

COLOMBIA

THE POLICE DOES NOT CARE FOR ME:

SEXUAL VIOLENCE AND OTHER

GENDER-BASED VIOLENCE

IN THE 2021 NATIONAL STRIKE



AMNESTY INTERNATIONAL IS A MOVEMENT OF 10 MILLION PEOPLE WHICH MOBILIZES THE HUMANITY IN EVERYONE AND CAMPAIGNS FOR CHANGE SO WE CAN ALL ENJOY OUR HUMAN RIGHTS. OUR VISION IS OF A WORLD WHERE THOSE IN POWER KEEP THEIR PROMISES, RESPECT INTERNATIONAL LAW AND ARE HELD TO ACCOUNT. WE ARE INDEPENDENT OF ANY GOVERNMENT, POLITICAL IDEOLOGY, ECONOMIC INTEREST OR RELIGION AND ARE FUNDED MAINLY BY OUR MEMBERSHIP AND INDIVIDUAL DONATIONS. WE BELIEVE THAT ACTING IN SOLIDARITY AND COMPASSION WITH PEOPLE EVERYWHERE CAN CHANGE OUR SOCIETIES FOR THE BETTER.

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EXECUTIVE SUMMARY

Gender-based violence, including sexual violence, has been part of a range of violence used in Colombia by armed and unarmed, state and non-state actors. Women, girls and lesbian, gay, bisexual, transgender and intersex (LGBTI) people have, over the years, experienced this violence in a marked and disproportionate way. Meanwhile, failings in state responses and high rates of impunity persist. Consequently, thousands of survivors are demanding their rights and that their access to justice be guaranteed.

A photograph of a police officer in full riot gear, including a helmet with a visor and a shield. The officer is standing in front of a crowd at night, with blurred lights and figures in the background. The officer's helmet has text on it: "ZZ PUERTO", "115200", and "RIV 25-SEC 4".

Social protest and mobilizations are not spaces that are free of gender-based violence, especially in situations where state forces intervene and use force.

Since **April 2021**, a series of mobilizations, collectively known as the **National Strike** (Paro Nacional), have erupted in Colombia, triggered by tax reforms proposed by the government of then president Iván Duque, amid a grave social, economic and health crisis exacerbated by the Covid-19 pandemic.

The National Police intervened at different times to control mobilizations and protests and used excessive and disproportionate force; conduct that was documented and criticized by various civil society organizations and by the Inter-American Commission on Human Rights (IACHR).

As a result, thousands of people sustained serious injuries caused by the inappropriate or unlawful use of lethal and less lethal weapons, and dozens lost their lives at the hands of the security forces.

Despite extensive coverage and social mobilization for the rights of victims of police violence, cases of gender-based violence, including sexual violence, were overshadowed

by other human rights violations and crimes under international law during the National Strike.

In this report, Amnesty International highlights repeated and widespread violence against women, girls and LGBTI+ people, through the documentation of 28 individual cases.

The common factor in all cases is the intention behind this use of violence: the perpetrators sought to punish the victims for contravening social gender norms and going out onto the streets to claim their rights.

Amnesty International received hundreds of reports of gender-based violence during the National Strike. The cases reported include psychological violence, threats of sexual violence, violence due to prejudice against LGBTI people, groping and sexual harassment, forced nudity, gender-based discrimination, torture and rape experienced by Afro-descendant women, Indigenous women, as well as women human rights defenders, journalists, reporters and members of health brigades, mothers who accompanied the demonstrations and, in general, women who participated in the protests. Amnesty International, with the support of various human rights organizations that support survivors of gender-based violence, documented 28 such cases in the cities of Cali and Palmira (Valle del Cauca), Popayán (Cauca), Soledad (Atlántico), Tunja (Boyacá), Manizales (Caldas) and Bogotá.

This research highlights two situations in which the National Police were responsible for gender-based violence during interventions in the context of the National Strike. The first is during action taken by the National Police to disperse demonstrations. This report details everything from sexist insults and threats to cases of sexual violence that took place when members of the National Police were carrying out orders to disperse demonstrations. The second is during the detention of protesters following interventions in demonstrations. In detention facilities threats and acts of gender-based violence, including sexual violence, were repeated and heightened by the special risks faced by people deprived of their liberty and in state custody, even temporarily.

In addition, the cases documented also describe the heightened violence experienced by some groups as a result of the intersection of different forms of discrimination, which means survivors experience violations of their rights differently. In this report Amnesty International presents two groups of cases which clearly show this intersection. **The first group are cases of gender-based violence exacerbated by the gender identity or expression, ethnicity or race of the survivors.** In these cases, extracts of statements are cited that show how being an Indigenous, Afro-descendant or trans woman becomes an additional motive for perpetrators for the attacks and that reflect how these identities experience gender-based violence and intensify it. The second group are documented cases of attacks against women and LGBTI human rights defenders and journalists. In these cases, people report different attacks compared to their colleagues,

steeped in stereotypes and marked by machismo, homophobia and other forms of discrimination that add to the stigmatization of their work as human rights defenders or journalists.

Amnesty International also received information regarding the lack of or inadequate response by the justice system to complaints filed by survivors of gender-based violence, especially by the Attorney General's Office.

This includes legal mischaracterization of the facts during the investigation or pressures to withdraw complaints. It has also documented the fear and lack of trust felt by various survivors who decided not to approach the Attorney General's Office. These findings are worrying given that the fight against impunity has an essential role in guaranteeing the right of women and LGBTI people to live a life free from violence and discrimination.

Various international instruments ratified by Colombia establish obligations to prevent gender-based violence and other types of violence, protect survivors and investigate cases, in accordance with standards of due diligence, in order to guarantee equal access to justice and non-repetition. In addition, international standards recognize the need to conduct investigations incorporating a gender perspective and intersectionality with other grounds of discrimination such as race, socioeconomic status, ethnicity, religion and political opinions, among others.

With this report Amnesty International seeks to contribute to improving the general situation regarding respecting, guaranteeing and protecting the human rights of people

exercising their rights of freedom of expression and peaceful assembly, especially women and LGBTI people, as well as their access to justice in cases of gender-based violence and other types of violence.

To this end, it sets **out a set of recommendations** to the Executive Branch, the Attorney General's Office, the Ombudsperson's Office and the Public Prosecutor's Office, **all of which are aimed at ensuring they fulfil their obligations under international human rights law.**

The first group of recommendations is addressed to the President of the Republic, the national government and departmental, district and municipal governments. In general, these recommendations seek to ensure that those responsible for the conduct of the National Police put an end to the gender-based violence during police interventions in protests and social demonstrations and that they also adopt measures that guarantee non-repetition and the protection of survivors, whether they report such violence or not. The second group of recommendations is addressed to the Attorney General's Office and these seek to ensure that all the actions taken during investigations are guided by the principles of putting survivors at the centre and of causing no harm. They also make clear the human rights standards applicable in investigations of gender-based violence. Finally, a third group of recommendations is addressed to the Offices of the Ombudsperson Office and the Public Prosecutor and these aim, in accordance with their particular functions, to strengthen their efforts to fulfil their mandates to promote human rights and to ensure progress in relevant disciplinary investigations.



RESEARCH METHODOLOGY



A photograph of a protest scene. In the foreground, a group of people are gathered on a street. One person in the center is holding a large flag with horizontal stripes of blue, yellow, and red. To their left, another person is holding a circular sign with a red border and a white center. In the background, a yellow banner is visible. The scene is set against a backdrop of a city street with buildings and a bridge in the distance.

Amnesty International received worrying reports of gender-based violence, including sexual violence, committed by the National Police's Mobile Anti-Riot Squad (Escuadrón Móvil Antidisturbios, ESMAD) against girls, women and LGBTI people, in the context of the massive demonstrations in 2021. This type of violence often remains hidden, increasing the victimization and injustice experienced by survivors.

Amnesty International, therefore, decided to initiate a rigorous process of documenting cases and accompanying survivors, as well as the human rights defenders, lawyers, journalists and human rights organizations that helping them pursue their cases with the Attorney General's Office between June 2021 and August 2022.

As it concerns the documentation of cases of gender-based violence, including sexual violence, which involved serious harm to physical and mental integrity, the methodology of the research was based on the concepts of **centrality of survivors, doing no harm and ensuring comprehensive support for their cases**. This requires the rights and expectations of survivors to be put at the heart of the research and their statements at the core of access to justice processes or care pathways.¹ It also implies taking special care on avoiding negative impacts derived

from this process on survivors and allied organizations.

Amnesty International, working with partner organizations and survivors who agreed to participate directly in the research, developed a qualitative methodology, based on semi-structured interviews, and the review and comparison of the state response delivered in practice with the care, protection and justice pathway established in Colombia.² Although some of the survivors decided not to approach public bodies such as the Attorney General's Office or the Ombudsperson's Office, their cases were accompanied by allied organizations who supported them and are part of this investigation. Amnesty International recognizes and documented the obstacles that exist to reporting these forms of violence and understands that deciding to make a complaint is an individual decision and at no time implies a moral or legal obligation on survivors to make their cases visible and to be accompanied.

**For this research,
75 interviews ,**
were carried out:

2

2 with journalists,

7

with survivors or their families,

66

with human rights defenders and
spokespersons for associated
organizations.

The names and **identities of the people interviewed by Amnesty International have been withheld for reasons of confidentiality and security and pseudonyms used**, indicated by an asterisk.

The documented cases occurred in various cities in the country, such as Cali and Palmira (Valle del Cauca), Popayán (Cauca), Soledad (Atlántico), Tunja (Boyacá), Manizales (Caldas) and Bogotá. The research was also based on a review and analysis of documentary evidence: complaints, press releases and public documents. These include two reports of medical examinations, a forensic medical examination and 11 documents issued by the Attorney General's Office in connection with the cases. The last date on which information related to the progress of criminal investigations was reviewed was 31 July 2022. This research also takes as its basis the observations and recommendations of the Inter-American Commission of Human Rights (IACHR) following its visit to Colombia in June 2021.³

Amnesty International reiterates its solidarity and commitment to accompanying survivors of gender-based violence, including sexual violence who gave consent for their cases to be included in this report.

