, inequality and unemployment are on the rise, according to reports from national entities such as DANE,⁹¹ which reported that between December 2020 and February 2021 the youth unemployment rate in the city stood at 27.6%. Cali is the city with the second largest black/Afro-descendant population in Latin America⁹² and is characterized by historic inequality, exclusion and structural racism.⁹³

Regarding the violence recorded during the National Strike, organizations report that:

In the context of protests and the use of excessive force, racial profiling based on negative and racist stereotypes of young people of African descent not only underpins acts of violence by state agents, but is also fundamental to the tendency of institutions to deny state

⁸⁹ Ombudsperson's Office, 28.509 personas fueron desplazadas y confinadas en 2020 por hechos violentos, 7 January 2021, available at: <https://www.defensoria.gov.co/es/nube/destacados/9802/28509-personas-fueron-desplazadas-y-confinadas-en-2020-por-hechos-violentos.htm> (last accessed 5 July 2021).

⁹⁰ Government of Valle del Cauca, Desplazamiento Forzado en las Comunas de Santiago de Cali: Análisis Espacial de Efecto de Vecindad, 15 November 2015, <https://www.valledelcauca.gov.co/loader.php?lServicio=Tools2&lTipo=viewpdf&id=28753> (last accessed 5 July 2021).

⁹¹ El País, No se recupera mercado laboral en Cali: hay más de 279 mil desempleados, 31 March 2021, available at: <https://www.elpais.com.co/california-no-se-recupera-mercado-laboral-en-hay-mas-de-279-mil-desempleados.html> (last accessed 3 July 2021).

⁹² Santiago de Cali Mayor (2013). Cali, segunda ciudad con mayor población afrodescendiente en el país, available at: https://www.cali.gov.co/bienestar/publicaciones/51642/california_segunda_ciudad_con_mayor_poblacion_afrodescendiente_en_el_pas/ (last accessed 3 July 2021).

⁹³ Interview with Erlendy Cuero Bravo, Afrodes, 15 June 2021.

responsibility and to impunity. Arguments, based on social prejudices and dangerous narratives in the media about gang violence and other pre-existing urban conflicts are already beginning to emerge to question the participation of many young people in the protests in order to present them to society as delinquents and criminals who are killed in the context of daily violence in their communities rather than as demonstrators exercising their right to social protest.⁹⁴

Amnesty International had access to statements from young protesters from “the Frontline”⁹⁵ in Cali who asserted that “those who rise to the challenge... have nothing to lose. They aren’t afraid. If the state doesn’t kill you, you’ll be killed here in the neighbourhoods on the brink of starvation or in the internal conflict between the gangs.”⁹⁶ The neighbourhoods where “resistance points”⁹⁷ were set up coincide with the most impoverished and violent neighbourhoods in the city and were those hardest hit by police repression, resulting in a shocking number killings of young people. Human rights defender Erlendy Cuero told Amnesty International that there are alarming levels of poverty and unemployment in these neighbourhoods.⁹⁸

Several of the historic Colombian human rights movements and organizations have also been forged in Cali, as well as union, student and feminist movements, with an enormous capacity for organization and reporting. The organizational capacity of Indigenous peoples and Afro-descendant and *campesino* communities is remarkable and it is for this reason that the Indigenous Minga⁹⁹ has been able to take place several times in the city.¹⁰⁰

By means of rigorous research into and verification of audiovisual material, Amnesty International documented attacks by armed civilians, who accompanied National Police officials and, with their acquiescence or consent, attacked protesters and human rights defenders, constituting acts of urban paramilitarism.

For its part, the Movement for the Victims of State Crimes (Movimiento de Víctimas de Crímenes de Estado, MOVICE) has drawn attention to the serious risk facing and threats directed against human rights defenders, such as the Association for Research and Social Action Nomadesc (Asociación para la Investigación y Acción Social Nomadesc) and the Valle Chapter of MOVICE, and Indigenous organizations such as the Cauca Regional Indigenous Council (Consejo Regional Indígena del Cauca, CRIC) and the Association of Cauca Indigenous Councils (Asociación de Cabildos Indígenas del Cauca, ACIN). Reports warn of armed attacks and fear of “paramilitary-type armed operations, some carried out by armed civilians and another by plainclothes police officers to ensure impunity for state crimes that in no way offer a response to the demands for housing, food, health, education and employment for those who are excluded and discriminated against in Cali”.¹⁰¹

On 4 May, Amnesty International received a report about an attack by National Police officials against a human rights verification mission made up of several civil society organizations, the Office of the United Nations High Commissioner for Human Rights and the Ombudsperson’s Office, that was assessing the situation of

⁹⁴ “En el contexto de las protestas y el uso de fuerza excesiva, el perfilamiento racial basado en los estereotipos negativos y racistas de los jóvenes afrodescendientes no solo sustenta las acciones de violencia por parte de los agentes del Estado, sino que también es fundamental en la tendencia institucional de negación de la responsabilidad estatal y la impunidad. Ya empiezan a surgir argumentos, basados en prejuicios sociales, y discursos peligrosos en los medios de comunicación acerca de la violencia entre pandillas y de otro tipo de conflictos urbanos preexistentes, para cuestionar la participación de muchos de los jóvenes en las protestas a fin de presentarlos socialmente como delincuentes y criminales asesinados en el contexto de la violencia cotidiana de sus comunidades en lugar de manifestantes ejerciendo su derecho a la protesta social”, Consultoría para los Derechos Humanos y el Desplazamiento CODHES, Análisis étnico-racial del uso excesivo de fuerza por parte de los agentes del Estado en Cali, 21 May 2021, available at: <https://codhes.files.wordpress.com/2021/05/codhes-wp-analysis-ecc81tnicoracial-del-paro-en-cali-df.pdf> (last accessed 3 July 2021).

⁹⁵ The “Frontline” are a group of protesters who place themselves in front of the National Police Mobile Anti-riot Squad, with shields and helmets, in order to defend the group from a possible attack with tear gas or stun grenades. Such groups were also formed during protests in Chile and Hong Kong.

⁹⁶ “los que ponen el pecho [...] no tienen nada que perder. No tienen miedo. Si no te mata el Estado, te van a matar aquí en las comunas a punto de hambre o en el conflicto interno entre las pandillas”, Connectas, El desafío de una generación que grita ¡Futuro!, May 2021, available at: <https://www.connectas.org/protestas-y-represion-en-colombia/> (last accessed 3 July 2021).

⁹⁷ Places where peaceful protesters gather for cultural activities and collective meals. At some of these places, temporary roadblocks were set up.

⁹⁸ Interview with Erlendy Cuero Bravo, Afrodes, 15 June 2021.

⁹⁹ The Minga is a gathering of various actors, organizations and social movements aimed at dialogue and generating solutions to social and political problems. The Indigenous Minga is a peaceful demonstration of Indigenous peoples, Afro-descendant communities and social movements that gathers to support social protests.

¹⁰⁰ El País, Paro nacional: ¿por qué Cali fue el epicentro del estallido social?, 8 May 2021, available at: <https://www.elpais.com.co/cali/paro-nacional-por-que-cali-fue-el-epicentro-del-estallido-social.html> (last accessed 3 July 2021).

¹⁰¹ “operaciones armadas de tipo paramilitar, unas que se realizan por civiles armados y otra de policías vestidos de civil para asegurar impunidad en una criminalidad de Estado que de ninguna manera asegura respuesta a demandas de vivienda, de alimentación, de salud, de educación y empleo a los excluidos y discriminados de Cali”, Comisión Intereclesial de Justicia y Paz, Informe Cali, ataques armados a manifestantes y Defensores de Derechos Humanos, 2 June 2021, available at: <https://www.justiciaypazcolombia.com/informe-cali-ataques-armados-a-manifestantes-y-defensores-de-derechos-humanos/> (last accessed 3 July 2021).

detainees. There were reports that during these incidents, human rights defenders James Larrea, Darnelly Rodríguez and Ana María Burgos were subjected to physical assaults and death threats.¹⁰²

In addition, Amnesty International received reports of attacks on medical missions¹⁰³ and on journalists accompanying the demonstrations by police officers, and in particular ESMAD. In Cali, the Fundación para la Libertad de Prensa, FLIP, recorded attacks on the press by law enforcement officials and some also by protesters, in particular attacks against alternative media are reported.¹⁰⁴

According to Campaña Defender la Libertad: Asunto de Tod@s, 28 killings were reported in Cali in the context of demonstrations, from 28 April to 25 June. The Consultancy on Human Rights (Consultoría para los derechos humanos, CODHES) reported that, as of 6 June, there had been more than 100 homicides in Cali in the context of demonstrations, the vast majority of victims were young Afro-descendants.¹⁰⁵

In its report to the IACHR, the inter-institutional roundtable in the context of social protest, set up by the Office of the Ombudsperson and the Attorney General's Office to provide information in a timely and transparent manner on cases of homicides and alleged disappearances during the demonstrations,¹⁰⁶ listed 79 active cases in Cali under the Urgent Search Mechanism, as well as five reports of possible enforced disappearances in the context of the demonstrations. The Valle del Cauca Regional Ombudsperson's Office in its report to the IACHR, attached as an annex to the response to the request for information from Amnesty International, indicated that of 236 people were believed disappeared, 101 had been found alive and four were found dead while 131 continued to be the subject of ongoing searches.¹⁰⁷

Regarding the report on homicides, the report indicates that there were 45 violent deaths in Valle del Cauca and that the Attorney General's Office has sufficient evidence that 20 of these alleged homicides occurred in the framework of public demonstrations.¹⁰⁸ Amnesty International considers these figures alarming and underscore the need for the full capacity of the state be made available to investigate with due diligence what has happened in the more than two months of the National Strike in Cali. Although the setting up of the inter-institutional roundtable may produce results in terms of information and traceability, it is important to highlight that the Ombudsperson's Office must maintain its autonomous oversight role regarding the bodies in charge of investigating serious human rights violations, including the Attorney General's Office.

In its publicly available assessment, the Ministry of Defence reports that as of 18 May, seven civilians had died.¹⁰⁹ Regardless of the differences between the figures of civil society organizations and the national authorities,¹¹⁰ Amnesty International is concerned by the statements it has gathered from victims and communities in Cali, who report the killings of young people who have been beheaded, cremated or dismembered and found in rivers near to the city, without any investigations having been initiated to date to determine who was responsible and ensure justice.

¹⁰² Campaña Defender la Libertad: Asunto de Tod@s, Defensores y defensoras de derechos humanos objetivo directo de la represión estatal, 4 May 2021, available at: <https://defenderlalibertad.com/defensores-y-defensoras-de-derechos-humanos-objetivo-directo-de-la-represion-estatal-en-colombia/> (last accessed 3 July 2021).

¹⁰³ Pacifista, Policías y “civiles” estarían emboscando y persiguiendo a los voluntarios médicos de Cali, 21 June 2021, available at: <https://pacifista.tv/notas/policias-y-civiles-estarian-emboscando-y-persiguiendo-a-los-voluntarios-medicos-de-cali/> (last accessed 3 July 2021).

¹⁰⁴ Fundación para la Libertad de Prensa FLIP, Report on Cali sent to Amnesty International on 1 July 2021.

¹⁰⁵ Consultoría para los Derechos Humanos y el Desplazamiento CODHES, Análisis étnico-racial del uso excesivo de fuerza por parte de los agentes del Estado en Cali, [Ethnic-racial analysis of excessive use of force by state agents in Cali] 21 May 2021, available at: <https://codhes.files.wordpress.com/2021/05/codhes-wp-analisis-ecc81tnicoracial-del-paro-en-cali-df.pdf> (last accessed 3 July 2021).

¹⁰⁶ Attorney General's Office, Fiscalía General de la Nación y Defensoría del Pueblo instalan Mesa Interinstitucional de información en el marco de la protesta social, 5 May 2021, available at: <https://www.fiscalia.gov.co/colombia/fiscal-general-de-la-nacion/fiscalia-general-de-la-nacion-y-defensoria-del-pueblo-instalan-mesa-interinstitucional-de-informacion-en-el-marco-de-la-protesta-social/> (last accessed 2 July 2021).

¹⁰⁷ In response to the request, on 6 July 2021 the Valle del Cauca Regional Ombudsperson's Office forwarded the report presented to the IACHR which sets out a large part of the participation of the Valle del Cauca Regional Ombudsperson's Office in various activities carried out in the context of the National Strike, such as support, mediation and humanitarian actions based on the provisions of Law 24 of 1992 and Decree 025 of 2014. [“En atención a su solicitud de la referencia me permito remitir adjunto informe presentado a la Comisión Interamericana de derechos humanos donde reposa gran parte de la participación de la Defensoría del Pueblo Regional Valle del Cauca, en las distintas actividades que se desarrollaron en el marco del paro nacional, acompañamientos, mediación y actuaciones humanitarias con base en lo establecido en la ley 24 de 1992 y el decreto 025 de 2014.”.]

