



CALLI:

IN THE EPICENTER OF REPRESSION

**HUMAN RIGHTS
VIOLATIONS DURING
THE 2021 NATIONAL STRIKE
IN CALI, COLOMBIA**

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Cover photo: Candlelight vigil at the Siloé roundabout, Cali, 3 May 2021.

© Eyewitness to the events who has asked to remain anonymous for security reasons.

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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, Afrodés, 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?Servicio=Tools2&ITipo=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.ubpdbusquedadadesaparecidos.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-protecte-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&ITipo=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/cali/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/cali_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-ecc81nricoracial-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).

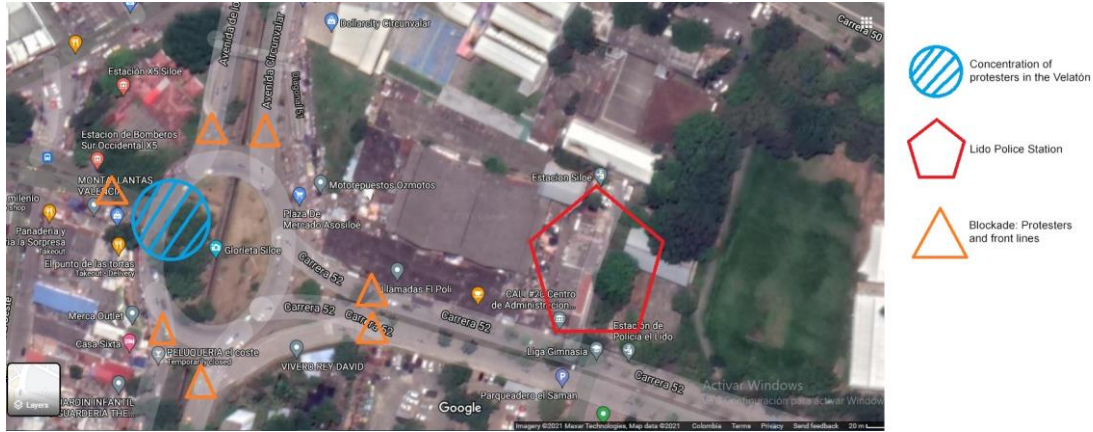
¹²¹ Liga Internacional de Mujeres por La Paz y La Libertad, Limpal Colombia, Por una vida en dignidad: más vida, menos armas, available at: <https://www.limpalcolombia.org/es/informate/noticias/agenda-de-paz-feminista-y-antimilitarista/57-por-una-vida-en-dignidad-mas-vida-menos-armas> (last accessed 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