Of the **28 cases documented for this report, 24 involved women and girls, including women of diverse sexual orientation and gender identity, and four involved men, one of whom identifies as a gay man.**

This report also analysed the response of state entities responsible for providing care, protection and a comprehensive response to survivors of gender-based and sexual violence, including the Attorney General's Office and the Ombudsperson's Office. On 22 April 2022, the organization wrote to the National Director of Police, the Attorney General and the Ombudsperson, requesting detailed information about the cases described in this report so that this could be included, where appropriate, in this document. Amnesty International received a response from all three bodies and these are referred to in Section III of this report.

To complement the qualitative exercise, various databases that collect information about reports of gender-based violence and sexual violence in the context of the National Strike were reviewed and cross-checked. The Bogotá Women's Secretariat, the Ombudsperson's Office, Temblores ONG and the Office of the United Nations High Commissioner for Human Rights in Colombia shared their databases with Amnesty International.

Representatives of survivors and human rights defenders who reported acts of gender-based violence during the National Strike actively participated in the drafting of this report. Amnesty International is immensely grateful to Nomadesc, La Manada Colectiva Feminista, Women's Link Worldwide, Caribe Afirmativo and Temblores ONG for their support in the documentation process, the support they provided to survivors who gave their consent for their cases to be included in this report and, in general, their work in defence of human rights. The Office of the United Nations High Commissioner for Human Rights in Colombia; the Inter-Church Commission on Justice and Peace; the Grupo de Acción y Apoyo a Personas con Experiencia de Vida Trans (GAAT); the Campaign Defender la Libertad un Asunto de Todas; and Mutante,⁴ an alternative media outlet, also contributed to this research.

¹ Interagency Gender-based Violence Case Management Guidelines: Providing care and case management services to gender-based violence survivors in humanitarian settings, first edition, 2017, (in Spanish), https://lac.unfpa.org/sites/default/files/pub-pdf/interagency_gbv_case_management_guidelines_es_js_1.pdf

² In Colombia, legislative provisions on prevention, protection and access to justice for survivors of gender-based violence are set out in Law 1257 of 2008. Cases of sexual violence in the context of the armed conflict are addressed in Law 1719 of 2014.

³ IACHR, Observations and recommendations Working visit to Colombia, June 2021, https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf

⁴ Mutante.org and the Liga contra el silencio, "Enciérrenlas y ahóguenlas: abuso policial en Palmira durante el Paro", May 2021, <https://www.mutante.org/contenidos/encierrenlas-ahoguenlas-abuso-policial-palmira-paro>



BACKGROUND AND CONTEXT



ONE YEAR ON FROM THE START OF THE NATIONAL STRIKE

Since the start of the National Strike in Colombia in April 2021, Amnesty International has prioritized monitoring, verifying and documenting reports of the grave human rights crisis caused by the repressive response of the Colombian state to the protests and demonstrations.

As part of this, on 30 July 2021, published a report entitled Cali: In the epicentre of repression was published⁵ and, in November 2021, together with the University of the Andes' PAIIS⁶ programme and Temblores ONG, the report Shoots on sight: eye trauma in the context of the National Strike was published.⁷ In March 2022, a video was made public showing a forensic reconstruction of the so-called "Operation Siloé" in Cali, based on analysis of audiovisual evidence and numerous testimonies.⁸

These reports described the excessive and disproportionate use of force by the National Police, especially the Mobile Anti-Riot Squad (Escuadrón Móvil Antidisturbios, ESMAD), to violently repress protests,



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⁵ Cali: In the Epicentre of Repression, July 2021, <https://www.amnesty.org/en/documents/amr23/4405/2021/en/>

⁶ PAIIS is the Programa de Acción por la Igualdad y la Inclusión Social (Action Programme for Equality and Social Inclusion) of the University de los Andes in Colombia, it is a legal clinic of public interest law.

⁷ Amnesty International, Colombia: Shoots on sight: eye trauma in the context of the National Strike, November 2021, <https://www.amnesty.org/en/documents/amr23/5005/2021/en/>

⁸ Amnesty International, Repression in the Spotlight, Reconstruction of Operation Siloé, March 2022, <https://www.amnesty.org/en/latest/campaigns/2022/02/repression-in-the-spotlight/>

⁹ Office of the United Nations High Commission for Human Rights, press statement, "La Alta Comisionada informa de retrocesos graves de los derechos humanos en el mundo", 21 June 2021, <https://news.un.org/es/story/2021/06/1493562>, In Spanish.

¹⁰ Amnesty International, Unprotected: Gender-based violence against Venezuelan refugee women in Colombia and Peru, 2022, <https://www.amnesty.org/en/documents/amr01/5675/2022/en/>

causing physical and psychosocial harm to thousands of demonstrators.

In those previous reports, Amnesty International documented cases of attacks by armed civilians on demonstrators, the use of lethal weapons by state officials and eye trauma. These constitute violations of the rights to physical integrity, the prohibition of torture and the right to freedom of peaceful assembly, among others.

Various international organizations and Colombian civil society organizations have also documented the excessive use of force by the National Police in the context of National Strike protests. For example, at the opening of the 47th session of the United Nations Human Rights Council, the High Commissioner for Human Rights, Michelle Bachelet, stated that her office **had received reports of 56 deaths in this context and 49 cases of sexual violence.**⁹

The difficulty of finding updated data and figures on gender-based violence in Colombia is something that Amnesty International has already highlighted previously.¹⁰ For example, as of September 2022, the Integrated Information System on Gender-Based Violence only had preliminary information for 2021.¹¹

Since the start of the National Strike, Amnesty International has expressed concern about reports of gender-based violence and sexual violence by the Colombian police.¹² **As of June 2021, there were reports that there were more than**

491

women victims of police violence, not necessarily associated with gender in the context of protests;¹³

28

victims of sexual violence;¹⁴

5

cases of gender-based violence against LGBTI demonstrators.¹⁵

In addition to Amnesty International, many civil society organizations and international human rights bodies raised similar concerns.

Numerous reports from civil society organizations highlighted multiple forms of gender-based violence and sexual violence committed by the security forces, noting that they

⁹ Sistema Integrado de Información sobre Violencias de Género, <https://www.sispro.gov.co/observatorios/onviolenciasgenero/Paginas/home.aspx>

¹² Amnesty International, "Colombia: Concerning reports of disappearances and sexual violence against protesters", 7 May 2021, <https://www.amnesty.org/en/latest/news/2021/05/colombia-preocupan-las-denuncias-de-desapariciones-y-violencia-sexual-contra-manifestantes/>

¹³ Sisma Mujer, Resumen del informe presentado a la CIDH durante su visita a Colombia entre el 8 y el 10 de junio de 2021, 10 June 2021, https://www.sismamujer.org/wp-content/uploads/2021/08/Comunicado-_VisitaCIDH-_mujeres-y-personas-LGBTIQ_2021.06.09.pdf Full report available at <https://cjlibertad.org/comunicaciones/1.%20Informe%20VBG%20Paro%20Nacional%20-%20CIDH%20-%20Versi%C3%B3n%20p%C3%ABlica.pdf> (both Spanish only).

¹⁴ Temblores ONG, Boletín del 26 de junio de 2021, https://www.instagram.com/p/CQr4h6TJ9vK/?utm_source=ig_web_copy_link

¹⁵ Caribe Afirmativo, Fundación Grupo de Acción & Apoyo a Personas Trans, Santamaría Fundación, Plataforma LGBTI por la Paz, International Institute on Race, Equality and Human Rights, Colombia Diversa and the Asociación Líderes en Acción, Informe sobre la situación de violencia policial contra personas LGBTI en el marco del Paro Nacional, 9 June 2021, <https://caribeaafirmativo.lgbt/caribe-afirmativo-junto-con-otras-organizaciones-entrega-informe-ante-la-cidh-sobre-violencia-en-el-marco-de-la-protesta-social-contra-personas-lgbt/>

*“have used these forms of violence as part of the violent repression of the protest, thus committing human rights violations, and reaffirming such violence as a means of preventing the effective enjoyment of women’s rights, especially being part of the public and political life of the country, freedom of expression and association and living a life free of violence. . . Sexual violence is the main differentiated risk experienced by women in contexts of the repression of social protests”*¹⁶

The Ombudsperson’s Office, in a bulletin published on 4 June 2021, identified

112

acts of gender-based violence against women and LGBTI people during social demonstrations committed by National Police officials,

99

were committed against women,

13

against people who identify as LGBTI.

In its report, the Ombudsperson’s Office stated that most of the cases reported occurred in Valle del Cauca (24), followed by Antioquia (20), Nariño (13), Boyacá (12), Cauca (10) and Bogotá (seven). It should be noted that cases were also reported in Atlántico (three), Bolívar (two), Magdalena (two), Meta (four) and Norte de Santander (six).

With regard to acts of sexual violence, the Ombudsperson’s Office stated that five complaints were filed for violent physical penetration (*acceso carnal violento*) – as this criminal offence is defined in Colombia – and 22 incidents of offences including groping, threats of sexual violence and sexual harassment, among others. In his report, he concludes that:

*“approximately one in four cases of gender-based violence in the context of social protest include acts of sexual violence in which the aggressors use the bodies of women and LGBTI people as part of a strategy of power and control over their participation in the context of social protest... in many cases the violence is accompanied by sexual harassment in the form of verbal attacks, referring to their bodies in an objectivizing way, as well as the use of expressions such as bitch, slut, I’m gonna rape you, I’m gonna lick you, gay twat, among others”*¹⁷

¹⁶ Report presented to the IACHR during its visit to Colombia between 8 and 10 June 2021, by various Colombian civil society organizations: Casa de la Mujer, Comunitar - Casa de la Mujer; Comunitar - Corporación de Mujeres Ecofeministas; Corporación Humanas; Corporación Jurídica Libertad; Defender la Libertad Asunto de Todas; Fundación Comité de Solidaridad con los Presos Políticos; Proceso Social de Garantías para la Labor de los Líderes y Líderesas Sociales Comunes; Defensores y Defensoras de Derechos Humanos de Antioquia; International Institute on Race, Equality and Human Rights; Ruta Pacífica de Mujeres; Sisma Mujer; Vamos Mujer; and Women’s Link Worldwide, 10 June 2021. Amnesty International translation.