¹⁰⁸ “tiene pruebas suficientes de que 20 de estos presuntos homicidios se dieron en el marco de manifestaciones públicas”, Ombudsperson's Office, “Defensoría del Pueblo entrega a la CIDH balance sobre la situación de derechos humanos en el marco de la protesta”, 8 June 2021, available at: <https://www.defensoria.gov.co/es/nube/comunicados/10172/Defensor%C3%ADa-del-Pueblo-entrega-a-la-CIDH-balance-sobre-la-situaci%C3%B3n-de-derechos-humanos-en-el-marco-de-la-protesta-CIDH-Defensor%C3%ADa.htm> (last accessed 2 July 2021).

¹⁰⁹ Ministry of Defense, Balance Cali paro nacional 2021, 28 de abril al 18 de mayo, available at: <https://twitter.com/mindefensa/status/1395205375322886151/photo/1> (last accessed 3 July 2021).

¹¹⁰ La Silla Vacía, En el paro mataron a 47 personas y la Fiscalía solo cuenta 24, available at: <https://lasillavacia.com/historias/silla-nacional/en-el-paro-fueron-asesinadas-47-personas-y-la-fiscal%C3%ADa-solo-cuenta-24/> (last accessed 3 July 2021).

The Campaña Defender la Libertad: Asunto de Tod@s reports that in Cali 1,435 people have been injured, of whom 145 sustained firearms injuries, and 247 complaints of arbitrary detention. In addition, the Campaña reported 10 cases of attacks on human rights defenders that have accompanied the protests.¹¹¹ Temblores ONG reported that at least seven protesters have suffered serious eye injuries as a result of excessive use of force and non-compliance with the protocols for the use of less lethal weapons, such as tear gas grenades, fired directly at people's heads and at close range.¹¹² Amnesty International was able to verify hundreds of videos from Cali in which ESMAD agents are shown not complying with the protocols for the use of less lethal weapons and, on the contrary, causing injuries to or even the deaths of people exercising their right to demonstrate peacefully.¹¹³

The organization is concerned at the high numbers of people feared disappeared reported by the Working Group on Enforced Disappearance, which, as of 26 May, listed 66 people disappeared in Cali and more than 200 in the department of Valle del Cauca.

Regarding reports of gender-based violence, Amnesty International learned of at least 15 cases that occurred against Afro-descendant women in the context of protests in Cali.¹¹⁴ Amnesty International has received reports of three other cases of women survivors of sexual violence in the context of demonstrations in Cali who stated that they were attacked by National Police officials, some when they were in custody in temporary places of detention. The organization has also received reports of threats of rape and sexual harassment against protesters and women human rights defenders in Cali. According to the report presented to the IACHR by organizations that defend women's rights, "the Colombian state does not have protocols that incorporate differential treatment with a gender perspective that would enable [gender-based violence] against women by members of the security forces in context of public protests, among others, during arrest procedures to be prevented, addressed, monitored and punished".¹¹⁵

On 28 May, President Iván Duque decreed the deployment of the military in Cali, referring to public order disturbances and roadblocks affecting the productivity and supply of the city. This decision, treating civil society protest as a situation of war, sowed terror among protesters. And this is not insignificant in a country with a history of armed conflict. As human rights defenders stressed to Amnesty International, the experience of militarization in rural areas in the context of the armed conflict has not guaranteed the protection of Indigenous peoples, Afro-descendant communities, *campesinos* and human rights defenders, but rather, on the contrary, it has intensified the risks of becoming victims of armed violence. Soldiers trained for armed conflict "are not trained to confront distressed and desperate citizens on the streets of big cities."¹¹⁶ As Amnesty International has reiterated, this can exacerbate the human rights situation and heighten the risk of crimes under international law being committed.

On 1 July 2021, the Cali Mayor's Office issued Decree No. 4112010200304, which sought to reach agreements by setting up a roundtable for dialogue.¹¹⁷ This decree was suspended by a court order on 15

¹¹¹ Campaña Defender la Libertad: Asunto de Tod@s, report sent to Amnesty International on 25 June 2021.

¹¹² Temblores ONG, report on Cali sent to Amnesty International on 19 June 2021.

¹¹³ In particular, tear gas grenades should never be thrown directly at people, see: Amnesty International Netherlands: Chemical irritants in law enforcement <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>, p. 12/13; and Rule 9 in 30 Rules on the use of chemical substances in law enforcement <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>.

¹¹⁴ Proceso de Comunidades Negras, Informe afectaciones a pueblo negro afrodescendiente en Colombia en el marco del Paro Nacional, 9 June 2021.

¹¹⁵ "el Estado colombiano no cuenta con protocolos que incorporen un trato diferencial con enfoque de género que permita prevenir, atender, hacer seguimiento y sancionar las [violencias basadas en género] contra mujeres por parte de agentes de la fuerza pública en contextos de protestas públicas, entre otras, durante los procedimientos de capturas", Casa de la Mujer, Comunitar - Corporación de Mujeres Ecofeministas, Corporación Humanas, Corporación Jurídica Libertad, Campaña Defender la Libertad: Asunto de Tod@s, Fundación Comité de Solidaridad con los Presos Políticos, Proceso Social de Garantías para la Labor de los Líderes y Lideresas Sociales Comunes, Defensores y Defensoras de Derechos Humanos de Antioquia, Instituto Internacional sobre Raza, Igualdad y Derechos Humanos, Ruta Pacífica de Mujeres, Sisma Mujer, Vamos Mujer, Women's Link Worldwide, Executive summary of the report presented to the IACHR during its visit to Colombia from 8 to 10 June 2021, Violencias sexuales y otras violencias contra mujeres en el contexto del Paro Nacional de Colombia 2021, available at: <https://www.sismamujer.org/wp-content/uploads/2021/06/Final-Resumen-Informe-CIDH-Orgs.-Mujeres.pdf> (last accessed 3 July 2021).

¹¹⁶ "no están preparados para enfrentarse a ciudadanos angustiados y desesperados en las calles de grandes ciudades", Wola, Violence in Colombia Requires Bold Response from Biden Administration, available at: <https://www.wola.org/2021/06/violence-colombian-requires-bold-response-biden-administration/> (last accessed 3 July 2021).

¹¹⁷ Mayor of Cali, Alcaldía de Cali es pionera en firmar decreto para la construcción de acuerdos y mesa de diálogo con manifestantes, 1 June 2021, available at: <https://www.cali.gov.co/gobierno/publicaciones/161158/alcaldia-de-cali-es-pionera-en-firmar-decreto-para-la-construccion-de-acuerdos-y-mesa-de-dialogo-con-manifestantes/> (last accessed 3 July 2021).

June,¹¹⁸ limiting the possibility of engaging in dialogue with organizations and individuals who have demonstrated in the city.

It is important to recall that international human rights standards establish that the use of force by the security forces must be a last resort and must be guided by the principles of legality, necessity, proportionality and accountability. The use of lethal weapons or potentially lethal weapons against protesters, in situations that do not pose a specific threat to the life or physical integrity of third parties, is considered a disproportionate use of force. In those situations that represent a threat, the authorities must take the necessary measures to identify the people who have committed acts of violence and must protect the right to peaceful assembly. The IACHR has indicated that “the actions of the security forces should protect, rather than discourage, the right to assembly and therefore, the rationale for dispersing the demonstration must be the duty to protect people.”¹¹⁹

In the three months since the start of the National Strike, Amnesty International has received: dozens of reports of homicides, enforced disappearances, sexual violence, attacks against journalists and medical missions; violence against human rights defenders; hundreds of injuries, including serious eye trauma; and instances of urban paramilitarism, among other incidents, which require the greatest efficiency and diligence from the authorities to bring to justice those responsible and guarantee justice, truth and reparation for the victims. The following sections detail three emblematic cases of what has happened in Cali, as illustrations of the excessive use of force by National Police officials, namely arbitrary detentions; torture and other cruel and inhuman treatment; and instances of urban paramilitarism.

4.1 “OPERATION SILOÉ”: 3 MAY 2021

Siloé is a neighbourhood in Cali’s 20th commune and is one of the places where organizations, victims and communities have reported most human rights violations in the context of the National Strike. Siloé is a working-class neighbourhood, which, according to people interviewed by Amnesty International, is notable for its cultural and artistic life, as well as civil society organization initiatives by young people. The neighbourhood has also been marked by violence by armed actors¹²⁰ and small-scale drug trafficking, which have increased the risks faced by children and young people living there.

Amnesty International conducted interviews with relatives of victims, witnesses to the events of the night of 3 May, as well as people from the community. Based on their testimonies and the verification of audiovisual material, Amnesty International documented this incident which it considered emblematic because of the levels of violence recorded that left at least three people dead and dozens injured.

According to the evidence gathered by Amnesty International, on the night of 3 May, National Police officers converged on Siloé, including members of ESMAD and the Special Operations Group (Grupo de Operaciones Especiales, GOES). The community also reported the presence of soldiers from the National Army (by that date, President Iván Duque had already ordered the deployment of the military in the city).¹²¹

According to the statements received by Amnesty International, that night at around 8.40pm, a group of protesters held a candlelight vigil (“velatón”)¹²² at a roundabout in the neighbourhood in memory of Nicolás Guerrero,¹²³ a young man, who, according to the Indepaz organization, was killed the previous day in Cali as a result of gunshot wounds allegedly inflicted by members of ESMAD, while he was taking part in a peaceful march.

According to statements received by the organization, the demonstration was taking place in a peaceful manner. The Siloé roundabout is a short distance from the Lido Police Station. At the time of the events, the entrances to the roundabout were blocked by protesters and young people from “the Frontline”. According to eyewitness accounts, members of ESMAD burst in violently, throwing tear gas canisters at protesters, without

¹¹⁸ Radio Nacional de Colombia, Juez en Cali suspende decreto que respalda mesa de diálogos con manifestantes, 15 June 2021, available at: <https://www.radionacional.co/actualidad/politica/juez-en-cali-suspende-decreto-que-respalda-mesa-de-dialogos-con-manifestantes> (last accessed 5 July 2021).

¹¹⁹ IACHR, Report on the situation of human rights defenders in the Americas, OEA/Ser.LV/II.124, 7 March 2006, para. 63.

¹²⁰ France 24, Siloé: el barrio colombiano que resiste, entre la pobreza y la muerte, 25 de mayo de 2021, available at: <https://www.france24.com/es/programas/en-foco/20210524-protestas-colombia-siloe-cali-pobreza-violencia> (last accessed 3 July 2021).

¹²¹ Liga Internacional de Mujeres por La Paz y La Libertad, Limpal Colombia, Por una vida en dignidad: más vida, menos armas, available at: <https://www.limpalcolombia.org/es/informate/noticias/agenda-de-paz-feminista-y-antimilitarista/57-por-una-vida-en-dignidad-mas-vida-menos-armas> (last accessed 19 July 2021).

¹²² Peaceful demonstration held to pay tribute to the young people wounded and killed, at event candles are lit to remember them.

¹²³ Indepaz, Register of people reportedly killed by the security forces, 3 May 2021, available at: <https://twitter.com/Indepaz/status/1389315829137879048?s=20> (last accessed 3 July 2021).

there having been any violent incident on the part of the protesters. According to witnesses, at around 8pm people were already beginning to return to their homes and “the kids were calm, dispersed.”¹²⁴

MAP OF THE SILOÉ ROUNDABOUT AT THE TIME OF THE CANDLELIGHT VIGIL – 8.40PM



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

Members of the community told Amnesty International that in the neighbourhood there is a second police station called El Cortijo, five blocks from the roundabout, where members of GOES were present at around 8.40pm.

MAP OF THE SILOÉ ROUNDABOUT IN RELATION TO EL CORTIJO POLICE STATION



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

At 8.50pm witnesses recorded the violent incursion of a Venom Armored Personnel Carrier (APC), carrying around 15 agents, police officers and members of ESMAD, who dismantled the first roadblock set up by the young protesters, to access the place where the candlelight vigil was being held.

At this spot children, adolescents and elderly people had gathered, according to witnesses. At precisely that moment, the community states that there was a power cut in the area.¹²⁵

The Venom has a projectile launcher for “use to disperse violent disturbances at a distance with an effective range of 160m, according to the angle of inclination that ranges between 10°, 20° and 30°, and which has

¹²⁴ “los chicos estaban tranquilos, dispersos”, interviews conducted by Amnesty International with witnesses, family members and members of the community. For security reasons, the identity of the people who gave their statements to the organization has been withheld. The word “dispersos” refers to the fact that the young people were no longer together, but had separated to return to their homes.

