

Briefing for the 47th session of the UN Human Rights Council

COLOMBIA

June 2021

I. Unprecedented crackdown on protesters in Colombia and the recent context

The current protests, which began on the 28th of April, stem from wide-ranging circumstances, sparked by both young citizens that stand for peace and believe that there is a need for justice and the ever-increasing closure of participatory platforms at the state level as well as the lack of dialogue between the state and society in recent years. On this occasion, the trigger for the protests was the tax reform proposal (which has been withdrawn) and evident social inequality, which has been exacerbated by the pandemic over the last year (Colombia previously came 4th in the world on the subject of inequality), in addition to structural racism, incessant violence, the assassination of leaders, ongoing violence and the lack of access to basic rights such as education, employment and health in many sectors of the urban and rural population.

It is also worth highlighting that **police violence is not a new issue**; it had previously been witnessed during the protests of 2018 and November 2019, with the assassination of Dilan Cruz - a young protester - at the hands of the ESMAD (Escuadron Móvil Antidisturbios), riot police, in Bogotá. In September 2020, the police once again proceeded to torture and assassinate a defenseless citizen named Javier Ordoñez in Bogotá, which unleashed mass protests, leading to a total of 13 assassinations at the hand of the police over a period of less than three days.

Nonetheless, the difference with previous protest waves in Colombia is the unprecedented levels of violence and cruelty shown by law enforcement officials, which have resulted in grave human rights violations, including extrajudicial killings, torture, including gender-based and sexual torture, and enforced disappearance of peaceful protesters.

II. Grave and widespread human rights violations during the national strike

According to the campaign *Defender la Libertad: Un Asunto de Todas*: between 28 April and 22 June, 83 homicides were reported, of which at least 27 civilians have been killed by the actions of the police and the ESMAD. A significant number of deaths occurred in the context of the ongoing protests has been attributed to armed civilians, on multiple occasions acting with the complicity or acquiescence of law enforcement officials. In total, 80 people have suffered eye injuries and 114 people have suffered gunshot wounds; 3203 persons have been arbitrarily detained with disregard for basic procedural safeguards, exposing them to situations of torture and other ill-treatment as outlined in the next pages.¹

The following human rights violations have particularly stood out:

¹ CAMPAIGN DEFENDER LA LIBERTAD: ASUNTO DE TODAS. Informative bulletin 19. June 22, 2021. Available at: <https://defenderlalibertad.com/boletin-informativo-19-paronacional/>.

- a. **Enforced Disappearance:** the Enforced Disappearance Working Group [Mesa de Trabajo sobre Desapariciones Forzadas -MDTDF-) has recorded 775 cases of people who have been reported missing since 28 April, of which 448 have been located but 327 are yet to be found.

Although this information has been submitted to the authorities, in more than 150 cases the disappearances have been denied because they have been classified as voluntary absences, or individuals who have been brought in or captured. Similarly, civil servants of varying ranks have publicly expressed that nobody has disappeared within the context of the national strike.²

There are existing patterns that point to enforced disappearance within the framework of the national strike, which are being committed to discourage the social protests that lead to punishment for the people partaking in them. Transfers to unauthorized places or the detained persons being held incommunicado for a number of hours, or days, have become recurrent practices, which increase the risk of disappearance.³

- b. **Eye injuries:** the disproportionate use of non-lethal weapons by police and in particular anti-riot police (ESMAD) is becoming more common over time in the context of the protests.⁴ There have been a number of systematic practices in which these types of weapons have been inappropriately employed by agents of the ESMAD within the context of the protests including: i) an excessive use of 'less-lethal' weapons such as tear gas and stun grenades against the protesters, in an attempt to dispel the protests; ii) shots are frequently aimed directly at the bodies and heads of the protesters, which contradicts the protocols established for their use; iii) the use of venom weaponry, which recently arrived in Colombia is a cause of great concern due to their lethal nature. This launcher of multiple projectiles is able to hold up to 30 cartridges and must be located in the top section of police tanks. Nevertheless, videos have demonstrated that they tend to be used on the floor which generates a greater risk of targeting the bodies of protesters.
- c. **Use of paramilitary practices:** multiple witness accounts, videos and reports provide a rendition of the actions performed in different cities around the country, especially in the city of Cali where: i.) members of the police have been wearing civilian clothing⁵ – meaning that they cannot be identified in the process of performing illegal operations ii.) Civilians, accompanied by the police have fired at protesters⁶ and the police has failed to intervene iii.) wealthy individuals have been collecting money, which is then used to pay people to attack the protesters.⁷