¹⁷ Ombudsperson’s Office of Colombia, Bulletin #3 Gender-Based Violence in the Context of Social Protest, Delegate for Women’s Rights and Gender Affairs, 4 June 2021. Amnesty International translation.

In December 2021, the Office of the United Nations High Commissioner for Human Rights in Colombia (OHCHR) stated that it had “reasonable ground to argue that in the context of the National Strike, human rights violations were committed, such as the unnecessary or disproportionate use of force that resulted in arbitrary deprivation of life and violations of personal integrity and security, as well as arbitrary detentions, sexual and gender-based violence and acts of discrimination and racism”.¹⁸ It also noted in its annual report that it had received reports of sexual violence against 60 individuals (48 women and 12 men) of which it had verified 16 cases allegedly committed by members of the National Police.¹⁹ It concluded that

“according to the information collected and verified by the Office, there are reasonable grounds to argue that in these cases members of the police used sexual violence to punish people for their participation in the demonstrations and to humiliate them for their status as women (for not fulfilling the gender roles traditionally assigned to women or for being

*involved in public affairs), as LGBTI people, or for their ethnic origins. Many of the violations recorded were committed in the context of arbitrary detention”*²⁰

In response to these serious reports, the IACHR carried out a working visit to Colombia from 8 to 10 June 2021, highlighting in its recommendations that it “received testimony on the different types of gender-based violence. Based on the information gathered, the Commission was able to note multiple reports of acts committed by security forces agents, indicating the use of gender-based violence as a mechanism of repression against women, girls, and LGBTI persons. Such violence was used against both persons found in the protest and against persons located in areas away from the protest.”²¹ In fact, the IACHR received multiple reports “of acts committed by security forces agents, indicating the use of gender-based violence as a mechanism of repression against women, girls, and LGBTI persons.”²²

These reports come in the context of a history of reports of excessive use of force and gender-based violence by National Police officers which have been the subject of previous national judicial rulings. For example, **in 2020**

¹⁸ Office in Colombia of the United Nations High Commissioner for Human Rights, El paro Nacional 2021: Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia, <https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/>. Amnesty International translation.

¹⁹ Office in Colombia of the United Nations High Commissioner for Human Rights report on Colombia 2021 https://www.hchr.org.co/wp/wp-content/uploads/2022/05/211214-Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf [THIS LINK IT TO LESSONS LEARNED RATHER THAN SITUATION OF HUMAN RIGHTS IN COLOMBIA - OK?]

²⁰ Office in Colombia of the United Nations High Commissioner for Human Rights report on Colombia 2021, https://www.hchr.org.co/wp/wp-content/uploads/2022/05/211214-Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf [THIS LINK IT TO LESSONS LEARNED RATHER THAN SITUATION OF HUMAN RIGHTS IN COLOMBIA - OK?]

²¹ Inter-American Commission on Human Rights, Observations and recommendations Working visit to Colombia, June 2021, https://www.oas.org/en/iachr/reports/pdfs/observacionesVisita_CIDH_Colombia_ENG.pdf

²² Inter-American Commission on Human Rights, Observations and recommendations Working visit to Colombia, June 2021, https://www.oas.org/en/iachr/reports/pdfs/observacionesVisita_CIDH_Colombia_ENG.pdf



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the Colombian Supreme Court of Justice issued a ruling in which it

“condemned all types of gender-based violence and reasserts the rights of women and people of different sexual orientation, as social groups that have historically experience discrimination. From this perspective, it should be noted that when a woman is the victim of abusive acts... her dignity and physical and moral integrity are harmed; she must be protected by society and the State and even more, by the judges, as guarantors of the restoration of her rights”.²³

In this ruling, the Colombian government was ordered to take concrete action to protect the right to peaceful protest by addressing the excessive use of force by ESMAD against demonstrators. The civil society organizations that pursued this case²⁴ issued a statement on 6 May 2021 noting the failure to comply with aspects of the ruling and requesting that the officials responsible for compliance be found in contempt.²⁵ Although the courts dealing with the case did not rule in favour of the contempt motion, the Supreme Court of Justice reiterated its call to the national government to comply with the provisions contained in its ruling.²⁶

²³ Colombia: Supreme Court of Justice, Civil Cassation Chamber, STC 7641-2020, Issue no. 1101-22-03-000-2019-02527-02, <https://cortesuprema.gov.co/corte/wp-content/uploads/2020/09/11001-22-03-000-2019-02527-02-STC7641-2020.pdf>. Amnesty International translation.

²⁴ The organizations that supported the action were: the Corporación Humanidad Vigente; the Colectivo de Abogados José Alvear Restrepo; the Comité de Solidaridad por los Presos Políticos; the Colombian Commission of Jurists; the Centro de Estudios de Derecho, Justicia y Sociedad; the Fundación para la Libertad de Prensa; the Red de Defensores y Defensoras de Derechos Humanos; El Veinte; and the Colectivo Profes al Uno.

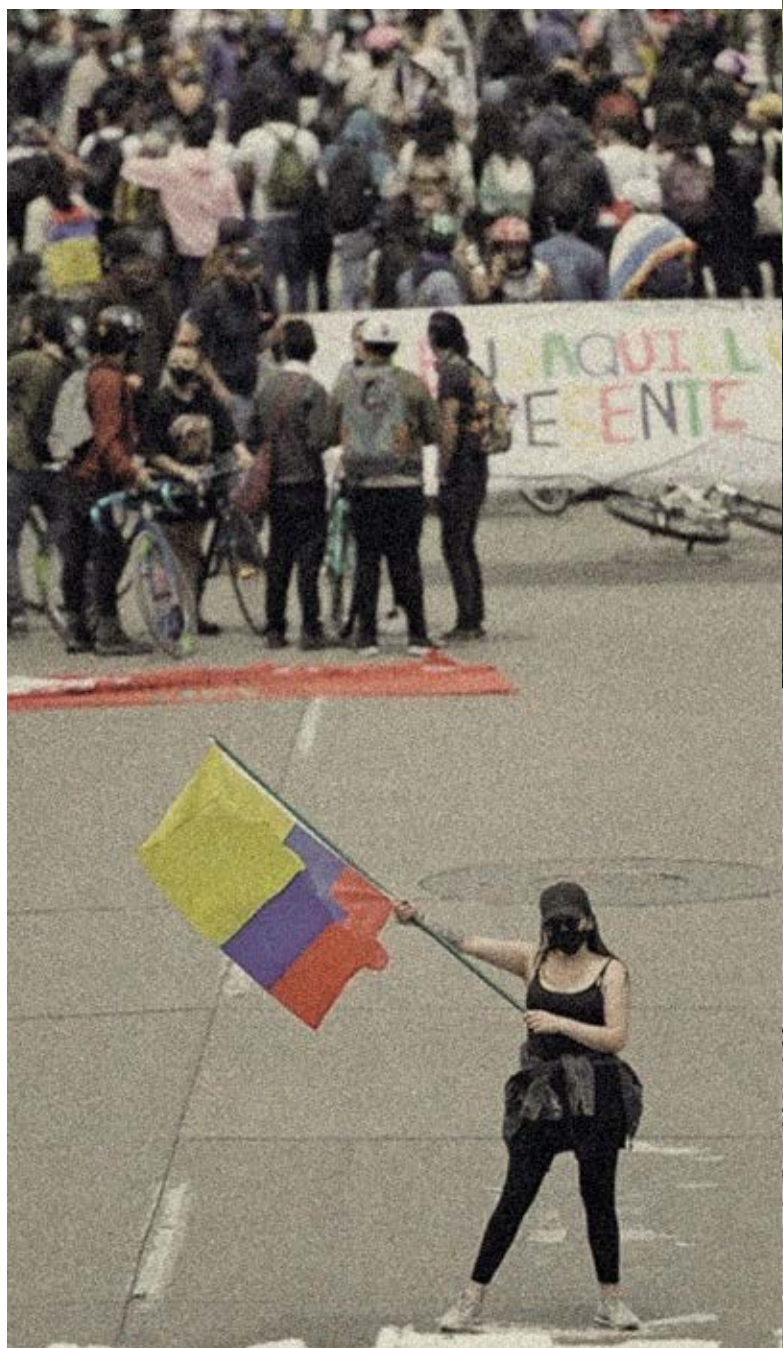
²⁵ Centro de Estudios de Derecho, Justicia y Sociedad, “Le pedimos a la Corte Suprema que declare el desacato de la sentencia que protegió el derecho a la protesta”, 6 May 2021, <https://www.dejusticia.org/le-pedimos-a-la-corte-suprema-que-declare-el-desacato-de-la-sentencia-que-protegio-el-derecho-a-la-protesta/>

²⁶ El Espectador, “Corte Suprema insta al Gobierno a respetar la protesta y ordena pruebas para desacato”, 28 May 2021, <https://www.elespectador.com/judicial/corte-suprema-insta-al-gobierno-a-respetar-la-protesta-y-ordena-pruebas-para-desacato/>

CONTINUING GENDER-BASED VIOLENCE IN COLOMBIA AND THE PREVALENCE OF IMPUNITY

Gender-based violence, and in particular sexual violence, has a painful history in the context of the Colombian armed conflict. Both members of armed groups and members of the state security forces were responsible for this form of violence and their conduct, understood as a pattern of violence, is key to explaining, analysing and understanding what happened during the National Strike as a continuum of violence.