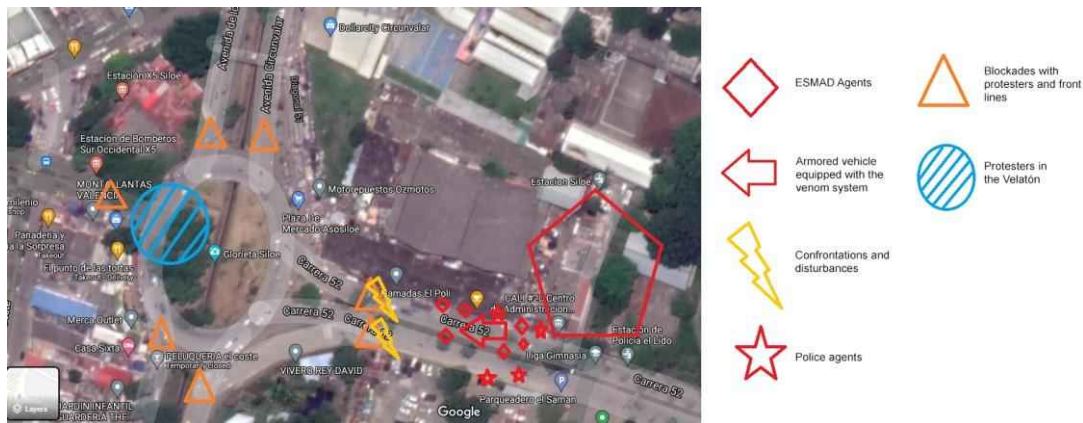
¹²⁵ Interviews conducted by Amnesty International with witnesses, family members and members of the community. For security reasons, the identity of the people who gave their statements to the organization has been withheld.

the following features: 38mm calibre payload, weighing 19kg, with a disposable cartridge system, 10 per cassette, launch elevations are 10° - 20° -30°, with a height is 47cm, depth of 47cm and depth of 33.1 [sic] electric ignition with batteries or 12-volt cells... cartridges with canisters containing tear gas and smoke or stun grenades should not be aimed directly at people, because they can cause bruising, burns or internal injuries".¹²⁶

National Police Resolution No. 02903 of 2017 regulates the use of force and the use of weapons, ammunition, elements and less lethal devices by the National Police and in article 18 it classifies less lethal weapons, ammunition, elements and devices that can be used by the National Police, including in paragraph 4.a) the use of "electric multiple launchers" ("lanzadores múltiples eléctricos") which puts the VENOM device in the category of a less lethal weapon.

The Venom device, is sometimes, as in Siloé, placed on top of ESMAD APC's.

MAP OF THE VENOM APC'S ENTRY AND DISMANTLING OF ROADBLOCKS – 8.50PM



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

Despite this being a peaceful demonstration, ESMAD burst in launching tear gas and stun grenades using the Venom system, which generated chaos and led to protesters leaving and heading into the Belisario Caicedo neighbourhood and the bypass road.

Amnesty International considers that the use of the Venom system, against peaceful protesters is an example of violent repression of social protest that constitutes a grave violation of the right to peaceful assembly and a risk to life and physical integrity.

It should be noted that in June 2021, the Popayán Court ordered the Metropolitan Police and ESMAD to suspend the use of the Venom device until a protocol for its use is developed and all members of ESMAD are trained on the correct use of the device.¹²⁷

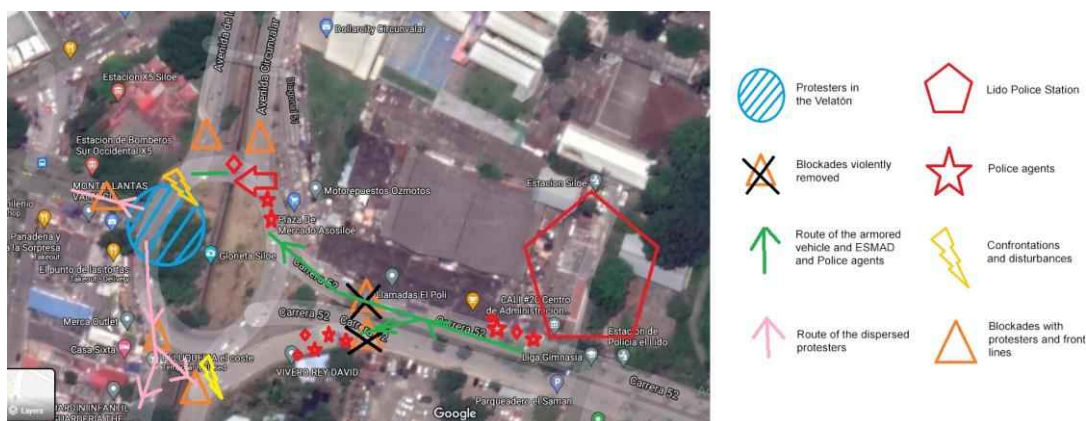
However, the problem with the Venom system cannot be solved simply by developing a protocol and training the personnel tasked with its use. It is a weapon that, because of its design, leads to the excessive and uncontrollable use of force, with excessive amounts of tear gas and other projectiles that violate the principles of necessity and proportionality, as well as the duty of the authorities to minimize harm. For this reason, Amnesty International calls for the use of this type of weapon in public order operations to be banned.¹²⁸

¹²⁶ "es utilizado para la dispersión de disturbios violentos a una distancia de rango de efectividad de 160 mts según el ángulo de inclinación que va de 10°, 20° y 30°, que tiene las siguientes características: calibre 38 MM carga útil, peso es de 19 Kg, cartuchos son desechables, 10 por cada casete, las elevaciones de lanzamiento son de 10° - 20° -30°, altura es de 47 ctm, profundidad es de 47 ctm, profundidad es de 33.1. ctm, (sic) encendido eléctrico con baterías o pilas de 12 voltios [...] los cartuchos con carga lacrimógena, fumígena o de aturdimiento no deben ser dirigidos directamente contra las personas, porque puede generar hematomas, quemaduras o lesiones internas", Court judgement of the Popayan Tenth Administrative Court [Juzgado Décimo Administrativo Mixto de Oralidad Circuito de Popayán] No. 065 de 2021, file 19001-33-33-010-2021-00085-00 ACUMULADO AL PROCESO 1900133-33-010-2021-000089-00, 2 June 2021, pp. 30.

¹²⁷ Juzgado Décimo Administrativo Mixto de Oralidad Circuito de Popayán No. 065 de 2021, file 19001-33-33-010-2021-00085-00 ACUMULADO AL PROCESO 1900133-33-010-2021-000089-00, 2 June 2021, pp. 35 and 36.

¹²⁸ Amnesty International Netherlands: Chemical irritants in law enforcement <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>, p. 14; and Rule 28 in 30 Rules on the use of chemical substances in law enforcement <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>.

TRAJECTORY OF THE DIRECT ATTACK ON THE CANDLELIGHT VIGIL – 9.10 PM



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

At around 9.30pm witnesses and multiple audiovisual records confirm that several members of a motorized GOES group were heading from El Cortijo Police Station to the Siloé roundabout, where ESMAD was already deployed. A young protester told Amnesty International that members of ESMAD and the GOES “ambushed” (“*emboscaron*”) the protesters from both directions and that “they did not have any kind of protection and could not move away before the shots and tear gas were fired from different points”.¹²⁹

The Human Rights Committee has noted that only in exceptional cases may an assembly be dispersed, for example if the assembly as such is no longer peaceful or if there is clear evidence of an imminent threat of serious violence that cannot be reasonably addressed by more proportionate measures,¹³⁰ and that in any case, law enforcement rules on the use of force must be strictly followed.

Furthermore, tear gas should be used solely for the purpose of dispersing a crowd and therefore should never be used in situations where people cannot disperse.¹³¹

According to statements and audiovisual material to which Amnesty International has had access, there is no evidence of any imminent threat of serious violence that could not reasonably be addressed with more proportionate measures and would have justified the use of force by ESMAD and the GOES in Siloé on 3 May.

¹²⁹ “no tenía[n] ningún tipo de protección y no pod[ían] retroceder ante los disparos y los gases lacrimógenos accionados desde distintos puntos”, interviews conducted by Amnesty International with witnesses, family members and members of the community. For security reasons, the identity of the people who gave their statements to the organization has been withheld.

¹³⁰ Human Rights Committee, General Comment 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, para. 85.

¹³¹ Amnesty International Netherlands: *Chemical irritants in law enforcement* <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>, p. 16; and Rule 15 in *30 Rules on the use of chemical substances in law enforcement* <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>.

The **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**¹³² set out the principles and rules necessary to ensure the proper use of force and firearms. The use of force is guided by the principles of legality, necessity, proportionality and accountability.

The **principle of legality** establishes that the power of law enforcement officials to use force must be established by law, which will describe under what circumstances and for what purpose the use of force may be considered; this will also include a legally constituted process for the approval and use of the equipment and weapons to be used.¹³³ It is set out by Principle 1 of the Basic Principles, which states: “Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials.”¹³⁴

The **principle of necessity** establishes that force will only be used when no other means is available (prior to or after having exhausted all available means) to achieve the legitimate objective. It should also be clear that only minimum force will be used; that is, no more force will be used than is necessary to achieve the objective.¹³⁵ This is set out by Principle 4 of the Basic Principles, which states: “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”

The **principle of proportionality** establishes that law enforcement officials should not attempt to achieve their objectives at all costs. The law should set a clear boundary and require law enforcement officials to weigh their legitimate objective against the possible harm they may cause by resorting to the use of force.¹³⁶ The principle is set out in Principle 5 of the Basic Principles: “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved”.¹³⁷

Finally, the **principle of accountability** establishes that law enforcement agencies are responsible for the way they carry out their duties and their respect for the legal and operational framework, this includes not only the law enforcement officials acting in a specific situation, but also those who have chain of command responsibility.¹³⁸

According to statements received by Amnesty International, at the La Sorpresa bakery, shots were fired and it was there that two young men, Kevin Agudelo, aged 22, and Hérold Rodríguez, aged 20, were killed.¹³⁹ At the time of the incident, people from the health brigade had to flee and told the protesters present: “we cannot do anything, there are people with serious gunshot injuries”,¹⁴⁰ which is why the young wounded men had to be put on motorcycles and taken to the nearest health facility, where they were pronounced dead.

¹³² UN, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

¹³³ Amnesty International Netherlands, Use of Force – Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by law enforcement officials, Amsterdam, 2015, available at: https://www.amnesty.org.uk/files/use_of_force.pdf

¹³⁴ Similarly, the Inter-American Court of Human Rights has stated: “Domestic law must establish standards clear enough to regulate the use of lethal force and firearms by members of the State security forces”, Case of Zambrano Vélez et al. v. Ecuador, Merits, Reparations and Costs, Judgment of 4 July 2007, Series C No. 166, para. 86. See, IACHR, Report No. 51/16, Gilberto Jiménez Hernández et al. (La Grandeza) Mexico, OEA/Ser.L/V/II.159, Doc. 60, 30 November 2016, para. 113.

¹³⁵ Amnesty International Netherlands, Use of Force – Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by law enforcement officials, Amsterdam, 2015, available at: https://www.amnesty.org.uk/files/use_of_force.pdf

¹³⁶ The Inter-American Court of Human Rights has stated that although state agents may resort to the use of force and in some circumstances, even the use of lethal force may be required, the State’s power is not unlimited in achieving its ends, regardless of the gravity of certain actions or the guilt of those responsible. Inter-American Court of Human Rights, Case of Cruz Sánchez et al. v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment of 17 April 2015, Series C No. 292, para. 262.

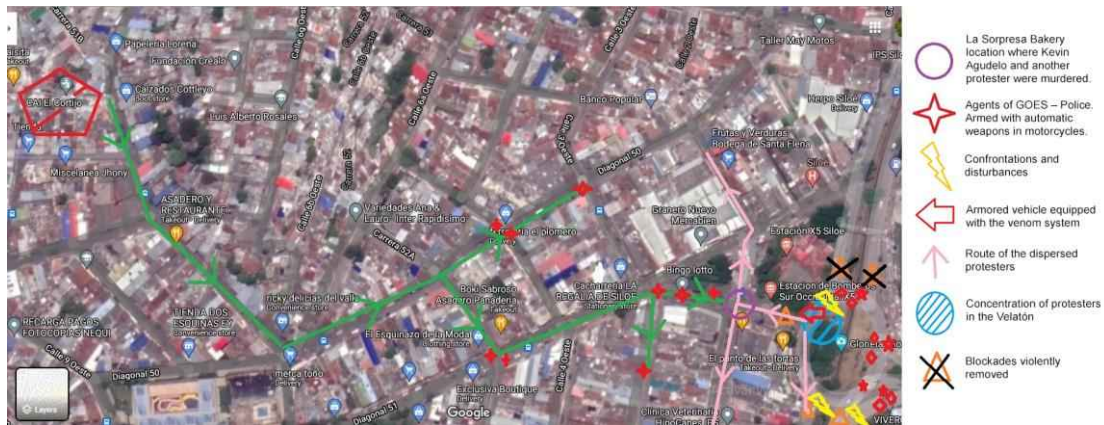
¹³⁷ The original text of the Basic Principles is in English. Unfortunately, flaws in the official Spanish translation of Principles 5 and 9 alter its normative content. Therefore, Amnesty International uses these revised principles from the official English version, indicating the changes in brackets.

¹³⁸ See principles 7, 22, 24 and 26.