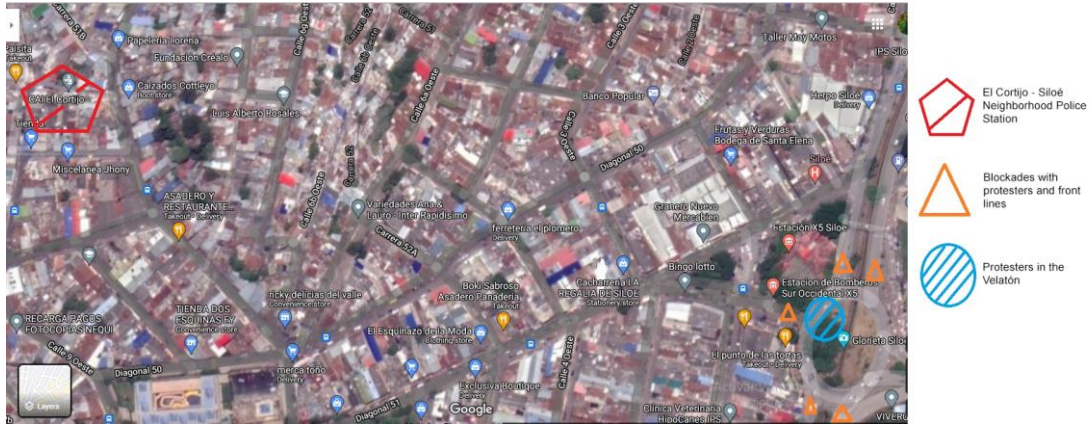
MAP OF THE SILOÉ ROUNDABOUT AT THE TIME OF THE CANDLELIGHT VIGIL – 8.40PM



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

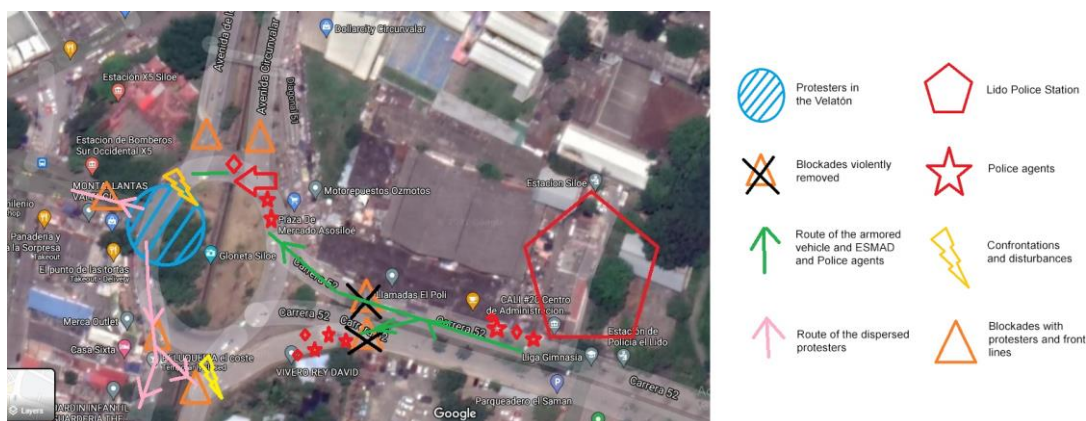
However, the problem with the Venom system cannot be solved simply by developing a protocol and training the personnel tasked with its use. It is a weapon that, because of its design, leads to the excessive and uncontrollable use of force, with excessive amounts of tear gas and other projectiles that 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 H arold Rodr iguez, 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 V lez 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 Jim nez Hern andez 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 S nchez 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, H arold Rodr iguez y Kevin Agudelo, los futbolistas que habr an sido asesinados en Silo , 5 May 2021, available at: <https://www.infobae.com/america/colombia/2021/05/05/harold-rodriguez-y-kevin-agudelo-los-futbolistas-que-habr an-sido-asesinados-en-silo /> (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”, Cerasetenta, 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).

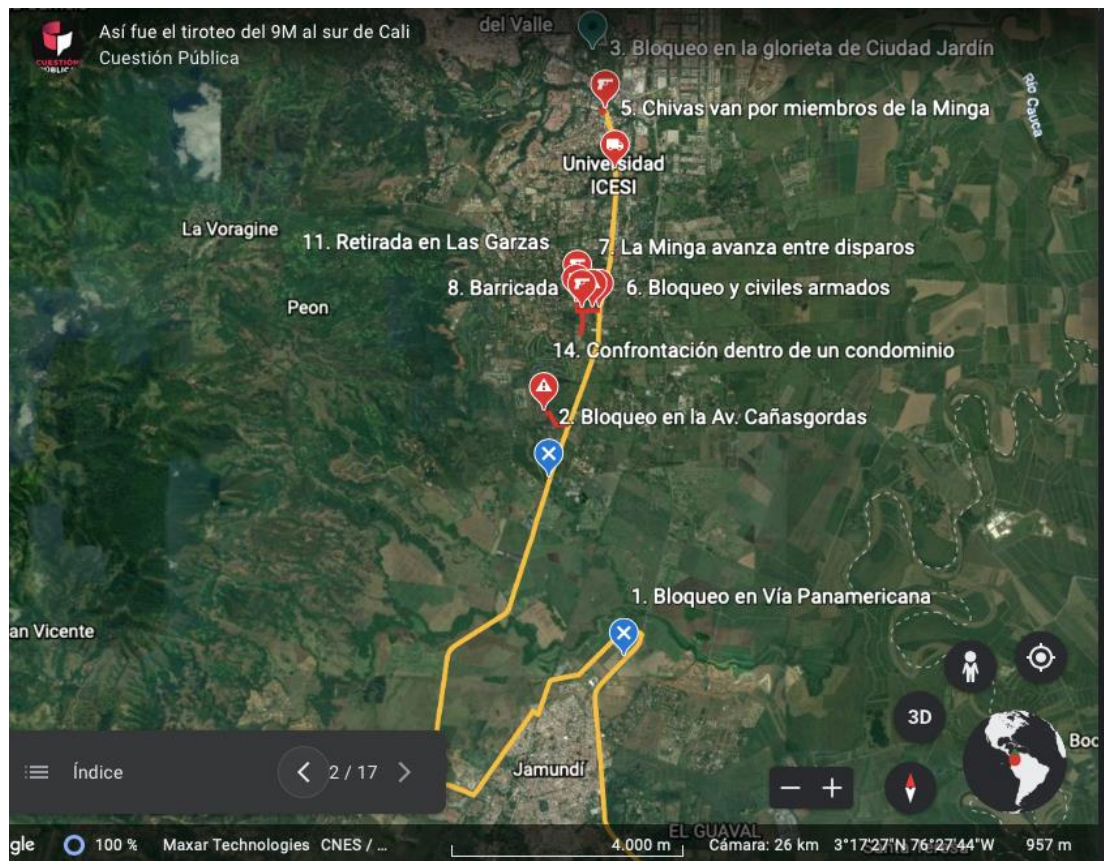
¹⁶² On previous days, other local representatives, such as Carlos Maya, the Mayor of Pereira, had stated: “vamos a convocar a los gremios de la ciudad y a los miembros de la seguridad privada para hacer un frente común junto a la Policía y el Ejército para recuperar el orden y la seguridad ciudadana” [“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), Fundacion 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/escuadron-cali-violencia-policia/> (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.