National authorities such as the Constitutional Court²⁷ and the National Centre for Historical Memory **have recognized that all armed actors, including state security forces, used sexual violence as a strategy** for reaffirming their authority in contested territories, since “sexual violence in the context of the Colombian armed conflict has been of an indiscriminately strategic nature because all armed actors used it as a means to appropriate the bodies and populations who sought to reaffirm their authority in the territories.”²⁸



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²⁷ Constitutional Court of Colombia, Judgment SU-599 of 2019; Justice reporting the opinion of the Court: Cristina Pardo Schlesinger, 11 December 2019.

²⁸ CNMH, (2017), *La guerra inscrita en el cuerpo*, p. 35, November 2017, https://www.centrodememoriahistorica.gov.co/descargas/informes-accesibles/guerra-inscrita-en-el-cuerpo_accesible.pdf. Amnesty International translation.

According to reports from women's organizations, in Colombia 90% of sexual crimes go unpunished.²⁹

The Constitutional Court has recognized that sexual violence has followed certain patterns in the context of armed conflict and forced displacement: *“(i) acts of sexual violence as an integral part of larger violent operations; (ii) acts carried out individually by members of all armed groups for various purposes, such as: intimidation of the population, retaliation and revenge, a strategy to make advances and territorial control, obtaining information or simple aggression; (iii) sexual violence against women reported to have family or personal relationships with someone who is a member of or collaborator with any of the legal or illegal actors; (vii) acts of sexual violence by armed actors against women who are members of social, community or political organizations or who are leaders or act as human rights defenders, or against women members of their families, as a form of retaliation, repression or to silence their activities.”*³⁰

In addition, the Supreme Court has stated that in Colombia sexual violence has been committed in contexts of **invisibility, silence**

and **impunity** for the perpetrators. This is partly because survivors do not have confidence in the justice system and partly because they are afraid of retaliation if they report incidents. Deep-rooted cultural factors that exacerbate shame, isolation and stigmatization and prevailing impunity also have an impact.³¹

The Justice and Peace Courts³² have recognized that sexual violence was committed in the context of the armed conflict as a pattern of macro-criminality of gender-based violence. They have identified characteristics such as repetition, planning and policy, purpose and gender-based motivations.³³

The Truth and Reconciliation Commission (Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición), created by the Peace Agreement signed by the state and the FARC-EP guerrilla group in 2016, published its final report in July 2022, with a chapter dedicated to the gender-based violence and sexual violence that occurred in the context of the armed conflict in the country.

²⁹ Revista Ámbito Jurídico, “La impunidad por violencia sexual en Colombia supera el 90%”, 22 February 2018, <https://www.ambitojuridico.com/noticias/en-ejercicio/penal/la-impunidad-por-violencia-sexual-en-colombia-supera-el-90>

³⁰ Constitutional Court of Colombia, Order 092 of 2008; Justice reporting the opinion of the Court, Manuel José Cepeda Espinosa, 14 April 2008, art III.1.1.2 of Section III.1.1., “Riesgo de violencia, explotación o abuso sexual en el marco del conflicto armado”. Amnesty International translation.

³¹ Constitutional Court of Colombia, Order 092 of 2008; Justice reporting the opinion of the Court, Manuel José Cepeda Espinosa, 14 April 2008, art III.1.1.2 of Section III.1.1. “Riesgo de violencia, explotación o abuso sexual en el marco del conflicto armado”.

³² The Justice and Peace rulings referred to here document sexual violence committed by armed paramilitary actors, some of whom acted with the collusion of or in coordination with security forces officials.

³³ Chaparro Liliana, Morelle Cecilia, Cuéllar Marcela y Velásquez Laura, La violencia sexual y la justicia transicional en Colombia: Análisis de la violencia sexual como parte del patrón de macrocriminalidad de violencia basada en género en las sentencias de Justicia y Paz (2010-2021), Universidad Santo Tomás, October 2021, pending publication.

In the report, “Mi Cuerpo es la Verdad”, the Commission acknowledged that the security forces perpetrated sexual violence against women and LGBTI people and stressed that “the victims were young women. The institution responsible for most victimizations [attributed to state agents] was the National Army, followed by the Police. . . As regards the security forces, although there are fewer cases reported, it was evident that sexual violence was used against civilian women as a way of attacking those who were considered “enemies”, that is, the women believed to be collaborating with insurgencies or to be guerrillas.”³⁴

The Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP) announced in July 2022 that it was opening a macro-case³⁵ on “sexual violence and other crimes related to gender, sex, orientation or identity”, with the aim of identifying and bringing to justice those who perpetrated these crimes during the armed conflict. This is the

result of decades of advocacy by organizations of women victims³⁶ who submitted their cases to the transitional justice process.

Amnesty International has conducted research on crimes of sexual violence and the prevalence of impunity in Colombia, such as the 2004 report **Scarred bodies, hidden crimes**, which detailed how sexual violence was deliberately committed by legal and illegal armed actors to sow terror in communities, forcibly displace people and eliminate those they considered allies of their opponents.

In that report, Amnesty International highlighted a pattern of sexual violence against civilians, mostly women or LGBTI people, as a means of asserting authority in the context of the conflict. One of the main points highlighted at the time was the rampant impunity and how it sent a message that sexual violence by armed actors was tolerated. In 2011, the organization published a follow-up report in which it documented how impunity prevailed as a result of the lack of protection for victims, the lack of gender training for judicial officials, as well as the lack of institutional coordination in investigations and the comprehensive care for victims.³⁷

³⁴ Colombian Commission for the Clarification of the Truth, Coexistence and Non-Repetition, Report, *Mi Cuerpo es la Verdad: experiencias de mujeres y personas LGBTIQ en el conflicto armado*, pp 84 and 199, July 2022, <https://www.comisiondelaverdad.co/mi-cuerpo-es-la-verdad>. Amnesty International translation.

³⁵ A macro-case gathers together hundreds and thousands of incidents that suggest the same motivation, the same *modus operandi*, the same commands, the same criminal plans and orders, and very similar forms of criminal actions. Therefore, macro-cases gather together all the crimes that follow the same pattern. Definition taken from the website of the special jurisdiction for peace JEP. In Spanish.

³⁶ *Rutas del conflicto*, “Tras años de luchas se abre un macrocaso de violencia sexual en la JEP”, 22 July 2022, <https://rutasdelconflicto.com/notas/anos-luchas-abre-macrocaso-violencia-sexual-la-jep>

³⁷ Amnesty International, Colombia: ‘This is what we demand, justice!’: Impunity for sexual violence against women in Colombia’s armed conflict, 21 September 2011, <https://www.amnesty.org/en/documents/amr23/018/2011/en/>



**VIOLENCE AGAINST WOMEN,
GIRLS AND LGBTI PEOPLE
IN THE CONTEXT OF SOCIAL PROTEST:
REPRESSION THROUGH THE BODY**





Amnesty International documented 28 cases of gender-based violence and sexual violence against women, girls and LGBTI people between 28 April and 30 June 2021.

They were committed in cities such as Cali, Popayán, Palmira, Manizales, Soledad and Tunja. Of the cases documented, **85% relate to gender-based violence against women and girls**, a clear reflection of the particular risk women face of such violence. The organizations that accompany survivors affirm that these cannot be seen as isolated incidents or coincidence; on the contrary, the justice system needs to analyse these as patterns. Moreover, the cases documented by Amnesty International confirm the worrying picture painted by the official figures on gender-based violence set out below.

Although women are disproportionately affected by gender-based violence, other people may also experience it on grounds of their sexual orientation, real or perceived gender identity or expression, or other characteristics, such as race or ethnicity. Four of the cases documented by Amnesty International involve men, one of whom identifies as a gay man; a trans woman human rights defender; and two Indigenous people.

Although most of the cases of police violence reported to state entities occurred in cities such as Bogotá, Cali and Medellín, the systematic nature of the complaints indicates that **gender-based** violence and sexual violence by police officials, and particularly members of ESMAD, are widespread, given that these incidents took place in different Colombian cities, in particular between 28 April and 30 June 2021. The Ombudsperson's database, which Amnesty International consulted, lists cases in Antioquia, Atlántico, Bogotá, Meta, Valle del Cauca, Boyacá, Cauca, Nariño and Santander. About 80% of these cases were committed against women and girls and 20% against men, including LGBTI people.

Colombia is a state party to various instruments on which this analysis is based and that form part of its constitutional corpus,³⁸ such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the American Convention on Human Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará); and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Eliminación de Todas las Formas de Discriminación contra la Mujer (CEDAW).

Gender-based violence covers a broad spectrum of violence and includes threats, abuse, coercion and physical, sexual or psychological violence. In some cases it may amount to torture, especially in cases of sexual violence.

This type of violence disproportionately impacts women but can also affect other people based on their sexual orientation, gender identity and/or actual and/or perceived gender expression. Gender-based violence stems from gender inequality, power imbalance and the existence of norms that cause harm; at the same time, this form of violence contributes to reproducing these social contexts. Gender-based violence requires a comprehensive state response that puts the rights of survivors at the centre and addresses root causes.³⁹

The right of women and all people to live a life free from gender-based violence and all forms of discrimination is indivisible and interdependent with other human rights, such as the right to life health; physical integrity, freedom, security, and equality; protection from

³⁸ Colombian Constitution, Article 93, states that international treaties and agreements ratified by the Congress that recognize human rights and prohibit their restriction during states of emergency shall take precedence over domestic law.