¹³⁹ Infobae, Hérold Rodríguez y Kevin Agudelo, los futbolistas que habrían sido asesinados en Siloé, 5 May 2021, available at: <https://www.infobae.com/america/colombia/2021/05/05/harold-rodriguez-y-kevin-agudelo-los-futbolistas-que-habrian-sido-asesinados-en-siloe/> (last accessed 3 July 2021).

¹⁴⁰ “no podemos hacer nada, hay heridos de bala y de gravedad”, interviews conducted by Amnesty International with witnesses, family members and members of the community. For security reasons, the identity of the people who gave their statements to the organization has been withheld.

DIRECT ATTACK ON DEMONSTRATORS



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

Several witnesses reported to Amnesty International that at around 9pm, two helicopters, allegedly belonging to the National Police, flew over the area and fired from the air at the protesters who were seeking refuge in nearby houses. In addition, in two cases of houses were set alight, reportedly by objects thrown from helicopters. Amnesty International verified videos of that night, which show the presence of helicopters.¹⁴¹ In addition, witnesses report that “from the helicopter they threw objects roughly the size of an aerosol can or a fire extinguisher that fell on the houses and did not explode, but glowed like the reflection of clouds when lightning strikes.”¹⁴²

MAP OF THE ATTACK ON DEMONSTRATORS



Map drawn by a Siloé resident who witnessed the events of 3 May and requested that their identity be withheld for security reasons.

Amnesty International received reports that at least three people died from gunshot injuries and 24 young people were detained that night. Videos verified by the organization show the use of lethal weapons, such as Tavor 5.56mm rifles.¹⁴³

¹⁴¹ Audiovisual material given to Amnesty International and verified by the organization’s digital verification corps.

¹⁴² “desde el helicóptero lanzaban objetos más o menos del tamaño de una lata de aerosol o un extintor que cayeron sobre las casas y no estallaban, sino que resplandecían como el reflejo de las nubes cuando caen rayos”, interviews conducted by Amnesty International with witnesses, family members and members of the community. For security reasons, the identity of the people who gave their statements to the organization has been withheld.

¹⁴³ Audiovisual material received by Amnesty International and verified by the organization’s digital verification corps and a weapons expert.

Witnesses assert that

“from one moment to the next they saw a helicopter flying overhead, lighting them up and firing gas. On the side where the demonstration was, there was a power cut immediately before the attack began... a mixture of ESMAD, uniformed police officers came firing firearms. Many of those who could run, among them, Kevin. In front of them, they saw police officers firing rifles. Kevin was hit by a bullet to the chest and fell and was dragged away, but he had already lost a lot of blood from the impact. Several people were able lift him up, but the firing continued”.¹⁴⁴

Eyewitnesses pointed out that the attack on the demonstration “was excessive, we were not armed nor did we have a way to respond to that arsenal... rifles are what you use in war.”¹⁴⁵

KEVIN ANTHONY AGUDELO JIMÉNEZ, AGED 21



Photo sent by Kevin Agudelo's father with authorization for use in this document.

Kevin Anthony, a young amateur football player with Siloé FC, was one of the victims of police violence on the night of 3 May. He is remembered in his community and by his colleagues who are still grieving over his death.

That night Kevin was participating in a cultural event at the Siloé roundabout and in a matter of minutes lost his life as a result of a gunshot wound. Witnesses to the events say that when Kevin was picked up to take him to the health care facility, he was already dead. Amnesty International verified the videos prior to the attack and was able to determine that police officers were heavily armed near the spot where Kevin died.¹⁴⁶ Amnesty International's Digital Verification Corps confirmed that these police officers fired 5.56mm Tavor rifles.¹⁴⁷

In addition, the presence of two helicopters flying over the area was verified. Several videos show Kevin lying fatally wounded while the shooting continues and some people manage to get him onto a motorcycle unconscious.¹⁴⁸ No first aid medical personnel were present because, according to witnesses, they had to take cover from the shooting.

¹⁴⁴ “de un momento a otro vieron que sobrevolaba un helicóptero que los iluminaba y lanzaba gases. Por el lado donde estaba la manifestación hubo un corte de energía e inmediatamente inició el ataque [...] mezclados con el ESMAD venían policías uniformados disparando armas de fuego. Muchos lo que pudieron hacer fue correr, entre ellos, Kevin. Al frente de ellos, vieron policías disparando con fusiles. Kevin cayó por un disparo en el pecho y fue arrastrado, pero ya había perdido mucha sangre por el impacto. Varios lo pudieron alzar, pero los disparos continuaban”, statements by Kevin Agudelo's family, received by Amnesty International, 11 May 2021.

¹⁴⁵ “fue desmedido, nosotros no estábamos armados ni teníamos cómo responder a ese arsenal [...] fusiles se usan para la guerra”, Cuestión Pública, “Cuando vuelva mami”...En memoria de Kevin, 19 May 2021, available at: <https://cuestionpublica.com/cuando-vuelva-mami-en-memoria-de-kevin/> (last accessed 3 July 2021).

¹⁴⁶ Audiovisual material received by Amnesty International and verified by the organization's digital verification corps and a weapons expert.

¹⁴⁷ Audiovisual material received by Amnesty International and verified by the organization's digital verification corps and a weapons expert.

¹⁴⁸ <https://twitter.com/JheisonNz17/status/1389431223727034371>; <https://twitter.com/IvanTovar01/status/1389429147219505153>; <https://twitter.com/LeoLopezLenis/status/1389414764342820865> y <https://twitter.com/redlatiendo/status/1389415065049255936> (last accessed 13 July 2021), verified by Amnesty International's digital verification corps.

On 5 May, Kevin's family filed a complaint with the Attorney General's Office. In the complaint, Kevin's father stated that his son "was participating in a candlelight vigil, I knew that he was participating in a meeting that they organized at Loma de la Cruz, to organize cultural events to support the Strike... witnesses assert that they were there and ESMAD members began to harass them and throw tear gas at them, and among the ESMAD there were uniformed members of the National Police firing over the shoulders of the ESMAD personnel".¹⁴⁹

Amnesty International had access to the pathologist's expert opinion which states: "a young adult male with wounds caused by a firearm projectile... according to the findings of the pathologist's autopsy procedure, shows macroscopic signs of firearm injuries causing laceration of the aorta at the level of the arch, causing massive hemothorax, which led to his death... without signs of medical treatment".¹⁵⁰ This expert opinion establishes cause of his death as "violent/homicide" ("*violenta/homicidio*"). In addition, it describes the injuries as "caused by a firearm (single shot), with a circular entrance hole, inverted edges, perforation and a 2mm concentric contusion ring in a clockwise direction, with a diameter of 0.6cm".

The launching of an armed operation of this level, as if it were a confrontation with illegal armed actors rather than a peaceful protest, illustrates the way the protests in the context of the National Strike were responded to as though this was a situation of war. In the joint armed incursion between police officers, ESMAD, the GOES and the military, it was possible to verify the use of lethal weapons by security force personnel, which was not only excessive and unnecessary, but resulted in the killings of a number of young people and should therefore be the subject of a thorough investigation by the competent authorities. In addition, the use of tear gas at night and from above is unacceptable because it is contrary to the only legitimate objective for the use of this type of weapon, which is the dispersal of a violent crowd: because it is at night and because it comes from the sky, the people affected cannot know in which direction to disperse.¹⁵¹ This form of the use of tear gas by the security forces reveals that the intention was to facilitate an attack of a military nature rather than any legitimate attempt to restore public order.

"We are deeply alarmed at developments in the city of Cali in Colombia overnight, where police opened fire on demonstrators protesting against tax reforms, reportedly killing and injuring a number of people... Given the extremely tense situation, with soldiers as well as police officers deployed to police the protest, we call for calm. We remind the State authorities of their responsibility to protect human rights, including the right to life and security of person, and to facilitate the exercise of the right to freedom of peaceful assembly."

Spokesperson for the UN High Commissioner for Human Rights, 4 May 2021.¹⁵²

The Mayor of Cali, Jorge Iván Ospina, declared in response to these events that "there was an unfortunate, aggressive, premeditated situation against the community of Siloé... it is a really painful issue that has to be taken to the highest courts of justice, perhaps even to international criminal justice... an issue that has most certainly occurred behind the back of this mayor's office, as we would not allow the use of firearms against an unarmed community".¹⁵³

¹⁴⁹ "estaba participando en una velación, yo sabía que él participaba en reunión que organizaron en la loma de la cruz, para organizar actos culturales de apoyo al paro [...] los testigos aseguran que ellos estaban allí y los del ESMAD comenzaron a hostigarlos y tirarles gas lacrimógeno, y metido entre el ESMAD había uniformados de la Policía Nacional disparando por encima de los hombros del personal del ESMAD", copy of the complaint filed by Kevin Agudelo's father with the Attorney General's Office, 5 May 2021

¹⁵⁰ "joven adulto masculino con heridas ocasionadas por proyectil de arma de fuego (...) de acuerdo a los hallazgos en el procedimiento de necropsia medicolegal muestra signos macroscópicos de heridas por proyectil de arma de fuego ocasionando laceración de aorta a nivel del cayado, ocasionando hemotórax masivo, mecanismo que desencadena su muerte [...] sin signos de atención médica", and "por arma de fuego (carga única), con orificio de entrada de forma circular, de bordes invertidos, perforación y anillo de contusión concéntrico de 2mm en el sentido de las manecillas del reloj, con un diámetro de 0,6 cm", National Institute of Medicine and Forensic Sciences, Expert autopsy report, Kevin Anthony Agudelo Jimenez, Cali, Valle del Cauca, autopsy date 4 May 2021.

¹⁵¹ For this reason, Amnesty International opposes, for example, the deployment of tear gas through drones. See Amnesty International Netherlands: *Chemical irritants in law enforcement* <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>, p. 15; and Rule 16 in *30 Rules on the use of chemical substances in law enforcement* <https://www.amnesty.nl/amnesty-position-paper-chemical-irritants>.

¹⁵² Office of the United Nations High Commissioner for Human Rights, Press briefing note on Colombia, Spokesperson for the UN High Commissioner for Human Rights: Marta Hurtado, 4 May 2021, available at: <https://nacionesunidas.org.co/noticias/comunicados-de-prensa/nota-informativa-para-la-prensa-sobre-colombia-portavoz-del-alto-comisionado-de-las-naciones-unidas-para-los-derechos-humanos-marta-hurtado/#english> (last accessed 3 July 2021).

¹⁵³ "hubo una desafortunada circunstancia, agresiva, premeditada contra la comunidad de Siloé [...] es un tema realmente doloroso que tiene que ser llevado hasta las últimas instancias de la justicia, quizás incluso a la justicia penal internacional [...] un tema que ha ocurrido sin duda alguna a espaldas de esta alcaldía, pues no permitiríamos el uso de armas de fuego contra una comunidad inermes", Radio Nacional de Colombia, "Si dispararon contra la comunidad": alcalde de Cali sobre hechos en Siloé, 13 May 2021, available at: <https://www.radionacional.co/actualidad/si-dispararon-contra-la-comunidad-alcalde-de-cali-sobre-hechos-en-siloe> (último acceso 3 July 2021).

The 158th Military Investigative Judge informed Amnesty International that in that jurisdiction there were no proceedings relating to the events that took place on 3 May relating to the victim Kevin Agudelo.¹⁵⁴

4.2 ARMED ATTACK ON THE INDIGENOUS MINGA

Levels of disproportionate violence by members of the security forces, as well as armed attacks against protesters involving people in civilian clothes, have marked the more than two months of National Strike mobilizations in Cali. Despite constant appeals from human rights organizations regarding the seriousness of the situation, warning of killings, enforced disappearances and paramilitary violence, on 9 May there was an attack on the Indigenous Minga¹⁵⁵ that left several people seriously injured and underscored the context of discrimination, stigmatization and violence faced by Indigenous peoples.

The Indigenous Minga was in Cali from the first days of the National Strike, with the aim of accompanying civil society demonstrations and in solidarity with the dozens of victims already reported as a result of the disproportionate conduct of the security forces.

“We’ve come to provide security. To mediate and help stop the violence. We are part of the Strike, but we are also agents of peace, coexistence and human rights”

Communications from Minga representatives prior to 9 May¹⁵⁶

More than 5,000 Indigenous people, mostly from the department of Cauca, arrived in the city and settled at the demonstrations sites such as Meléndez, Sameco, Siloé and “Puerto Resistencia”. According to people interviewed by Amnesty International, the Minga was asked for support in Cali, with the aim of providing humanitarian support, ensuring dialogue and preventing armed attacks by infiltrators.

Amnesty International conducted interviews with victims of the armed attack on 9 May, as well as representatives of the human rights organizations supporting them, leaders of the Indigenous Guard, spokespersons for the Asociación Indígena del Cauca and witnesses. The organization also had access to audiovisual material, which it verified, and received numerous reports from Indigenous organizations such as the Consejo Regional Indígena del Cauca (CRIC) and the Organización Nacional Indígena de Colombia (ONIC), which described the level of violence and repression they experienced during the days of protest.¹⁵⁷

In the days prior to the attack on the Minga, the Indigenous organization CRIC complained that the publication of stigmatizing messages in the press, from high-profile people such as former President Uribe, falsely linking them with armed groups such as the National Liberation Army (Ejército de Liberación Nacional, ELN) could put Indigenous protesters and their leaders at risk.¹⁵⁸ As stated above, in a country like Colombia, that has experienced more than five decades of internal armed conflict, referring to organizations as part of a guerrilla group like the ELN¹⁵⁹ in practice sets them up to be a target of attacks.