² COMISIÓN COLOMBIANA DE JURISTAS [COLOMBIAN COMMISSION OF JURISTS]. Discursos negacionistas de las desapariciones forzadas en el marco del #ParoNacional en Colombia. 31 MAY, 2021. [Online] (Consulted on June 2, 2021). Available at: <https://www.facebook.com/watch/?v=1197684190667210>.

³ INFOBAE. Joven en Bogotá murió en confuso accidente de tránsito con tanqueta del Esmad. 8 May 2021. [Online] (Consulted on June 3, 2021). Available at: <https://www.infobae.com/america/colombia/2021/05/09/joven-en-Bogotá-murio-en-confuso-accidente-de-transito-con-tanqueta-del-esmad/>.

⁴ EL ESPECTADOR. “Nos quitaron un ojo, pero seguimos teniendo nuestra voz”: Leydi Cadena. 17 May, 2021. [Online] (consulted on 5 June, 2021). Available at: <https://www.elespectador.com/Bogotá/nos-quitaron-un-ojo-pero-seguimos-teniendo-nuestra-voz-leidy-cadena-articulo/>.

⁵ El Espectador: [Sí eran policías vestidos de civiles](#), 6 May, 2021; Infobae: [Guardia indígena retiene a supuesto policía que se habría infiltrado en protesta en Cali](#), 7 May, 2021.

⁶ JyP: Cali report: [ataques armados a manifestantes y defensores de derechos humanos](#), 2 June, 2021.

⁷ JyP: [Informe urgente Cali: Informan de atentado hoy o las próximas noches en la Portada](#), 23 June, 2021.

- d. **Illegal detainment and violations of the due process within the framework of arbitrary arrests:** the detention of persons at the Centros de Traslado por Protección (CTP – Transitory Detention Centers), Centros de Atención Inmediata (CAI - Police Kiosks) and other sites that have not been authorized through legislation and do not enjoy the presence of public ministries - has become a frequent practice. Moreover, **the use of private facilities** particularly stands out (including shopping malls, schools and public transport stations) as centers for police operations, in which people have experienced detention, torture, gender-based violence and even assassination⁸. Furthermore, private vehicles that do not contain police identification have been employed to transfer people to CTPs over the last 8 weeks.⁹

Upon detention, protesters are banned from communicating with others by the police whilst they are being transferred to preventive detention and even after arriving there, for hours on end. In some cases, protesters have been banned from communicating with others for periods of up to 36 hours. During this period, their families and lawyers are denied any information concerning the whereabouts of these persons. Protesters generally suffer abuse or torture, or evidence may be altered or fabricated against them, meaning that they are later portrayed as dangerous terrorists before the supervisory judges (jueces de control de garantías).¹⁰

- e. **Torture and cruel, inhumane and degrading treatment:** Beatings, kicking, punching by blunt objects, electric shocks, threats of imminent execution, forced nudity, sexual and gender-based violence against persons arrested in the context of protests and held incommunicado for hours have been documented by multiple reliable sources, despite the reluctance of victims to denounce and speak out for fear of reprisals. Also, these crimes are not being recorded, reported or investigated when they are committed, due to the prioritization of the investigation of different behaviors that are considered more serious such as homicide or enforced disappearance.¹¹

These patterns have been observed against a backdrop characterized by the following elements i.) persons do not receive compulsory medical-legal checks as ordered by the law, but rather the forensic medicine doctor asks patients whether they wish to be checked or not, to which many persons respond that they do not, as a consequence of the threats and coercion from police agents that have already beaten them or tortured them, ii.) the Istanbul protocol is not being applied to individuals who undergo medical-legal checks, this

⁸ JyP: Cali informe desde los sitios de detención a posibles fosas comunes y casas de pique, 23 May, 2021; El Espectador: “Al parecer lo mataron antes de tirarlo al Dollary City”: familia del joven que murió quemado en Cali, 1 June, 2021; Felipe Pineda Ruíz (@PinedaRuizBog): Tweet, 21 May, 2021; El Espectador: Confirman que el Portal Américas se usó para operaciones policiales sin permiso del Transmilenio, 3 May 2021

⁹ EL TIEMPO. Pensé en saltar del auto: habla la manifestante retenida por el Esmad. 16 December 2019. [Online] (5 June 2021) (Consulted on 6 June 2021). Available at: <https://www.eltiempo.com/Bogotá/habla-la-manifestante-retenida-por-el-esmad-y-llevada-en-carro-particular-443726>.