³⁹ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará"), 1994, Articles 1 and 2.

torture and other cruel, inhuman or degrading treatment; and freedom of expression, movement, participation, assembly and association.⁴⁰ It is also closely related to the right to freedom of peaceful assembly.⁴¹ In particular, with regard to violent acts committed on the basis of gender in the context of demonstrations, the Human Rights Committee, in General Comment 37 (2020) on the right of peaceful assembly, stated that:

“Particular efforts must be made to ensure the equal and effective facilitation and protection of the right of peaceful assembly of individuals who are members of groups that are or have been subjected to discrimination, or that may face particular challenges in participating in assemblies. Moreover, States have a duty to protect participants from all forms of discriminatory abuse and attacks.”⁴²

States are responsible for the acts and omissions of state organs and agents that

constitute gender-based violence against women and others. State bodies and agents should refrain from engaging in any act or practice of direct or indirect discrimination against women and ensure that public authorities and institutions act in conformity with this obligation. In addition, states should ensure that laws, policies, programmes and procedures do not discriminate against women and that an effective and accessible legal and services framework is in place to address all forms of gender-based violence against women committed by state agents.⁴³

One of the obstacles women and other victims of gender-based violence face in gaining access to justice is the requirement to provide evidence in addition to their testimonies. Inter-American standards state that the **testimony of a survivor of crimes of sexual violence has sufficient probative value**, recognizing that this type of violence usually occurs in places where there are no witnesses and that there are historical barriers to reporting these incidents and access to justice. Similarly, the Inter-American Court of Human Rights has issued rulings such as the Case of Contreras et al. v. El Salvador; the Case of the Massacres of El Mozote v. El Salvador;

⁴⁰ Committee against Torture, General Comment 2, CAT/C/GC/2; CEDAW, General Recommendation 35 on gender-based violence against women, updating general recommendation 19.

⁴¹ It is enshrined in Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and Article 15 of the American Convention on Human Rights (ACHR), to which Colombia is a state party. Similarly, Article 37 of the Constitution of Colombia recognizes the right of peaceful assembly and public protest. The exercise of the right to freedom of peaceful assembly is linked to freedom of expression (Articles 19 of the ICCPR and 13 of the ACHR) and freedom of association (Articles 22 of the ICCPR and 16 of the ACHR). International human rights standards stipulate that the use of force by the security forces must be a last resort and must be strictly guided by the principles of legality, necessity, proportionality and accountability.

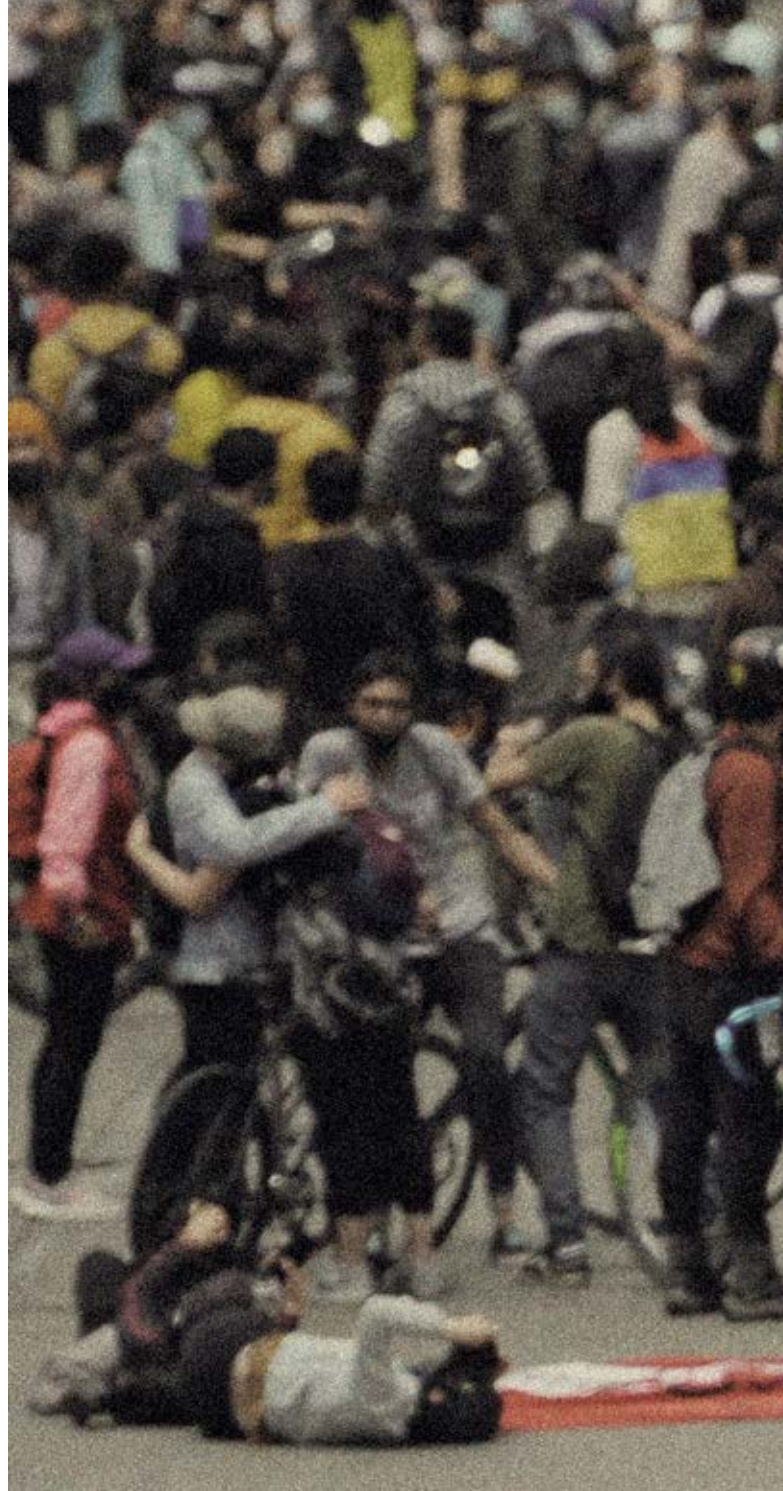
⁴² Human Rights Committee, General Comment 37 on Article 21 (Right of peaceful assembly), CCPR/C/GC/37, 17 September 2020, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful>

⁴³ CEDAW, General Recommendation 35 on gender-based violence against women, updating general recommendation 19, para. 22.

the Case of Azul Rojas Marín et al v. Peru; and the Case of Bedoya Lima et al v. Colombia.⁴⁴ Thus, the testimony of survivors of sexual violence must be the starting point of criminal investigations and constitute fundamental piece of evidence, so that victims are not required to submit graphic or documentary evidence to prove that sexual violence occurred.

The majority of the cases presented in this report are of violence by **ESMAD agents in operations to disperse demonstrators** using tear gas. The women and girls who were attacked were separated from the group of demonstrators and, when they were alone, under the pretext of registering them or searching them, agents committed acts of sexual violence against them.

Amnesty International also documented two cases in which violence was committed in National Police **detention centres** or in **National Police patrol cars or vehicles** while people were being driven to places of detention in the context of their transfer in protective custody.⁴⁵ In Colombia, the National Police has the power to detain anyone if they deem it necessary, using the provision “transfer in protective custody” (traslado por protección), in certain specified circumstances. This provision can in some cases result in arbitrary



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⁴⁴ Inter-American Court of Human Rights, Case of Contreras et al v. El Salvador, Judgment of 31 August 2011, https://www.corteidh.or.cr/docs/casos/articulos/seriec_232_ing.pdf ; Case of the Massacres of El Mozote and surrounding areas v. El Salvador, Judgment of 25 October 2012, https://www.corteidh.or.cr/docs/casos/articulos/seriec_252_ing1.pdf ; Case of Azul Rojas Marín et al v. Peru, Judgment of 12 March 2020, https://www.corteidh.or.cr/docs/casos/articulos/seriec_402_ing.pdf ; Case of Bedoya Lima et al v. Colombia, 26 August 2021, https://www.corteidh.or.cr/docs/casos/articulos/seriec_431_ing.pdf

⁴⁵ National Police Code, Article 155 Protective custody: “When the life or physical integrity of a person or of third parties is at risk or in danger, uniformed personnel of the National Police may transfer them for their protection or that of third parties, in the following situations: When wandering in a state of helplessness or seriously disturbed state of consciousness due to psychological factors, or under the influence of alcohol or psychoactive or toxic substances, when the transfer is the only available means to avoid the risk to the life or physical integrity of the person or third parties. When they are engaged in an altercation or display aggressive or reckless behaviour, engage in dangerous or risky activities that endanger their life or physical integrity or those of third parties, or are in danger of being attacked and the transfer is the only available means to avoid the risk to the life or physical integrity of the person or third parties”. Original Spanish available at: https://leyes.co/codigo_nacional_de_policia/155.htm. Amnesty International translation.

and unlawful detentions on a massive scale, without legal controls and putting people's health at risk in the context of the Covid-19 pandemic⁴⁶ and in the context of protests and demonstrations.⁴⁷

The cases documented occurred mostly **at night** when there was less chance of there being evidence of what happened, including witnesses to this kind of violence. In addition, a pattern emerged of this violence being committed by groups of about eight or 10 officials, some of whom abused the victims while others allowed it to happen and failed to protect victims, despite their duty to do so.

Amnesty International received hundreds of reports of gender-based violence and sexual violence in the context of the National Strike.⁴⁸ The allegations include cases of **psychological violence, threats of sexual violence, violence based on prejudice against LGBTI people, groping and sexual harassment, forced nudity, gender discrimination, torture and rape.**

Gender-based violence was committed against: **Afro-descendant women; Indigenous women; women human rights defenders, journalists, reporters and health brigade members; mothers accompanying the marches; and, in general, women who decided to protest or support young people in the streets.**

Distressing accounts of gender-based violence and sexual violence that occurred in the context of demonstrations were also received and the survivors who decided to report their cases are being accompanied by associated organizations. In the following paragraphs explain, in survivors' own words, what happened, with the aim of supporting their search for justice. Neither the names of the survivors, nor the places where the events occurred, are cited in this report, as survivors did not authorize this on grounds that the necessary conditions for them to be able to report safely are not in place. Some of these cases were highlighted in media reports.