In addition to this, media outlets reported that in the days prior to the attack, the Mayor of Cali, Jorge Iván Ospina, declared that “in Cali those who do not belong to Cali do not give the orders. There can be no pretexts

¹⁵⁴ Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

¹⁵⁵ The Indigenous Minga is the gathering of various social actors who join civil society processes to demand and ensure fundamental rights.

¹⁵⁶ “Nosotros venimos a brindar seguridad. A mediar para que cese la violencia. Hacemos parte del paro, pero también somos gestores de paz, convivencia y derechos humanos”, El Espectador, Cali, radiografía de una ciudad que no aguantó más, published 8 May 2021, available at: <https://www.elespectador.com/colombia/cali/cali-radiografia-de-una-ciudad-que-no-aguanto-mas-articulo/> (last accessed 3 July 2021).

¹⁵⁷ Organización Nacional Indígena, ONIC, Informe Ejecutivo sobre el contexto y las afectaciones a los derechos de los Pueblos Indígenas dentro del Paro y Minga Nacional en Colombia, 10 June 2021, available at: <https://www.onic.org.co/comunicados-onic/4304-informe-ejecutivo-sobre-el-contexto-y-las-afectaciones-a-los-derechos-de-los-pueblos-indigenas-dentro-del-paro-y-minga-nacional-en-colombia> (last accessed 3 July 2021).

¹⁵⁸ Consejo Regional Indígena del Cauca, CRIC rechaza nuevo falso positivo del expresidente Uribe, 5 May 2021, <https://www.cric-colombia.org/portal/cric-rechaza-nuevo-falso-positivo-del-expresidente-uribe/> (last accessed 3 July 2021).

¹⁵⁹ The Ejército de Liberación Nacional is a guerrilla group that has been in existence for more than 60 years. It is still active and is responsible for enforced displacement, kidnappings, killings and attacks on public infrastructure.

for people outside our city carrying out the functions that are carried out in our city”¹⁶⁰ and “we must act differently, criminals are gaining strength and the capacity for resolution is limited. We need to create Brigades and Networks for public safety. From tomorrow we need to organize ourselves at the neighbourhood level, but we have protect our lives”.¹⁶¹ Such stigmatizing messages that criminalize protesters, as well as the statements by the authorities at all levels¹⁶² calling for the creation of civilian security groups, created a context that facilitated these armed attacks.

On 9 May, Amnesty International expressed concern regarding this attack¹⁶³ and reiterated that historically Indigenous peoples and members of Afro-descendant communities have suffered disproportionately from the consequences of violence, armed conflict and a lack of protection from state authorities. In addition, the organization criticized the fact that, despite the urgent calls to the authorities to prevent this armed violence, no measures were taken to avert it, but, on the contrary, the response was to repeat stigmatizing messages about the Indigenous Minga and the protesters, which may have spurred on the attack.

By issuing stigmatizing statements, the authorities objectively created a situation of danger for the inhabitants and failed to adopt all the necessary or sufficient measures to prevent armed civilians from attacking the Minga.

According to the statements collected by Amnesty International, that day several Indigenous Minga *chivas* (buses)¹⁶⁴ were expected to arrive from Cali from Cauca, via Cañasgordas. Before they arrived, local inhabitants went out to block their entry and armed attacks were recorded during these incidents. The organization of the events and their chronology seem to indicate that the roadblocks and the subsequent attack were coordinated and premeditated.

According to statements made to Amnesty International by a witness who lives in a neighbourhood close to where the attack occurred, people in civilian clothes blocked their path and shouted that “they had no business here” (“*no tenían nada que hacer allí*”). According to the witness, the people in civilian clothes held a meeting to coordinate blocking of the Minga’s route the day before the attack. Calls were also made by the Comfandi Pance sector and by the La María church, to coordinate the

defence of the neighbourhood... at the large barricade, near the La María church, people dressed in white, some armed, began shooting and the Indigenous people got off their *chivas* to find those who were shooting and found two burned out trucks... the Indigenous people were passing through, at no time were they going into the houses or blocks of flats... it was passed on by word of mouth via the security guards, that there was a meeting about what was going to happen, everyone arming themselves for whatever was going to happen.¹⁶⁵

One of the first indications that it was a premeditated attack was that around 12 noon, *chivas* along the Minga’s route were intercepted a few kilometers from Cali, in Jamundí. As a result they had to divert and take Cañasgordas Avenue, where shots were fired. At around 2pm shots were fired twice in the area near La María

¹⁶⁰ “en Cali no deben mandar los que no forman parte de Cali. No debe haber pretextos para que personas ajenas a nuestra ciudad cumplan las funciones que se cumplen en nuestra ciudad”, Cerosetenta, Disparen a los indios: un diario del odio en Cali, 15 May 2021, available at: <https://cerosetenta.uniandes.edu.co/disparen-a-los-indios-un-diario-del-odio-en-cali/#:~:text=La%20mañana%20del%20domingo%20nueve,se%20cumplen%20en%20nuestra%20ciudad> (last accessed 3 July 2021).

¹⁶¹ “debemos actuar de otra manera, los criminales ganan fuerza y capacidad resolutive es limitada. Es necesario crear Brigadas y Redes de Seguridad ciudadana. Desde mañana a organizarnos a nivel de barrio, pero tenemos que cuidar la vida”, Jorge Iván Ospina, Mayor of Cali, 28 April 2021, available at: <https://cerosetenta.uniandes.edu.co/disparen-a-los-indios-un-diario-del-odio-en-cali/#:~:text=La%20mañana%20del%20domingo%20nueve,se%20cumplen%20en%20nuestra%20ciudad> (last accessed 3 July 2021).

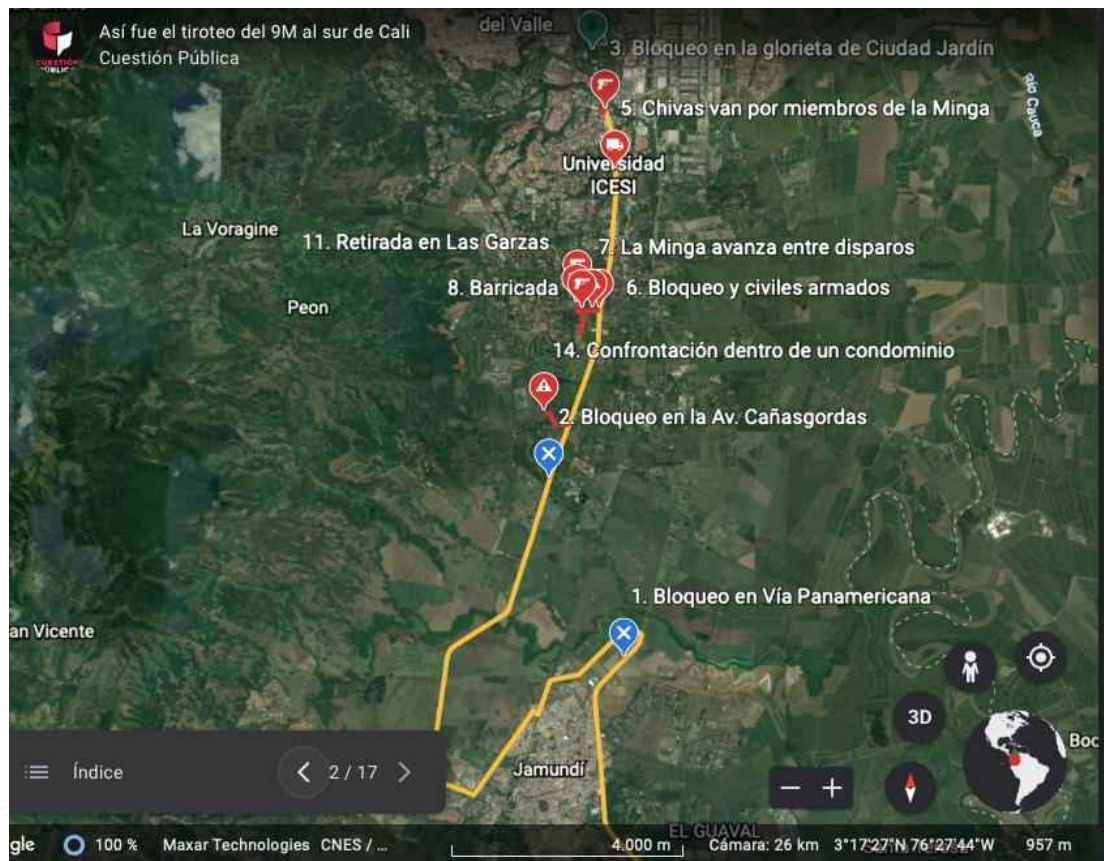
¹⁶² On previous days, other local representatives, such as Carlos Maya, the Mayor of Pereira, had stated: “vamos a convocar a los gremios de la ciudad y a los miembros de la seguridad privada para hacer un frente común junto a la Policía y el Ejército para recuperar el orden y la seguridad ciudadana” [“we’re going to convene the city’s trade associations and members of the private security sector to form a common front together with the Police and the Army to restore order and public security”]. The next day Lucas Villa was killed in Pereira. Taken from Kien y Ke: “El llamado del alcalde de Pereira previo al atentado a Lucas Villa”, available at: <https://www.kienyke.com/regiones/llamado-alcalde-de-pereira-previo-atentado-lucas-villa>, (last accessed 11 July 2021).

¹⁶³ Amnesty International, “Colombia: Urgent call for a cease to violence against Indigenous Peoples in the context of the National Strike”, 9 May 2021, available at: <https://www.amnesty.org/en/latest/news/2021/05/colombia-llamado-urgente-cesar-violencia-contra-pueblos-indigenas/>

¹⁶⁴ The *chiva* is a means of collective transport used in Colombia in rural areas, particularly by Indigenous peoples and *campesino* communities.

¹⁶⁵ “defensa del barrio [...] en el taponamiento grande, cerca a la iglesia La María, se ubicaron las personas vestidas de blanco, algunas armadas, iniciaron los disparos y los indígenas se bajaron de las chivas para ubicar a quienes estaban disparando y ubicaron dos camionetas que fueron quemadas [...] los indígenas iban pasando, en ningún momento se estaban metiendo a las casas o a los condominios [...] se escuchaba de voz a voz por medio de guardas de vigilancia, que había una reunión para la cuestión que iba a suceder, todo el mundo armándose para cualquier cosa que vaya a suceder”, statement received by Amnesty International, the name of the person has been withheld for security reasons, Cali, 7 July 2021.

church. There were also attacks against the Minga in the south of the Pance neighbourhood and in the Ciudad Jardín neighbourhood.¹⁶⁶



Map taken from the reconstruction carried out by the independent media outlet Cuestión Pública, 27 May 2021.¹⁶⁷

According to the testimony of witnesses and victims of the attack, one of the events that alerted the Minga and members of the Minga who were at the Valle University, was the apprehension by civilians of one of the ACIN (Asociación de Cabildos Indígenas del Norte del Cauca) advisors, Harold Sescué. The advisor raised the alarm that he had been apprehended and several people came to help him, as well as some *chivas* on their way to Cali. When they arrived, shooting broke out. According to testimonies collected by Amnesty International, when the Indigenous people arrived, they faced a roadblock where civilians yelled abuse at them, accusing them of being “guerrillas” and shouting that they should return to their reserves because they were not welcome in Cali.

Amnesty International also learned of public statements by congressman Christian Garcés, from the governing Centro Democrático party, who stated that “Indigenous people come with batons to kidnap the people of Cali”,¹⁶⁸ not merely using his political position to repeat a stigmatizing message, but justifying the violence against the Indigenous Minga.

¹⁶⁶ France 24, Análisis de imágenes: hombres vestidos de civil dispararon a manifestantes indígenas en Cali, 18 May 2021, available at: <https://www.france24.com/es/programas/los-observadores/20210518-protestas-colombia-cali-disparos-indigenas-civiles> (last accessed 3 July 2021).

¹⁶⁷ Disponible en: <https://cuestionpublica.com/paso-a-paso-asi-fue-el-tiroteo-del-9-de-mayo-al-sur-de-cali/> (last accessed 3 July 2021).

¹⁶⁸ “se vienen indígenas con bastones de mando a secuestrar a los caleños, María Jimena Duzán interview, ¿Quién está detrás del grupo de autodefensa que se armó contra los indígenas en Cali?, 16 June 2021, available at: <https://www.youtube.com/watch?v=QUozZqOCfZo> (last accessed 3 July 2021).

DANIELA SOTO



Photo shared by Daniela Soto, with permission to include it in this document.