¹⁰ FISCALÍA GENERAL DE LA NACIÓN. Caen presuntos integrantes de los denominados movimientos clandestinos que estarían involucrados en actos vandálicos en Bogotá y otros puntos del país. 29 April, 2021. [Online] (5 June, 2021) (Consulted on 6 June 2021). Available at: <https://www.fiscalia.gov.co/colombia/fiscal-general-de-la-nacion/caen-presuntos-integrantes-de-los-denominados-movimientos-clandestinos-que-estarian-involucrados-en-actos-vandalicos-en-Bogotá-y-otros-puntos-del-pais/>

¹¹ EL ESPECTADOR. Los relatos de torturas y tratos crueles de tres capturados por la Policía en el paro nacional. 7 May, 2021. [Online] (5 June, 2021) (Consulted on 6 June, 2021). Available at: <https://www.elespectador.com/colombia2020/pais/relatos-del-horror-las-torturas-que-habrian-sufrido-capturados-por-la-policia-en-el-paro-nacional/>

also applies to cases in which there are visible signs of torture and abuse; and iii.) All arrested individuals are obliged to sign a form on which they must express that they have been treated well during detention.

f. Abuse against vulnerable groups:

- i. *Stigmatization and abuse towards indigenous groups that defend human rights at the hand of armed individuals, with the acquiescence of the State:* a number of attacks have taken place, affecting the lives and integrity of members of ethnic communities. In contexts where the “indigenous minga” has mobilized to engage in peaceful protests, both members of the public forces as well as civilians have shot firearms to dispel the protests in their acquiescence.¹² Moreover, the national government and the political party: Centro Democrático have created a stigmatizing discourse in which they label the actions of the Minga as violent.¹³
- ii. *Gender-based violence and violence against the LGBT-Q population:* gender-based violence has been witnessed from the beginning of the national strike, which includes different types of violence such as verbal, psychological, physical and even sexually charged violence.¹⁴ The latter has escalated from harassment to molestation to bullying by way of comments with sexual and/or sexist connotations, or forced nudity and even rape¹⁵ as well as requests for sexual favors in exchange for a person’s freedom.
- iii. *Attacks against Human Rights’ Defenders and reporters:* over the last eight weeks **267 defenders have been attacked within the context of the protests.** Arbitrary detentions and criminalization have been registered.¹⁶ Additionally, there have been barriers in the ability to exercise human rights defense work for lawyers in the context of the arbitrary detention of civilians. On the other hand, many attacks,

¹² EL PAÍS. Civiles armados disparan a grupos indígenas y el caos se apodera de Cali. 10 May, 2021. [Online] (Consulted on: 4 June, 2021) Available at: <https://elpais.com/internacional/2021-05-10/civiles-armados-disparan-a-grupos-indigenas-y-el-caos-se-apodera-de-cali.html>

¹³ Twitter. @IvánDuque. Colombia entera y particularmente la ciudadanía de Cali, rechaza los bloqueos que afectan el abastecimiento y la distribución de medicamentos. A los integrantes del @CRIC_Cauca les hago un llamado: retornen a sus resguardos y eviten confrontaciones violentas con la ciudadanía. 9 May, 2021. Available at: <https://twitter.com/IvanDuque/status/1391521513355022341>

¹⁴ INFOBAE. Una patrullera de la Policía denunció que fue víctimas de violencia sexual en Cali, en el segundo día del paron nacional. 21 May, 2021. [Online] (Consulted on 7 June, 2021). Available at: <https://www.infobae.com/america/colombia/2021/05/21/una-patrullera-de-la-policia-denuncio-que-fue-victima-de-violencia-sexual-en-cali-en-el-segundo-dia-del-paro-nacional/>