⁴⁶ Campaña Defender la Libertad, "Pedimos que cese el traslado por protección en Colombia", 17 March 2020, <https://defenderlalibertad.com/-cese-el-traslado-por-proteccion-en-colombia/>

⁴⁷ Colombia: Supreme Court of Justice, Civil Cassation Chamber, STC 7641-2020, Issue no. 1101-22-03-000-2019-02527-02, <https://cortesuprema.gov.co/corte/wp-content/uploads/2020/09/11001-22-03-000-2019-02527-02-STC7641-2020.pdf>

⁴⁸ Amnesty International, "Colombia: Concerning reports of disappearances and sexual violence against protesters", 7 May 2021, <https://www.amnesty.org/en/latest/news/2021/05/colombia-preocupan-las-denuncias-de-desapariciones-y-violencia-sexual-contra-manifestantes/>

VIOLENCE DURING THE DISPERSAL OF DEMONSTRATIONS



On 30 April, in the context of demonstrations, Camila* and Sofia*, two women in their twenties, experienced sexual violence by police officers and members of ESMAD. As the two women were walking along singing and chanting to demand their rights, stun grenades being thrown at the group of peaceful demonstrators. There had been no acts of violence prior to this. Everyone ran and Sofia* was left isolated and on her own next to a wall. At that moment an ESMAD official came up to her and, without saying a word, **“put his hand in her pants, touching her vulva and inserting his fingers into her vagina.”** Sofia* recalls that at that moment she went into shock and could not breathe properly. At the scene, there was also a woman ESMAD official who did not take any action to prevent this from happening, just reprimanded Sofia* saying **“no one touched you, if you do not want these things to happen why are you here”**.⁴⁹

Sofia* recalls **“they insulted me telling me that if I didn’t want those things to happen to me I should stay at home, they pushed me telling me to leave”**.⁵⁰ Minutes later, when she tried to identify her assailant, he hastily left the scene. Sofia* shared her experience on social media and filed a complaint with the Attorney General’s Office on 1 May 2021, but she stated that, a year later, there has been no progress in the investigation or identification and indictment of the perpetrator.⁵¹ She has received threats on social media and she and her family are at risk. María José*, the lawyer advising Sofia*, requested that the site where the incident took place be inspected, but there were no video cameras in the area. The organization that has supported Sofia* during the process reported that a similar incident occurred on the same date and in the same place a few metres away, but the survivor did not want to lodge a complaint for fear that she could face reprisals.

⁴⁹ Medical record, IU 118603-1, dated 30 April 2021, 23:45.

⁵⁰ Interview conducted 15 June 2021.

⁵¹ Attorney General’s Office, Criminal Notification 760016000193202103577, allegation of violent physical penetration (acceso carnal violento).

Women played a major role in the demonstrations.⁵² They were supporters, spokeswomen, field monitors, mediators with police authorities, they organized “community kitchen” (“ollas comunitarias”) to ensure protesters had food and acted as a “Frontline”,⁵³ to protect the physical integrity of demonstrators.⁵⁴ By identifying forms of violence against protesters that resulted in severe eye trauma and deaths, “Frontline” women played a crucial role in their protection and defence. Unfortunately, this was one of the reasons why they were subjected to stigmatization, violence and threats.⁵⁵

Despite the recognition of the predominantly peaceful nature of the demonstrations during the National Strike,⁵⁶ the state’s repressive response, carried out by the ESMAD unit of the National Police, was devastating. The violence, which left dozens of people dead, also resulted in hundreds of victims sustaining eye trauma and various other serious injuries, in addition to the gender-based violence inflicted on women, girls and LGBTI people aimed at punishing those who, by deciding to go out onto the streets to protest, defied stereotypes and socially assigned gender roles. In other words: the women who dared to challenge socially assigned roles and go out to protest were punished differently because of this. This violence was also directed against those with diverse gender identity and/or expression and/or sexual orientation, or perceived as such, and who found in the demonstrations a way to assert and express their dissent.



⁵² Report by Sisma and other organizations: Casa de la Mujer; Comunitar - Corporación de Mujeres Ecofeministas; Corporación Humanas; Corporación Jurídica Libertad; Defender la Libertad Asunto de Todas; Fundación Comité de Solidaridad con los Presos Políticos; Proceso Social de Garantías para la Labor de los Líderes y Líderesas Sociales Comunes; Defensores y Defensoras de Derechos Humanos de Antioquia; International Institute on Race, Equality and Human Rights; Ruta Pacífica de Mujeres; Sisma Mujer; Vamos Mujer; and Women’s Link Worldwide, Summary of report submitted to the IACHR during its visit to Colombia between 8 and 10 June 2021.

⁵³ The “Frontline” are a group of demonstrators 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.

⁵⁴ El País, “Mamás primera línea”: las colombianas que enfrentan a la policía para salvar manifestantes, 19 May 2021, <https://elpais.com/internacional/2021-05-19/mamas-primera-linea-las-colombianas-que-enfrentan-a-la-policia-para-salvar-manifestantes.html>

⁵⁵ Amnesty International, Colombia: Shoots on sight: eye trauma in the context of the National Strike, November 2021, <https://www.amnesty.org/en/documents/amr23/5005/2021/en/> p. 24 and Amnesty International, Cali: In the epicenter of repression, July 2021, <https://www.amnesty.org/en/documents/amr23/4405/2021/en/> p. 22

⁵⁶ The majority of demonstrations were peaceful. Vice-President and Foreign Minister Marta Lucía Ramírez acknowledged that 88.5% of the demonstrations were peaceful in her statement at the end of the meeting with the Representative of the United Nations High Commissioner for Human Rights Juliette de Rivero, 25 June 2021, <https://www.cancilleria.gov.co/newsroom/video/declaracion-vice-Presidente-canciller-marta-lucia-ramirez-termino-reunion> (Spanish only).



Rosario* and her daughter Natalia* were sexually assaulted by National Police officers. In the context of peaceful demonstrations, ESMAD fired tear gas grenades and as well as kinetic impact projectiles such as rubber bullets. Rosario* said **“both my daughter and I were hit by kinetic impact projectiles; my daughter in the back, and me in the head. While an ESMAD official grabbed my daughter to try to drown her in a well of water that was in the area, I was beaten with blunt instruments and kicked and dragged along to the canal, where an ESMAD official took my bag, lifted my top and opened my pants in order to touch my genital areas.”**⁵⁷ After this, the officials told them that this would send a message to all the women who were at the demonstration: **“bitch we are going to kill you, go take a message to those sons of bitches, that the same thing could happen to any of them”**. Helena*, the human rights lawyer who accompanied Rosario* and Natalia* from the beginning, remembers that they arrived bleeding, asking for help and screaming with fear **“they are going to come and they are going to rape us all, that is why they let me come here warn you”**.⁵⁸ Rosario* and her daughter decided not to file a criminal complaint for fear of negative repercussions.

The CEDAW Committee, in its General Recommendation 35, stated that: *“gender-based violence against women, whether committed by States, intergovernmental organizations or non-State actors, including private persons and armed groups, remains pervasive in all countries, with high levels of impunity.”*⁵⁹ For the Committee, this type of violence against women is one of the fundamental social, political and economic means by which the subordinate position of women compared to men and their stereotyped roles are perpetuated.

According to reports documented by Amnesty International, police conduct during demonstrations was not consistent with either international standards or national protocols and male officers used their power to inflict sexual violence. This occurred during violent searches of women. In several of the cases documented in this chapter, it was at that point that acts of sexual violence occurred, with officials touching women’s genitals and breasts and penetrating them with their fingers.

⁵⁷ Interview conducted 15 June 2021.

⁵⁸ Interview conducted 10 August 2021.

⁵⁹ Committee on the Elimination of Discrimination against Women, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19; July 2017 <https://www.refworld.org/es/type/GENERAL,,,5a2192294,0.html> [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf]

“

Ana* and Catalina* were taking part in a peaceful demonstration. They recall that, suddenly, ESMAD launched tear gas grenades to disperse the group. Everything became very confused from that point, but they remember that they decided to hide behind a vehicle and there they were approached by ESMAD officials. An ESMAD official, took Catalina* towards a stream⁶⁰ and used his hand to violently sexually assault her while she screamed. She said: **“they were going to rape us, they put the gun in my mouth, they touched us all over, they told us we were going to kill us bitches.”** Subsequently they were taken to a nearby tollbooth with officials shouting **“just wait to see what’s going to happen to you”, “troublemakers, bitches, bastards, why don’t you die?”**. At the tollbooth they saw several officials, and they remember that one of them even urinated nearby and showed them his penis. And then suddenly they were released. They decided to lodge a complaint with the Attorney General’s Office and say they did so with the intention of **“giving courage to the girls who are afraid to speak. There are a lot of cases here of girls who don’t want to speak out. Because there is so much anxiety and fear, in the face of that you have to bolster your strength so that this does not keep on happening... we cannot go on with the country like this, we have to speak out; there are many cases left hanging in the air”**. At the Attorney General’s Office they were offered police protection and one of them said: **“They asked me if I wanted police protection: how am I going to agree to their looking after me when they are the very people who are going to hit me, who want to rape me?”**⁶¹

Emilia*, an 18-year-old who did not participate in the demonstrations, was approached and sexually assaulted by National Police officials. She was walking down the street when she saw that there was a confrontation between protesters and ESMAD. She decided to take out her cell phone and record what was happening. Emilia* recalls

“they put me on a motorbike and the policeman told me that he wanted to lick me, that he wanted to rape me, that they would take me trousers down and they’d done the same thing to another girl and they were hitting her” they also shouted **“why aren’t you at home cooking, you bitch, you slut?”**⁶²

⁶⁰ The original refers “caño” which in Colombia is used to refer to a stream or brook.

⁶¹ Interviews conducted in June 2021.

⁶² Statement recorded on 14 June 2021.



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Esperanza*, a 17-year-old girl who did not participate in the demonstrations, was approached and assaulted by ESMAD agents as she was using her cell phone to record confrontations between protesters and members of the police. They grabbed her violently by the arms, but she refused to be led away by the ESMAD officials, so four male officials lifted her up and grabbed her roughly by the arms and legs and dragged her away.