Photo taken addressing the Popayán council of higher education students at the Autonomous Indigenous and Intercultural University (Universidad Autónoma Indígena e Intercultural, UAIIN).

Daniela Soto, a well-known Indigenous human rights defender from the Sa'th Tama Kiwe reserve and leader of the Consejo Regional Indígena del Cauca (CRIC), was seriously injured that day.

Daniela was struck by a bullet that pierced her intestine and hit one of the main veins in her leg. This serious injury left her on the brink of death and she had to be resuscitated on the spot. According to the pathologist's report, Daniela was treated at the Fundación Valle de Lili clinic on 9 May at "3.21pm for a gunshot wound, with a transabdominal trajectory... and required a massive transfusion and emergency exploratory laparotomy to assess the damage".¹⁶⁹ She was advised to remain on medical leave for 45 days because of the severity of the injuries.

Amnesty International's digital verification corps was able to assess audiovisual material from the time of the attack in which people in civilian clothes are seen shooting at the Indigenous Minga. In these videos Daniela can be seen to be present, unarmed and trying to intercede with the roadblock. The armed individuals are dressed in white and some start shooting from upmarket vans. In these videos it is possible to see that National Police officers are present who do not seem surprised by the attack, in fact, it can be seen that there is no intervention whatsoever to contain the armed attack, which indicates their acquiescence and complicity.¹⁷⁰

Daniela told Amnesty International that at no point was she armed. On the contrary, she reiterated that she tried to have a dialogue with the people who were carrying out the roadblock to persuade them to let the Minga *chivas* pass. However, she stated that they were insulted and called things like "guerrillas" and that the Indigenous people were told that they were not going to let them pass because they were "obstructing development", which provoked an argument and they began to shoot. She said that "the worst thing was that the state legitimizes the violence to generate fear and terror so that the protesters abandon the Strike".¹⁷¹

She told Amnesty International that she is still recovering from the serious physical and emotional consequences of this attack. She also said that she had been supporting collective processes with Indigenous women that had to be suspended and that this also constituted a collective harm.

¹⁶⁹ "15:21 por herida por proyectil de arma de fuego, con trayecto transabdominal [...] se anota necesidad de transfusión masiva y laparotomía exploratoria emergente para control de daños", National Institute of Legal Medicine and Forensic Sciences, Cali Basic Unit, Expert clinical forensic report, Cali, 18 May 2021, document sent confidentially to Amnesty International.

¹⁷⁰ Audiovisual material given to Amnesty International and verified by the organization's digital verification corps.

¹⁷¹ "lo peor es que el Estado legitima la violencia para generar miedo y terror para que los manifestantes dejen el Paro", Amnesty International interview with Daniela Soto, 1 June 2021.

Amnesty International verified audiovisual material showing heavily armed people in civilian clothes firing at unarmed Indigenous protesters.¹⁷² In this footage, it is possible to see that National Police officers were present who not only allowed this attack to happen, but protected the people who carried it out.¹⁷³ This shows that these were not chance events or events carried out by individuals acting on their own initiative, but rather that police officers colluded with them, failed to carry out their duty to protect citizens and were complicit in the armed attacks against Indigenous protesters. In addition, Amnesty International had access to WhatsApp conversations, which, although they have not yet been verified, coincide in effect with the actions of the armed civilians and reveal their criminal intent to “block these *chivas*” and singling out leaders like Daniela Soto.¹⁷⁴ In these posts, photos of Daniela were shared indicating that she was a leader, moments prior to the attack in which she was injured, which would indicate that the incident was premeditated.¹⁷⁵

After the attacks, President Iván Duque called on Indigenous people “to return to their reserves... not to restrict their movement, but to understand that this is not the time to provoke society. I want to make a clear call to members of CRIC, we have seen that the citizens at this time have suffered a lot from the additional roadblocks or their security being threatened to avoid confrontations”.¹⁷⁶ These statements were publicly rejected by Minga leaders such as human rights defender Aida Quilcué who held the local government and the national government responsible for the heavy handed repression of protesters in Cali and for responding to social protest with militarization.

Amnesty International reiterates that it not only rejects the continuation of this stigmatizing narrative directed at the Indigenous people who accompanied the demonstrations in Cali, but it also believes that such statements are responsible for the attacks; no condemnation has been issued of the violent behaviour by armed civilians acting in coordination with National Police officials. Furthermore, Amnesty International reminds the national authorities of their duty to ensure special protection for Indigenous peoples, guaranteeing their fundamental rights and recognizing their participation in political and social spaces. Making discriminatory statements about Indigenous peoples is a breach of their obligations under international law and promotes the violence and impunity that still persist.

MOVICE, issued an urgent communication on 9 May in which it stated that when they heard about the attacks on the Minga they were went to the scene of the attack in order to

act as guarantors of human rights, but the police fired at the four human rights defenders and members of the Indigenous Minga. Members MOVICE were able to identify a vehicle from which shots were fired at another vehicle carrying members of the Indigenous Guard. Simultaneously other shots were fired at protesters from a private car. All this took place in front of police personnel who were at the scene and protected the civilians who attacked the protesters and the Verification Mission. We are raising the alarm about the serious situation of vulnerability and threats against members of the Indigenous Minga (CRIC, ACIN), Fundación Guagua, Nomadesc, CDR, the Valle Chapter of MOVICE and the civil population, among others, as the risks to life and physical integrity increase daily.¹⁷⁷

¹⁷² See, among others, <https://www.infobae.com/america/colombia/2021/05/09/terror-en-jamundi-graban-a-varios-civiles-armados-amenazando-y-disparando-contra-la-guardia-indigena/>; <https://twitter.com/HKJM2019/status/1391548945474719744>; <https://twitter.com/valpoinformado/status/1391531213991682050>; <https://twitter.com/smilelalis/status/1391492438200659971>; <https://twitter.com/SenorCaicedo/status/1391505956274585608> (último acceso 13 July 2021), verified by Amnesty International's digital verification corps.

¹⁷³ See, among others, <https://mobile.twitter.com/sargentochala/status/1391522148271984640>; <https://twitter.com/marthaperaltae/status/1391564891576733699> (last accessed 13 July 2021), verified by Amnesty International's digital verification corps.

¹⁷⁴ Statement by UN Women, the Norwegian Embassy, Ombudsperson's Office condemning the attack on women leaders and human rights defenders in Cali, 9 May 2021, available at: <https://twitter.com/ONUMujeresCol/status/1391560645582245892?s=20> (last accessed 3 July 2021).

¹⁷⁵ WhatsApp screenshots sent in confidence to Amnesty International.

¹⁷⁶ “retornen nuevamente a sus resguardos [...] no por limitar su movilidad, sino para que se entienda que este no es el momento de generar provocaciones con la sociedad. Quiero hacer un llamado claro a los miembros del CRIC, hemos visto que la ciudadanía en este momento ha sufrido mucho por los bloqueos adicionales o que se amenace su seguridad para evitar confrontaciones”, Presidente Iván Duque, 9 May 2021, available at: <https://twitter.com/infopresidencia/status/1391510517185921029?s=20> (last accessed 3 July 2021).

¹⁷⁷ “al desplazarnos al lugar como garantes de derechos humanos, la Policía disparó contra los cuatro defensores de derechos humanos e integrantes de la Minga Indígena. Las personas integrantes del Movice pudieron identificar un vehículo que disparó contra otro vehículo que transportaba miembros de la guardia indígena. Simultáneamente otro carro particular disparaba contra los manifestantes. Todo lo anterior delante de personal de policía que se encontraba en el lugar y protegía a los civiles que atacaron a los manifestantes y la Misión de Verificación. Alertamos sobre la grave situación de vulnerabilidad y amenazas contra miembros de la Minga Indígena (CRIC, ACIN), Fundación Guagua, Nomadesc, CDR, Movice Capítulo Valle, población civil, entre otras, frente a las que día a día aumenta el riesgo contra la vida e integridad”, Movimiento Nacional de Víctimas de Crímenes de Estado, Solicitud de acción urgente- ataque armado a la Minga y graves violaciones a los derechos humanos, 9 May 2021.

Amnesty International reiterates that the national authorities have a duty to prevent violence against human rights defenders and to take measures to guarantee that incidents such as those described do not go unpunished. Colombia is the most dangerous country in the world for human rights defenders and such a situation can only arise if state authorities are absent and do not fulfil their obligation to protect them. On several occasions Amnesty International has spoken out about the serious acts of violence against human rights defenders and civil society leaders in the country, and has reiterated that this violence is widespread and the state has failed to protect them.¹⁷⁸

Amnesty International has historically denounced forms of armed cooperation between civilians and the security forces that have claimed thousands of victims in Colombia. The armed attack of 9 May 2021, coordinated between police officers and armed civilians, can be considered a form of urban paramilitarism. This is an extremely serious incident, directly attacking Indigenous people and singling out and targeting the violence at the human rights defenders present. Amnesty International adds its voice to the call of the Indigenous victims, their organizations, groups and leaders, and reiterates the call for the authorities to commit to undertake a thorough, impartial and diligent investigation into these events, to ensure that those responsible are brought to justice and that victims receive comprehensive reparation.¹⁷⁹

4.3 ARMED ATTACKS BY CIVILIANS ACTING WITH THE AQUIESCENCE AND COMPLICITY OF THE NATIONAL POLICE: DEMONSTRATORS SUBJECTED TO BEATINGS, UNLAWFUL DETENTION, TORTURE AND THREATS OF ENFORCED DISAPPEARANCE

The United Nations expressed concern that between Friday 28 May and 30 May at least 14 people were reported to have died and around 100 were injured in the city of Cali in the context of demonstrations.¹⁸⁰ [The High Commissioner for Human Rights, Michelle Bachelet, stated that her Office had received reports that “in parts of the city, private individuals had fired shots at demonstrators in the presence of police officers”.¹⁸¹ She also referred to the detention of at least 30 people on 28 May and called for the necessary measures to be implemented to prevent enforced disappearances.

Amnesty International conducted interviews with witnesses, victims of violence, human rights organizations and officials from the Ombudsperson’s Office, and carried out a thorough verification of audiovisual materials, which showed that on that day, armed civilians, acting with acquiescence or consent of police officers, attacked protesters and human rights defenders. In addition, it documented people being violently apprehended by armed civilians and then handed them over to the police. The victims reported being subjected to arbitrary detention, torture and other cruel and inhuman treatment.

The events reported occurred in the Ciudad Jardín neighbourhood, near Valle University, where protesters gathered. On 28 May, the protesters decided to take to the streets to mark one month of the National Strike, as well as to demand justice for the victims of police repression. According to statements by authorities and reports from the Ministry of Defence, in that month there had been multiple scenes of violence allegedly by protesters, as well as roadblocks that were damaging the economic productivity and impeding supplies to the city of Cali.

¹⁷⁸ Amnesty International, “Colombia: Why do they want to kill us? Lack of safe space to defend human rights in Colombia”, 8 October 2020, available at: <https://www.amnesty.org/en/documents/amr23/3009/2020/en/>

¹⁷⁹ The 158th Military Investigative Judge informed Amnesty International that in that jurisdiction there were no investigations relating to the events that took place on 9 May relating to the Indigenous human rights defender. Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

¹⁸⁰ “se reportó la muerte de al menos catorce personas, además de que cerca de un centenar han sido lesionadas en la ciudad de Cali, en el marco de las manifestaciones”, United Nations, Statement on Colombia, 30 May 2021, available at: <https://news.un.org/es/story/2021/05/1492672> (last accessed 3 July 2021).

¹⁸¹ OHCHR, Colombia: Colombia: Bachelet calls for dialogue and respect for human rights after new reports of deaths and injuries in Cali, 30 MAY 2021, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27128&LangID=E> (last accessed 3 July 2021).

According to videos verified by Amnesty International,¹⁸² at around 3pm the first shots were reported in the area. These events were broadcast live by Alberto Tejada, a journalist with Canal 2 in Cali. The media also recorded these events and published dozens of photos attesting to the veracity of the reports.¹⁸³ Protesters' path was blocked by a group of armed civilians and members of the National Police. Amnesty International was able to verify videos in which armed civilians shoot at protesters, with the acquiescence or consent of National Police officials, who did not take any measures to protect the life and physical integrity of demonstrators, journalists covering the incident or human rights defenders at the scene.¹⁸⁴

That day, Amnesty International received a report that at least 11 people had been arbitrarily detained, including Sebastián Mejía, Álvaro Herrera and Noé Muñoz.

SEBASTIÁN MEJÍA BELALCAZAR



Photo shared by Sebastián Mejía Belalcazar, with permission to include it in this document.