¹⁵ EL ESPECTADOR. Paz en la tumba de Alison. May 18, 2021. [Online] (consulted on 7 June, 2021) Available at: <https://www.elespectador.com/opinion/columnistas/cecilia-orozco-tascon/paz-en-la-tumba-de-alison-column/>

¹⁶ EL ESPECTADOR. Me tuvieron 12 horas esposado con la mano en alto: dejan en libertad a abogado defensor de DD. HH. en Piedecuesta. 5 May, 2021. [Online] (Consulted on: 4 June, 2021) Available at: <https://www.elespectador.com/noticias/nacional/me-tuvieron-12-horas-esposado-con-la-mano-en-alto-dejan-en-libertad-a-abogado-defensor-de-ddhh-en-piedecuesta/>

threats and acts of harassment have taken place¹⁷ against civil society organizations and defenders who participate in verification missions.¹⁸ There have also been attempts to withhold, kidnap or forcibly disappearance human rights' defenders.¹⁹

- g. **Effects on communications in the context of the national strike:** the protest has been criminalized on digital platforms, where they have been using the concept of “digital terrorism” or “digital vandals” to refer to persons that participate in the protests. Likewise, they have been using and potentially misusing the technological and legal capacity that has been developed and installed in Colombia to restrict access to the internet and block access to content during the protests.²⁰
- h. **Attacks on medical missions:** in Bogotá and Cali multiple teams of doctors and health professionals - carrying all forms of identification in tents containing medical logos, far from the main protest hotspots - have reported that they have been victims of physical attacks, their material has been destroyed and they have even been fired at by the police forces, whilst treating wounded protesters.

Other attacks aimed at ambulances have been perpetrated by groups of civilians, as well as blockades targeting vehicles that carry severely wounded patients, leading to the death of at least three persons.

III. A lack of response from State institutions and acts that contradict constitutional and international human rights standards:

- A. *Delegitimization of protests* to discourage citizens from exercising their rights and to avoid being held liable as a state, for the causes that led to the protests as well as human rights violations that have taken place throughout.
- B. *Lack of real political will on the part of the national Government to accept the abuse committed by state forces; implement corrective measures and negotiate with sectors that are protesting to find a peaceful solution to the situation:* the government has – to date – denied most of the abuse undertaken by the police and instead it has focused its discourse on the blockades and their socio-economic impact, thus ignoring the regulatory framework for legitimate protests, which is acknowledged by the Constitutional Court

¹⁷ Twitter @ONUHumanRights #Hilo Mientras dábamos seguimiento a situación de #DDHH #Cali no hubo disparos directos contra equipo ONU Derechos Humanos. Sin embargo, otros miembros de la comisión recibieron amenazas y agresiones, así como disparos por parte de la policía, sin que nadie resultara impactado. 3 May, 2021. Available at:

<https://twitter.com/ONUHumanRights/status/1389442909020332032>

¹⁸ CAMPAÑA DEFENDER LA LIBERTAD ASUNTO DE TODAS. *Defensores y defensoras de derechos humanos objetivo directo de la represión estatal en Colombia*. May 4, 2021. [Online] (Consulted on: 4 June, 2021) Available at:

<https://defenderlalibertad.com/defensores-y-defensoras-de-derechos-humanos-objetivo-directo-de-la-represion-estatal-en-colombia/>

¹⁹ COMITÉ DE SOLIDARIDAD CON LOS PRESOS POLÍTICOS. Twitter @CSPP_: #URGENTES Desde una CVI del @CSPP_ y la campaña @DefenderLiberta nos informan que en el centro de Bogotá sujetos intentaron subirles a la fuerza a un vehículo tipo Van color blanco. #SOSColombiaDDHH Este es 3er. ataque directo a nuestros integrantes desde inicio del paro. 5 May, 2021. Available at: https://twitter.com/CSPP_/status/1390120893247115264?s=20

²⁰ For further details on each of the three proposed points consult: Fundación Karisma and others, “Pedimos incorporar y analizar las violencias digitales en la protesta durante su visita,” communicate sent to the IACHR on 3 June, 2021, Available at:

<https://web.karisma.org.co/una-peticion-para-incorporar-y-analizar-las-violencias-digitales-en-la-protesta/>.