As she was being taken away, Esperanza* stated that they were removing her clothes and taking her trousers down, as recorded in a video. She reported this on social media where she posted the video in which she can be heard shouting at the officials: **“they’re removing my trousers” “4 with a woman” “they’re touching me everywhere”**.⁶³ Esperanza* posted the story and the next day she was found dead in circumstances that are still under investigation. Andrea*, a lawyer who initially advised her family, told Amnesty International that the adolescent **“dignity as a woman had been mortally wounded that night.”**⁶⁴ As this case involved a minor, it received extensive media coverage. However, it was presented without obtaining the family’s consent and questioned the facts and the connection to her possible suicide.

In fact, the Minister of Defence made revictimizing statements, asserting that **“initial information from the Attorney General’s Office makes it clear that there was no sexual abuse”**⁶⁵ at a time when the family did not even have access to these documents

⁶³ Audiovisual recording, 12 May 2021.

⁶⁴ Interview with lawyer representing the case, 16 June 2021.

⁶⁵ Statement by Minister of Defence Diego Molano, Motion of Censure before Congress, 26 May 2021: “en una primera información de la Fiscalía está claro que no hubo abuso sexual”. Amnesty International translation.

and ignoring the fact that penetration is not the only form of sexual violence.

The National Police publicly denied what had happened without even taking into consideration the fact that she was a minor and that the judicial process must be allowed to follow its course.

Andrea* has stated in the media that **“restricting the definition of gender-based violence and sexual violence to violent physical penetration is legally wrong and I believe that what the police are trying to do in the media is to distance themselves from a case in which it could be proven that there was no violent physical penetration, but in which it must be understood that sexual violence also consists of touching and groping the body of a woman of that age, which could have had a psychological impact on this young girl and have a causal link triggering her decision and the final outcome.”**⁶⁶

The Attorney General’s Office has not to date made significant progress in the case and Amnesty International is concerned about the intention to refer the investigation to the military criminal justice system, in breach of international standards of impartiality and due diligence in the investigation of serious human rights violations.⁶⁷ The Office of the Inspector General⁶⁸ initiated

a disciplinary⁶⁹ investigation, arguing that **“knowing the sex (female) and the likelihood that she was a minor, they clearly could have avoided any aggression and asked their superior to release her, in the absence of a police reason to hold her, and/or, if it was necessary to register her and check her identity, request the presence of female uniformed officials who were a few meters away from where the minor was located, however, they decided to take her to the URI [Unidad de Reacción Inmediata/Immediate Reaction Unit] by force grabbing her by her arms and legs, ignoring the fact that due to the obvious resistance that someone who has not committed any offence would put up, her clothing was disarranged, exposing her underwear. Thus, there is no doubt that the uniformed men possibly knew that the police conduct was unnecessary, disproportionate, irrational and illegal, and that to proceed ignoring the fundamental rights of citizens or of the procedures provided for constitutionally regarding protected persons such as children and adolescents without legal justification would have criminal and disciplinary consequences, however, possibly using excessive force, they took the minor to the URI facilities.”**⁷⁰

⁶⁶ El Espectador, “No es falsa la noticia sobre joven de 17 años en Popayán”: abogada Lizeth Montero, <https://www.elespectador.com/colombia/mas-regiones/no-es-falsa-la-noticia-sobre-joven-de-17-anos-en-popayan-abogada-lizeth-montero-article/>

⁶⁷ Interview with lawyer, 22 April 2022.

⁶⁸ Procuraduría General de la Nación. Highest body of the Public Ministry, also comprising the Office of the Ombudsperson and other legal entities. It represents citizens before the state and monitors the performance of public servants. See website of the Office of the Inspector General for definition.

⁶⁹ It is important to clarify that the Attorney General’s Office does not carry out criminal investigations and that the results of the disciplinary process, in the event of a the officials being found guilty, would be of an administrative sanction, such as dismissal, suspension or a reprimand.

⁷⁰ Office of the Attorney General, Attorney General Delegate for the security forces and the judicial police, 14 May 14, 2021, “Alleged irregularities in police proceedings with minors who reported sexual abuse by officials of the ESMAD of the National Police”. Amnesty International translation.

SEXUAL TORTURE IN DETENTION

In May 2021, in the context of the arrest of 17 demonstrators, Maribel* was tortured and beaten by National Police officials. The body search was carried out by male officials, in violation of the protocols that require women to be searched by female officials. While she was detained, she was prevented from performing her physiological needs. Maribel* feels forced not to lodge a complaint; she is afraid and states that she has no guarantees of safety because the officials have her personal information and could easily find her.

Gender-based violence can be exacerbated by contexts of armed conflict or widespread violence and anyone can be targeted because of their actual or perceived gender or gender expression and the roles assigned by society to each gender. While this violence has predominantly affected women and girls, it is important to recognize that people with diverse sexual orientation, identity or gender expression also experience this violence. The Committee against Torture and the CEDAW Committee have made it clear that rape and sexual violence and abuse, among other forms of gender-based violence, can amount to torture. They have also noted that women and LGBTI people are particularly at risk of this human rights violation, including when they are deprived of their liberty.

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has indicated that: ***“Rape constitutes torture when it is carried out by, at the instigation of, or with the consent or acquiescence of public officials(...) In addition to physical trauma, the mental pain and suffering inflicted on victims of rape and other forms of sexual violence is often long-lasting due,***



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inter alia, to subsequent stigmatization and isolation” and stressed that women and LGBTI people are at disproportionate risk of sexual violence during detention.⁷¹

The Inter-American Court of Human Rights has also emphasized that **“sexual violence consists of actions with a sexual nature committed with a person without their consent, which besides including the physical invasion of the human body, may include acts that do not imply penetration or even any physical contact whatsoever”** and⁷² **that sexual violence constitutes an act of torture due to the severity of the suffering and to the intent to commit and**

the purpose of the act.⁷³ Both in the Case of J. v. Peru (2013) and the Case of Espinoza González v. Peru (2014) the Court reiterated that the standard established for rape is that the victim’s statement constitutes fundamental proof of the fact. In relation to violence against LGBTI people, the Inter-American Court in the Case Azul Rojas Marín et al v. Peru (2020) recognized that: **“LGBTI people have historically been victims of structural discrimination, stigmatization, and different forms of violence and violations of their fundamental rights(...) the State cannot act against a person based on their sexual orientation, their gender identity and/or their gender expression.”**⁷⁴



Mauricio*, Sebastián* and Gabriel* were victims of sexual violence in a police station after their detention in the context of National Strike demonstrations. Gabriel* self-identifies as a gay man and, as a result of these incidents, he had to make his sexual orientation public. The three men were detained by police officers and taken to the police station, **“once inside, the custody officer, the patrolman who received us, entered the cells and began to goad the prisoners saying that ‘fresh meat’ had arrived and to shout that they were going to rape us, that they were going to beat us, that they were going to teach us a lesson for throwing stones, the custody officer made us take off our shoes... they took us to the cell where the prisoners made ‘an honour guard’ for us.**⁷⁵ Inside the cell, Sebastian* described how they were taken near to the bathroom where they were groped on several occasions, **“one of the guys stuck his finger in my anus and then slapped me... they put me in a corridor, one of the guys undressed and stuck his penis in my face”**. Gabriel* was forced to perform oral sex on two inmates, **“they threatened to beat him if he did not perform oral sex on two of them, they humiliated him because of his sexual orientation.”**⁷⁶

⁷¹ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, January 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/000/97/PDF/G1600097.pdf?OpenElement>

⁷² Inter-American Court of Human Rights, Case of Miguel Castro Castro v. Peru, para. 306.

⁷³ Inter-American Court of Human Rights, Case of Rosendo Cantú et al v. Mexico, para. 114; Case of Fernández Ortega et al v. Mexico, para. 124.



In his testimony, shared with Amnesty International, Gabriel* recalled that **“one of them told me I was very soft and very sweet, when they touched me I tried to take their hands off me but they beat me”; “one of them called me and asked me if I liked men, everything happened inside the cell, behind closed doors... he told me that if I didn’t cooperate they were going to stab me... they asked me if I was gay, I told them yes... one of the prisoners grabs me and shoves me in the bathroom and tells me to take off my pants, I was in a state of shock... they teased me saying that I was a girl, they continued to threaten me that I could make it easy or hard for myself... there was nothing we could do but go along with what they demanded... I had to have oral sex with two of them.”**⁷⁷ Despite what happened and the serious impacts this has had on his life, he says that **“what happened to me should not happen to anyone else and that is why I want to continue with this process”**. Caribe Afirmativo, an organization that defends the rights of LGBTI people that is accompanying the case, has stated that **“until that moment he had not experienced any conflict over his sexual orientation or gender expression, but as a result of the incident he started to wonder if this was why he became an ‘easy target’ at the time of the attacks and asking himself whether he should change aspects of himself so as not to have to go through an episode like this again.”**⁷⁸

This case was reported to the IACHR. Despite this, progress in the criminal investigation has not improved and one year after the complaint was filed, no charges have been brought. Alejandra*, a lawyer acting in the case, stated that a link has not been established between the custody

officers in the police station and those who carried out the actions, only the prisoners, ignoring officers’ duty as guarantors and the responsibility of the state to investigate sexual violence committed by its officials within a temporary detention facility.

⁷⁴ Inter-American Court of Human Rights, Case of Azul Rojas Marín et al v. Perú (2020).

⁷⁵ Interview conducted on 18 August 2021. The cited reference describes the arrival of the survivor at the detention centre, where other detainees and police officers arrange themselves in a row to “welcome” someone as an expression of power.

⁷⁶ Interview conducted on 18 August 2021.

⁷⁷ Interview conducted on 18 August 2021.

⁷⁸ Interview conducted on 18 August 2021.