Amnesty International documented the case of Sebastián Mejía, who reported that he was beaten and illegally detained while at the scene recording the violence. Sebastián stated that:

“At 4.09pm the police officer who had threatened me grabbed me by the neck, the civilians grabbed my arms, they stole my mobile phone and the police officer threatened me... on the way to the police station I was beaten in the face by people in civilian clothes, escorted by the police. Throughout the journey to the La María Police Station, the beatings by the civilian in red continued, as did the comments about disappearing us, as psychological torture. At the La María Station they took us both in, they sat us in a corridor and I was punched and kicked again, in the face, head and chest and they used the violence and torture to put pressure on me to be recorded on video incriminating myself for things I had not done, first to call myself a vandal, then that vandals paid me and that the vandals themselves beat me... Because I was apprehended without any legal process and was held under illegal, irregular and wrongful conditions. Habeas Corpus was withdrawn to expedite my release from the URI and the Attorney General's Office decided not to press charges for the irregularities and unlawfulness of my detention”.¹⁸⁵

¹⁸² <https://twitter.com/BLUPacifico/status/1398384954292191235?s=20> (last accessed 13 July 2021), verified by Amnesty International's digital verification corps.

¹⁸³ Cuestión Pública, Cuando la Policía se alió con hombres armados vestidos de civil, 16 July 2021, available at: <https://cuestionpublica.com/cuando-la-policia-se-alio-con-hombres-armados-vestidos-de-civil/> (last accessed 3 July 2021); Infobae, Se conocen nuevos videos de civiles disparando armas largas y cortas en Cali, available at: <https://www.infobae.com/america/colombia/2021/05/30/se-conocen-nuevos-videos-de-civiles-disparando-armas-largas-y-cortas-en-cali/> (last accessed 3 July 2021) and Cerasetenta, El peligroso escuadrón del sur de Cali, 22 June 2021, available at: <https://cerosetenta.uniandes.edu.co/escuadrón-cali-violencia-policial/> (last accessed 3 July 2021).

¹⁸⁴ <https://twitter.com/Alberti03940691/status/1398501259238416386> (último acceso 13 July 2021), verified by Amnesty International's digital verification corps.

¹⁸⁵ “a las 4:09 PM el policía que me había amenazado me enciella, los civiles me cogen de los brazos, me roban el celular y el policía me amenaza [...] en el trayecto hacia la estación de policía soy golpeado en la cara, por personas de civil, escoltados por los policías. Durante todo el recorrido para ser llevado a la estación de Policía de La María, siguen los golpes por parte del civil de rojo y siguen las alusiones sobre desaparecernos, como tortura psicológica. En la estación de La María nos entran a los dos, nos sientan en un pasillo y soy golpeado, con puños y patadas, otra vez, en el rostro, la cabeza, el pecho y fui presionado mediante la violencia y tortura para ser grabado en un video

Amnesty International also had access to the complaints of the young musician **Álvaro Herrera**, who said that that day he was performing a concert at Valle University. As he left the scene, he noticed that armed civilians were attacking protesters and decided to record the events on his cell phone. Because of this, he was beaten and detained by a group of civilians, who had participated in the violence, and was later handed over to the National Police.

“Why don’t we make him disappear?”

Statement of Álvaro Herrera referring to phrases he heard being said by members of the National Police while he was being taken to the police station.

At the police station he was beaten and tortured, to the point that he felt he had no option but to record a video confessing to his alleged participation in “vandalism”:

“because of the physical beatings and verbal abuse, I knew I was in a difficult situation. At first, when the policeman asked me, with the camera on, what I was doing at the protest, I told the truth: that I was taking part in a Symphonic Cacerolazo. ‘That’s not the answer’, he said to me, after the recording was stopped. They hit me again and kept saying that was not the answer. I guessed what they wanted to hear and responded when the police officer switched the camera on again. That was when I said what appears in the video that they themselves published: that I was with the vandals.”¹⁸⁶

ÁLVARO HERRERA



Poster calling for help regarding the detention Álvaro Herrera posted on social media

At around 7pm on 28 May, Amnesty International received the report of Álvaro Herrera’s detention.

incriminándome por cosas que no había cometido, primero para autodenominarme vándalo, después que los vándalos me pagaban y que los mismos vándalos me golpeaban [...] Debido que mi captura no se había legalizado y había sucedido bajo condiciones ilegales, irregulares e ilícitas es retirado el Habeas Corpus para dar rapidez a mi salida de la URI y la Fiscalía decide no imputar cargos por las irregularidades e ilegalidades que presentaba mi detención”, Report by Sebastián Mejía received by Amnesty International on 18 June 2021.

¹⁸⁶ “debido a los golpes físicos y al maltrato verbal, yo sabía que mi situación era difícil. Al principio, cuando el policía me preguntó, con la cámara encendida, qué estaba haciendo en la protesta, yo dije la verdad: que estaba en un Cacerolazo Sinfónico. “Esa no es la respuesta”, me dijo el otro, después de que suspendieran la grabación. Me volvieron a golpear y repetían que esa no era la respuesta. Imaginé lo que querían escuchar y respondí cuando el policía volvió a activar la cámara. Fue cuando contesté lo que aparece en el video que ellos mismos publicaron: que estaba con los vándalos”, El Espectador, “Esa no es la respuesta, me dijo un uniformado”: joven músico detenido por la Policía, [“This is not the answer, a uniformed man told me”: young musician detained by the Police] 12 June 2021, available at: <https://www.elespectador.com/colombia/esa-no-es-la-respuesta-me-dijo-un-uniformado-joven-musico-detenido-por-la-policia/> (last accessed 3 July 2021) and Noticias Uno, Músico que fue obligado a afirmar que era “vándalo”, contó lo que vivió, [Musician who was forced to state that he was a ‘vandal’, recounted his experiences] 14 June 2021, available at: <https://www.noticiasuno.com/nacional/musico-que-fue-obligado-a-afirmar-que-era-vandalo-conto-lo-que-vivio/> (last accessed 3 July 2021).

That night the organization also had access to a video in which the wounded young musician appears sitting on the floor, with blood on his head, and an expression of fear, “confessing” that he was a “vandal.” The video was verified by Amnesty International. According to Álvaro’s testimony, this video was recorded by police officers and shared on social media.

Amnesty International also documented the case of **Noé Muñoz**, a young man who was part of “the Frontline” and who was at the scene. Noé alleged that he was a victim of violence by armed civilians and police officers. He sustained impact trauma as a result of being hit by a weapon in the abdomen,¹⁸⁷ causing a visible wound, as confirmed in the medical report compiled in the early hours of 28 May at the San Juan de Dios Hospital. For security reasons, Noé had to leave the city of Cali.

NOÉ MUÑOZ



Photo shared by Noé Muñoz, with permission to include it in this document.

“On 28 May 28, I went out to march peacefully. We were assembling at the Valle University when we saw smoke begin to rise about 800m from where we were. I headed there, it was a little before 3pm... We arrived at the CAI in Ciudad Jardín and the moment we arrived I saw armed civilians and police. From one moment to the next they started shooting indiscriminately at anyone wearing a hood or demonstrating or recording... Some police officers chased me and shot at me while I was running. They shot me in the left side of my chest and then they detained me... On the way to the station, they intimidated me, they told me that they were going to make me disappear, they hit me... at La María Station, they spat on me, they kicked and hit me, several policemen hit me very hard and beat us while we were handcuffed... they didn’t let us have our injuries looked at or communicate with anyone... they told us that we had explosives and that we were vandals.”¹⁸⁸

¹⁸⁷ Medical report San Juan de Dios Hospital, 29 May 2021 at 00:30.

¹⁸⁸ “El 28 de mayo salí a marchar pacíficamente. Estamos reunidos en la Universidad del Valle y vemos que empieza a salir humo a unos 800 metros de donde estamos. Me dirijo hacia allá, era un poco antes de las 3pm [...] Llegamos al CAI de Ciudad Jardín y en el momento que llegamos veo civiles armados y Policías. De un momento a otro empiezan a disparar indiscriminadamente a cualquier persona encapuchada o manifestante o grabando [...] Unos policías me correatan y me disparan mientras voy corriendo. Me disparan en el lado izquierdo de mi tórax y de ahí me detienen [...] En el camino a la estación, me intimidan, me dicen que me van a desaparecer, me pegan [...] en la Estación La María, me escupen, me patean, me pegan, me dan durísimo varios policías y nos golpean esposados [...] no dejan que me revisen las heridas y no nos dejan comunicarnos con nadie [...] nos dijeron que llevábamos explosivos y que éramos vándalos”, Statement by Noé Muñoz received by Amnesty International on 6 July 2021.

Amnesty International interviewed the defence lawyer acting for Álvaro Herrera, Sebastián Mejía and Noé Muñoz,¹⁸⁹ who stated that he had significant evidence to support the complaints filed with the Attorney General's Office.¹⁹⁰ The complaint states that the young men were victims of unlawful detention, torture, cruel and inhuman treatment and attempted enforced disappearance, as they were repeatedly threatened by National Police officials that they would disappear if they did not incriminate themselves. His analysis of the events is that on 28 May there was a premeditated armed attack involving National Police officials, civilians living in the neighbourhood where the incidents took place and the governing party congressional representative, Christian Garcés, in which the coordinated attack on protesters was planned using self-defence as a pretext. The defence lawyer stated that he fears for the safety of the young men and for his own safety, because he alleges that these events link high-ranking members of the National Police and people well known for their political activities with the coordination of the armed attack.

The Human Rights Committee, in General Comment 35¹⁹¹ on the right to liberty and security of person, reiterated that the principles of transparency and making information public should guide state actions regarding deprivation of liberty. The IACHR has indicated that "that arrests made by security forces in connection with social protests must strictly comply with all requirements imposed by domestic laws and international standards."¹⁹²

In addition to the above, Amnesty International emphasizes that according to the obligations established in the International Convention for the Protection of All Persons from Enforced Disappearance, to which Colombia is a state party, the state must guarantee that any deprivation of liberty is carried out in compliance with the guarantees set out in international law, such as the right to communicate without delay with their family and the right to be held in officially recognized and supervised places of deprivation of liberty.¹⁹³

Amnesty International believes these cases reveal collusion between armed civilians and members the National Police to attack protesters with lethal weapons and subject them cruel, inhuman and degrading treatment that could constitute torture. Furthermore, in both cases the youth men were violently beaten by armed civilians and then handed over to police officers, who detained them unlawfully and arbitrarily. The IACHR has stated that: "A detention is arbitrary and unlawful if not done on the grounds and by the formalities prescribed by law... and when there has been an abuse of the powers of arrest, i.e., when the arrest is made for purposes other than those that the law prescribes and requires."¹⁹⁴

The young men presented credible complaints, with supporting audiovisual evidence verified by Amnesty International.

The deprivation of liberty during a demonstration has the immediate effect of preventing the detainee from exercising the right to protest and has a chilling effect on participation in public demonstrations, all of which affects the enjoyment and exercise of the right to social protest.¹⁹⁵

The 158th Military Investigative Judge informed Amnesty International about an investigation in the examination stage for the crime of breach of duty by omission against National Police officials¹⁹⁶ in relation to the events of 28 May, in which it was observed that uniformed members of the National Police apparently

¹⁸⁹ Interview with defence lawyer Sebastián Caballero, 6 July 2021.

¹⁹⁰ Complaint filed by lawyer Sebastián Caballero on 14 July 2021 with the Cali Attorney General's Office regarding allegations of the crimes of aggravated kidnapping, aggravated torture, aggravated bodily injuries, procedural fraud, aggravated criminal conspiracy, attempted enforced disappearance, attempted murder to the detriment of Álvaro Herrera Melo, Sebastián Mejía Belalcázar and Noé Sebastián Muñoz Ríos.

¹⁹¹ Human Rights Committee, General Comment 35 Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014,

¹⁹² IACHR, Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State OEA/Ser.L/V/II, CIDH/RELE/INF.22/19, September 2019, para. 224.

¹⁹³ International Convention for the Protection of All Persons from Enforced Disappearance, each state party shall: "Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law" (Article 17.2(d)). Colombia ratified the International Convention for the Protection of All Persons from Enforced Disappearance on 11 July 2012, however, it did not recognize the competence of the Committee on Enforced Disappearance to hear individual communications or communications from other states parties.

¹⁹⁴ IACHR, Report No. 35/08, Case 12.019, Admissibility and Merits, Antonio Ferreira Braga, Brazil, 18 July 2008, para. 68 in IACHR, Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State OEA/Ser.L/V/II, CIDH/RELE/INF.22/19, September 2019, para. 226.

¹⁹⁵ IACHR, Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State OEA/Ser.L/V/II, CIDH/RELE/INF.22/19, September 2019, para. 228.

¹⁹⁶ Major José Fernando León Agudelo, Major Mauricio Gómez Velandia, Lieutenant Aurelio Guevara Macucha, Lieutenant Ariel Augusto Nossa Barrera, Patrolman Cuspian Rodríguez Jhony Andrés, Patrolman Sinuco Osorio Eder Javier, Patrolman José Ricardo Guzmán González, and Patrolman Cristian Eulises Chilito Muñoz. Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

allowed people in civilian clothes, presumably residents of the Ciudad Jardín sector of the city of Cali, to shoot live ammunition and/or other projectiles at a group of protesters and that National Police officers took no steps to carry out their police duties with regard to those individuals.¹⁹⁷ The Judge also stated that there were no investigations under his jurisdiction in which the victims were Sebastián Mejía, Noé Muñoz and Álvaro Herrera who were apparently detained by members of the security forces.¹⁹⁸

Amnesty International calls on the national authorities to ensure there is a thorough, independent and impartial investigation into the responsibility of police officers and armed civilians for the torture of the young protesters.