and the Inter-American Human Rights System. The Minister of Justice specifically mentioned that deaths that have occurred during the protests as “**isolated acts resulting from street fights and theft.**”²¹

The government’s position has been rather evident in the sense that it has not demonstrated an openness to dialogue and negotiations with the group of protesters. Therefore, despite the fact that the protests began on 28 April, it was only on 4 May that President Duque decided to announce the talks with strike supporters. This announcement took place after the international community expressed its concerns about the serious violations of human rights being committed by the Police, inviting the government to engage in dialogue.²²

Unfortunately, it seems that the government delayed the start of negotiations with the National Strike Committee to make time and unilaterally adopt measures that seek to shut down the allegations submitted by the sectors engaging in protests²³ and impose military intervention as a means to disable the blockades and protests.

- C. *Imposition at the national level by way of Decree 575, of the **involvement of military forces** in protest management, despite reiterated national and international calls to abstain from doing so. This measure also leads to a breach in the autonomy of local authorities that object to the militarization of their regions.*
- D. *The weakening of independence along various branches of power and State bodies leveraged by the Executive in recent years has generated severe problems in the ability to monitor and control institutions when human rights violations take place, which has become particularly evident in the present situation. Lack of response from agencies that are tasked with the protection of human rights such as the Human Rights Ombudsperson’s Office or the Inspector General’s Office of the Nation, or the lack of independence and decided action at the hand of the Prosecutor General’s Office against alleged state agents that were responsible for the violation of human rights in the context of the protests. These are just a few examples of this situation.*

I. Petitions

In view of the above, we would kindly request the following:

²¹ Infobae: Ministro de Justicia dice que muchos muertos registrados en el Paro son producto de riñas, robos y hechos aislados, 19 May, 2021.

²² REVISTA SEMANA, Así ha reaccionado la comunidad internacional ante el paro nacional y las manifestaciones en Colombia, May 6, 2021. Available at: <https://www.semana.com/mundo/articulo/asi-ha-reaccionado-la-comunidad-internacional-ante-el-paro-nacional-y-las-manifestaciones-en-colombia/202135/>.

²³ CARACOL RADIO, Duque anuncia matrícula gratis en educación superior pública, 11 May, 2021. Available at: https://caracol.com.co/radio/2021/05/12/politica/1620772914_276568.html. RTVC NOTICIAS, Iván Duque anuncia programa para estimular el empleo juvenil. Available at: <https://www.rtvnoticias.com/ivan-duque-programa-empleo-jovenes>. REVISTA SEMANA, El Gobierno tiene \$15 billones para financiar proyectos productivos de los campesinos, 1 June, 2021. Available at: <https://www.semana.com/economia/capsulas/articulo/el-gobierno-tiene-15-billones-para-financiar-proyectos-productivos-de-los-campesinos/202111/>.

1. **The creation of a joint oral statement** issued by the countries at the 47th Session of the Human Rights Council, condemning the abuse committed by the Colombian State at the protests; to call for the investigation of and sanctions on the material and intellectual perpetrators of the violations that have been recorded and a clarification of the relationship between the police and armed civilians that have fired at the protesters; the promotion of a structural reform of the police force and their actions during the social protests; insisting on the importance of the independence of the judiciary as a pillar in the rule of law; insisting on the immediate identification of the location of all missing persons; condemning all kinds of discrimination and stigmatization of peaceful protests and social organizations that exercise human rights defense duties by accompanying and monitoring the protests.

2. Deliver **oral statements** during the dialogues with the following Special Procedures of throughout the 47th session of the Human Rights Council, to raise the aforementioned concerns:
 - Special Rapporteur on Violence against Women (June 28)
 - Special Rapporteur on the Independence of Judges and Lawyers (June 28)
 - Special Rapporteur on Extrajudicial Executions (June 30)
 - Special Rapporteur on the Rights to Freedom of Peaceful Assembly (July 1).

3. Encourage the Colombian authorities to receive the visit from the UN Special Procedures, according to the Standing invitation issued in 2003, and particularly to **grant access for a prompt visit by the Special Rapporteurs on peaceful protests, torture, extrajudicial executions, and the Working Group on enforced disappearances.**