¹⁹⁷ “uniformados de la Policía Nacional al parecer permitieron que personas vestidas de civil presuntamente residentes del sector de Ciudad Jardín de la ciudad de Cali, realizaran disparos con arma de fuego y/o traumáticas en contra de un grupo de manifestantes, sin que aparentemente los uniformados de la Policía Nacional realizaran procedimiento de policía alguno en contra de [los] particulares”; Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

¹⁹⁸ “los cuales al parecer fueron detenidos por miembros de la Fuerza Pública”; Document ref. no. 832/MDN-DEJPMGDJ-J158IPM-1.10 of the 158th Military Investigative Judge (E) 23 July 2021.

5. CONCLUSIONS AND RECOMMENDATIONS

The evidence detailed in this report leads Amnesty International to conclude that Colombian National Police officials, particularly members of the Mobile Anti-Riot Squad (ESMAD), violated the human rights of peaceful protesters in Cali. ESMAD used excessive and unnecessary force against peaceful demonstrations in order to disperse them. Under the pretext of restoring order, hundreds of people suffered considerable harm to their physical integrity and dozens of young people lost their lives in Cali.

This report shows that police officers and armed civilians acting with their acquiescence or consent, attacked the protesters, in some cases subjecting them to torture. Amnesty International is concerned that, in a country riven by decades of paramilitary violence, these are extremely grave incidents that must be investigated thoroughly, independently and impartially.

The practices documented in Cali – which include the use of lethal weapons against protesters, excessive and unlawful use of less lethal weapons such as tear gas, unlawful detentions and torture – are representative of hundreds of reports by protesters and human rights defenders and organizations and illustrate the modus operandi implemented throughout the country.

These practices also highlight the urgent need to comply with the 2020 judgment of the Supreme Court of Justice and comprehensively reform the National Police and its protocols in response to the constant demands of human rights defenders and organizations and the recommendations of the IACHR. Amnesty International will set out specific recommendations on particular aspects of policing in Colombia that require reform to ensure compliance with international human rights standards in a forthcoming document.

Finally, Amnesty International considers that the human rights violations and crimes under international law committed by the security forces are not isolated or sporadic events, but rather reflect a pattern of violence aimed at instilling fear and discouraging peaceful protest. This demands the strongest condemnation from the international community and concrete actions by the Colombian authorities to stop the repression, guarantee the right to peaceful protest and ensure justice for the human rights violations and crimes under international law committed in the country.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS:

TO THE PRESIDENT AND SENIOR GOVERNMENT AUTHORITIES:

1. Give an unequivocal order to the security forces to stop the violent repression.
2. Urgently address the structural causes that affect the exercise of human rights and the demands of civil society that give rise to peaceful protests.
3. Recognize the mostly peaceful nature of the demonstrations and take all measures to guarantee the rights to freedom of expression and peaceful assembly of everyone in the country, without distinction.
4. Refrain from issuing statements that stigmatize and criminalize the protests and those who take part.
5. Prevent and refrain from promoting actions that are stigmatizing, discriminatory or racist directed at Indigenous peoples, Afro-descendant communities and other historically marginalized groups.
6. Withdraw the military from public order operations, including during protests.

7. Ensure that security forces undertaking law enforcement operations fully comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which includes:
 - resorting to the use of lethal force only in situations where there is a risk of serious injury or death and never as a means of dispersing crowds;
 - ending the use of the Venom system in public order operations in general and in the policing of demonstrations in particular;
 - and ensuring that tear gas is only used for the purpose of dispersing crowds in situations where there is widespread violence; they should never be used in spaces where people cannot disperse or against a peaceful assembly.

Amnesty International recommends using its *Use of force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and its 30 Rules for the Use of Chemical Irritants in Law Enforcement* as a reference framework.

8. Acknowledge the repressive actions of the security forces in the context of the National Strike and adopt measures to ensure a thorough, independent and impartial investigation into them and refrain from preventing the prosecution and punishment of those who are found responsible for human rights violations and crimes international law, as appropriate.
9. Comply with the provisions of the 22 September 2020 judgment of the Supreme Court of Justice in a way that guarantees and facilitates the exercise of the fundamental rights to freedom of expression, assembly and peaceful protest and freedom of the press and issue relevant regulations on the use of force during peaceful demonstrations and others ordered by the Court.
10. Establish a plan to provide immediate support and comprehensive reparation for the victims of repression and their families.
11. Publicly acknowledge the legitimate work of human rights defenders and organizations in the context of the National Strike.
12. Foster an environment in which human rights defenders can freely carry out their legitimate work in defence of human rights.
13. Adopt measures to guarantee that journalists and social communicators are able to work in the context of the National Strike.
14. Comply without delay with the recommendations of the Inter-American Commission on Human Rights.
15. Cooperate with and not hinder the work of the IACHR's Special Monitoring Mechanism on Human Rights in Colombia.
16. Adopt measures to promptly recognize the competence of the Committee on Enforced Disappearances to receive and consider complaints submitted by victims or their representatives and those that may be submitted by other state parties to the International Convention for the Protection of All Persons from Enforced Disappearance (Articles 31 and 32, respectively).

TO THE ATTORNEY GENERAL'S OFFICE

17. Initiate thorough, independent and impartial investigations into human rights violations and crimes under international law committed in the context of the National Strike, specifically in the city of Cali and the cases presented in this report, and where there is sufficient and admissible evidence against people suspected of criminal responsibility, bring them to justice in fair proceedings before ordinary civilian courts.
18. The investigation must include all chain of command responsibilities within the security forces, as well as the participation of armed civilians acting with their acquiescence or consent.

TO THE OMBUDSPERSON'S OFFICE

19. Comply with the constitutional mandate to ensure the promotion, exercise and dissemination of human rights with independence and impartiality and free from interference and influence of political authorities.
20. Comply with the provisions of the 22 September 2020 judgment of the Supreme Court, particularly that relating to exercising strict, strong and forceful control of all the actions of ESMAD regarding demonstrations and its activities in each of its operations.

TO THE INSPECTOR GENERAL

21. Carry out disciplinary investigations against members of the security forces alleged to have used excessive and unnecessary use of force during their intervention in peaceful demonstrations; these investigations do not replace those of a criminal nature which may be initiated against these officials.
22. Carry out disciplinary investigations against public officials at the national and local level, for failure to fulfil their duty to protect social protest; these investigations do not replace those of a criminal nature which may be initiated against these officials.

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CALI: IN THE EPICENTRE OF REPRESSION

HUMAN RIGHTS VIOLATIONS DURING THE 2021 NATIONAL STRIKE IN CALI, COLOMBIA

Since 28 April 2021, mass demonstrations have taken place in the city of Cali, Colombia. At the same time, the most serious reports of human rights violations and crimes under international law have been concentrated in this city. These reports describe violent repression by the security forces and armed civilians experienced by young protesters.

Through rigorous research and verification of audiovisual material, Amnesty International has analysed “Operation Siloé” on 3 May; the attack against the Indigenous Minga on 9 May; and attacks, arbitrary detention and torture of protesters on 28 May. It has documented the excessive and unnecessary use of force and violence against people exercising their right to peaceful protest as well as attacks by armed civilians, who, accompanying National Police officials and acting with their acquiescence or consent, attacked demonstrators and human rights defenders, constituting examples of urban paramilitarism.

Amnesty International considers that the human rights violations and crimes under international law committed by the security forces are not isolated or sporadic events, but rather reflect a pattern of violence aimed at instilling fear and discouraging peaceful protest.

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November 22, 2019

Colombia: Authorities must impartially investigate the repression of protests

The Colombian authorities must put an end to the repression of social protest and the excessive use of force against protestors, guarantee the human rights of all people, and ensure that any action the authorities take is in accordance with international human rights law.

“Instead of repeating the sad scenes of violent repression that we have seen in much of the region during recent months, President Iván Duque’s government must guarantee

the legitimate right to demonstrate peacefully. The Colombian authorities must put an end to the violent repression of demonstrations, including the excessive use of force and arbitrary detentions”, said Erika Guevara-Rosas, Americas director at Amnesty International.

Amnesty International believes that the participation of various sectors of society in the “National Strike” in Colombia was a legitimate exercise of their human rights. The number of people that took to the streets to peacefully protest shows the increase in social dissatisfaction towards official policy on human rights and the grave situation in which social leaders and human rights defenders find themselves in the country.



Instead of repeating the sad scenes of violent repression that we have seen in much of the region during recent months, President Iván Duque’s government must guarantee the legitimate right to demonstrate peacefully

Erika Guevara-Rosas, Americas director at Amnesty International

Amnesty International has verified the authenticity of video evidence confirming the excessive, disproportionate and unnecessary use of force by the Colombian security forces, which constitutes a violation of human rights by the authorities. The organization verified a video showing a member of the riot police, the Escuadrón Móvil Antidisturbios (ESMAD), intentionally kicking a demonstrator in the face. The organization has verified many videos showing the security forces firing teargas directly at demonstrators. In one, for example, ESMAD fires teargas at demonstrators who have their hands up and who are shouting “no to violence”.

Amnesty International has also verified videos showing three Bogota Metropolitan Police officers dragging a woman by the hair, as well as hitting a person in the street without any apparent justification. The organization has verified that police officers on motorcycles attacked a person for no apparent reason. Furthermore, the organization

has verified that members of the security forces on horseback attacked a person who showed no sign of being able to react due to the blows they had received.

The Inter-American Commission on Human Rights (IACHR) has denounced the detention of at least 112 demonstrators and injuries to 40 people caused by ESMAD's excessive use of force. The IACHR also reminded the government that deployment of the police and security forces should focus on containing violence and guaranteeing the right to protest, without any kind of direct repression or arbitrary detention of peaceful demonstrators.

Days before the National Strike, the government already began a campaign to intimidate and frighten those who were planning a peaceful march in support of their rights. At various places in the country, social actors denounced police raids conducted without due legal process. They also denounced raids at the homes of social leaders who supported the strike. Judges declared some of these raids to be illegal.

We urge the authorities to immediately halt the repression and give precise orders to the security forces to use maximum restraint when using force, which must only be used in an incremental, proportionate and differentiated way, in line with international standards. In addition, the civil and ordinary courts must investigate the conduct of those responsible for the repression and human rights violations, including those who may have ordered, consented to or ignored them.

For more information or to arrange an interview, contact Amnesty International press office: press@amnesty.org

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Joaquín Sarmiento/Getty Images

June 1, 2017

Colombia: violence against protestors in Buenaventura Civic Strike must stop

The Colombian government must halt its excessive use of force against protestors taking part in the general strike in Buenaventura, Amnesty International said today.

“Instead of trying to silence the communities of Buenaventura, the Colombian authorities should protect residents and focus on responding to their demands given the critical levels of violence and exclusion suffered by the people who live in Colombia’s Pacific region,” said Erika Guevara-Rosas, Amnesty International’s Americas Programme Director.

Communities in the port of Buenaventura declared a general strike on 16 May in protest at the government's continuing failure to respond to their demands for economic, social and cultural rights, including health, drinking water and education.

The communities denounced the excessive use of violence by the Mobile Anti-Riot Squadron (ESMAD) against those participating in the general strike in the city of Buenaventura, Valle del Cauca.

Local NGO Proceso de Comunidades Negras (PCN) has reported the unjustified use of tear gas against peaceful demonstrators, including children and elderly and disabled people.

Reports indicate that the security forces have detained around 80 people and injured more than a dozen. Yesterday, there were reports that some people had been wounded by firearms at the Sabrosura meeting point in the R9 neighbourhood.

Amnesty International has received denunciations that tear gas canisters have been thrown from helicopters and that police officers have broken into residents' homes.

“

The right to peaceful protest must be protected, even more so when demonstrators include children and elderly and disabled people who are legitimately demanding their rights

Erika Guevara-Rosas, Americas Director at Amnesty International

“The right to peaceful protest must be protected, even more so when demonstrators include children and elderly and disabled people who are legitimately demanding their rights,” said Erika Guevara-Rosas.

Members of the community also report that ESMAD is inciting disturbances to provide an excuse for dispersing demonstrators and clearing the way for lorries to move goods to

and from the port of Buenaventura, the country's most important port.

The strike is in its sixteenth day and although negotiations have begun with the government, the demonstrators say there has still been no practical response to their requests. The communities regret that yesterday the government did not respond to the demands formulated by the general strike committee.




The Colombian state owes a historic debt to these communities. It is time for it to fulfil its duties and help those who most need protection

Erika Guevara-Rosas, Americas Director at Amnesty International

“The Colombian state owes a historic debt to these communities. It is time for it to fulfil its duties and help those who most need protection,” said Erika Guevara-Rosas.

Further Reading

 [Colombia: Police use tear gas on peaceful protestors \(Urgent Action, 24 May 2017\)](#)

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