VIOLENCE AND DISCRIMINATION: VIOLENCE INTENSIFIED ON THE BASIS OF GENDER IDENTITY OR EXPRESSION, ETHNICITY AND RACE

“

Aida*, an Indigenous woman and member of the Indigenous Guard,⁷⁹ was in the streets supporting the social demonstrations. She recalled that **“the police saw me and when they realized that I was wearing clothes that identify me as Indigenous, because I was wearing the symbols of the chapter and the CRIC⁸⁰ [a scarf], they came up to me and insulted me. I resisted and started screaming, they covered my mouth, ripped my shirt off, groped my private parts to the point of making me feel ashamed. They used force and violated me, they used my body, like animals sharing their prey.”⁸¹** After the incident, she decided to report it to the authorities, but after a threatening leaflet was left on the door of her house she was forced to move away. Her case was documented by the IACHR during its visit to the country. Aida* said **“my community was discreetly informed because I feel very scared, I know that I am not the only one but I fear for my life, my body, the shame I feel because of the sexual assault makes me feel very humiliated and above all fearful.”⁸²** One year after the incident, there has been no substantive progress in the criminal investigation.

⁷⁹ The Indigenous Guard is conceived as its own ancestral body and as an instrument of resistance, unity and autonomy in defense of the territory and the life plan of the indigenous communities. It is not a police structure, but a humanitarian and civil resistance mechanism. It seeks to protect and spread its ancestral culture and the exercise of its own right.

<https://www.cric-colombia.org/portal/proyecto-politico/defensa-vida-ddhh-cric/guardia-indigena/#>

⁸⁰ CRIC, Cauca Regional Indigenous Council.

⁸¹ Interview conducted on 28 May 2021.

⁸² Interview conducted on 28 May 2021.



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Any woman can experience gender-based violence. However, in contexts of intersecting forms of discrimination people experience it differently, based on their race, ethnicity or other protected characteristics. These varied and interconnected experiences often generate aggravated negative impacts and need to be recognized.⁸³

The survivors of violence state that they were approached by ESMAD officials, whose actions were influenced by their **age, gender identity, ethnicity and race**, as they used racist and discriminatory insults during the acts of sexual violence, revealing that they were also attacked on grounds of their identities.

Gender-based discrimination is the context in which this violence occurred. National Police officials, including members of ESMAD, used force and violence against women, girls and LGBTI protesters while shouting at them that this was happening because they were “not at home cooking” or “bitches, sluts”, or because “they hoped they’d be raped”. The conduct of these officials occurred within a broader context of excessive use of force, but in these cases it was aggravated by discriminatory expressions based on the sexual orientation and gender identity of the victims. Police violence and the violence in the context of the armed conflict targeting LGBTI people have been widely documented and denounced by organizations such as Caribe Afirmativo, Colombia Diversa and the GAAT Foundation, demonstrating that there is a historical pattern of violence is based on prejudice and persistent impunity.

⁸³ CEDAW, General Recommendation 35 on gender-based violence against women, updating general recommendation 19, para. 12.

Another pattern identified is that gender-based violence was widely committed against **Indigenous women and Afro-descendant women** in the context of demonstrations. Amnesty International learned of at least 15 cases of gender-based violence against Afro-descendant women in Cali.⁸⁴ For example, the Proceso de Comunidades Negras (PCN) reported a case in which two Afro-descendant women were reportedly “brutally beaten, tortured and humiliated, in a National Police truck... they were groped and called black, bitches.”⁸⁵

Erlendy*, an Afro-descendant woman and mother of a member of the “Frontline”, was abducted by armed men in civilian clothes, physically and psychologically assaulted and told that this was because she supported the National Strike. After this incident, she tried to seek help in a public clinic, but reports that she did not feel comfortable with the care she received. She also said that they refused to give her a copy of her medical report when she asked for one. Despite this, she decided to lodge a complaint with the Attorney General’s Office, but she said that the questioning did not focus on gender-based violence, but on obtaining information about her participation in the demonstrations and about the Frontline. A week after filing the complaint, unidentified individuals raped her and cut her with a knife all over her body, and she has been threatened by police officials, which is why she reported that the sexual violence was linked to police officials.

Abel*, an Indigenous teenager, was the victim of a sexual assault when he was approached by ESMAD officials in the context of a demonstration. He recalled that they shouted at him **“where is your resistance?” and “faggot guerrilla”**,⁸⁶ while they grabbed him violently by the testicles.

Oliva*, a trans woman human rights defender, reported to Amnesty International that **“several women were victims of gender-based violence, although that shouldn’t happen (...) I was the only trans woman (...) we live more exposed to the arbitrary actions of the state and law enforcement”**.⁸⁷ She described how on 15 May she was accompanying a demonstration in her role as a woman defender. ESMAD members threw tear gas grenades at the group and she was left alone when everyone ran away. At that point she began filming a police official assaulting a young man and an ESMAD official approached her from behind. He put his penis up against her and made sexual movement, leaving her in a state of shock. After the incident, she received threats on social media in which they said **“because I’m a defender of vulnerable populations, a guerrilla, a defender of faggots, prostitutes and hooligans, they were going to teach me what sexual violence was. The previous day I had made a public complaint about the sexual violence by the police and the next day I received the threat.”**⁸⁸

⁸⁴ PCN, Informe afectaciones a pueblo negro afrodescendiente en Colombia en el marco del Paro Nacional, 9 June 2021.

⁸⁵ PCN, “Denuncia de abuso policial y maltrato a dos jóvenes afros”, Soacha, 4 May 2021.

⁸⁶ Criminal Complaint and Disciplinary Complaint, 4 June 2021.

⁸⁷ Interview conducted 18 August 2021.

⁸⁸ Interview conducted 18 August 2021.

ATTACKS ON WOMEN AND LGBTI HUMAN RIGHTS DEFENDERS AND JOURNALISTS

Gender-based violence was also particularly acute against women journalists and human rights defenders monitoring and mediating with the security forces, they were in a situation of double risk: for being women and for defending human rights.

In this context, women organized to accompany the demonstrations and provide immediate advice in cases of gender-based violence, including for example the Esquema Feminista de DDHH and La Manada Colectiva Feminista, among others.⁸⁹

As of 12 May 2021, more than 90 cases of violence against human rights defenders undertaking monitoring activities had been reported.⁹⁰ One of the cases documented by the Esquema Feminista de Derechos Humanos and reported to Amnesty



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<https://amnistia.org.mx/contenido/index.php/no-a-la-represion-en-colombia/>

⁸⁹ Manifiesta Media, Laura Tatiana Peláez Vanegas, “Doble amenaza: ser mujer y defensora de Derechos Humanos en Colombia, June 2021, <https://manifiesta.org/doble-amenaza-ser-mujer-y-defensora-de-derechos-humanos-en-colombia/>

⁹⁰ Esquema feminista de DDHH, Reporte de Vulneraciones a los Derechos a la Vida, la Seguridad, la Integridad Personal y la Protesta Social en Colombia, June 2021.

International was that of a human rights defender who **“was taken into the police station by force, her breasts were touched and she was intimidated with threatening and lewd comments about her body by one of the policemen who told her ‘I’m going to put it in deep, I’m going to take off your shorts, I’m going to run my tongue all over you so that you know what sexual violence is’”**.⁹¹

A well-known human rights defender from Popayán told Amnesty International that she has systematically experienced violence, **“under the pretext and argument of the authorities that we are not defending the human rights of the security forces and that we are biased in our defence of the rights of the demonstrators, which ignores the raison d’être of the Verification Commissions which is to evaluate the disproportionate use of force... in the context of social protest, the defenders who are clearly identifiable as such experience harassment and verbal and physical attacks, principally by ESMAD.”**⁹²

In her opinion, **“the attacks reveal clear differentiated aspects compared to the attacks against male defenders, since violence against women defenders is characterized by misogynistic abuse aimed at invading their personal space, violating their bodies and threatening the sexuality of women defenders... The responses given by members of the National Police to human rights defenders show on a deeper level that the military doctrine which informs the security forces is based on patriarchal practices and discourse that are called into question by women defenders on the**

ground, a situation that seems to disconcert officials, who resort to erratic and violent comments and attitudes”.⁹³ The lawyer also received serious death threats signed on behalf of the “Black Eagles”.

The reports received and documented by Amnesty International describe the threats and risks faced by women who play a leadership role and report police abuses, heightened in cases of women with diverse gender identity or expression. The attacks are accompanied by verbal and psychological violence, which expresses the fact that they are the targets of sexual violence because of their political role in defence of demonstrations against the government. The attackers’ objective is to silence them and to use violence in order to demonstrate power and authority. In addition to this violence, Amnesty International also learned of the use of legal proceedings against women who denounce gender-based violence, including attacks against officials of bodies such as the Ombudsperson’s Office who have highlighted this type of incident.⁹⁴

Among others, four women human rights defenders aged between 20 and 23 were victims of gender-based violence by National Police officers during National Strike demonstrations. They report that they were clearly identified as human rights defenders and accompanying the demonstrations, but the police shouted at them **“human rights, nothing but a bunch of sluts”** and called them **“bitches”** as they were forced to get into a National Police truck.

⁹¹ Esquema feminista de DDHH, Reporte de Vulneraciones a los Derechos a la Vida, la Seguridad, la Integridad Personal y la Protesta Social en Colombia, June 2021.

⁹² Amnesty International, interview with human rights defender from Popayán, 17 June 2021.

⁹³ Amnesty International, interview with human rights defender from Popayán, 17 June 2021.

⁹⁴ Ombudsperson’s Office, Boletín 3 sobre VBG en el marco del Paro Nacional.

One of them stated that, according to her psychologist, **“I have a case of post-traumatic stress because after that episode I cannot sleep, I have nightmares, I wake up sweating, desperate, she tells me that I have to take medication because not sleeping is worrying and adds that now I have a phobia about the police and that I have to overcome that because I cannot stop acting as a defender.”**⁹⁵

Another of the women defenders said: **“we were human rights defenders and we were monitoring the proportionate use of force and they verbally attacked me.”** They also shouted at them that they were **“motherfucking bitches”** and that they were going to bring a female agent **“because you bastards already go around saying that we are rapists, so I am going to bring a woman to search them, but all those who come out on the street are bitches”**.⁹⁶

Antonia*, a well-known human rights defender, and Manuela*, a psychologist, who accompanied the demonstrations, report that they have experienced discrimination on the basis of their gender by National Police officials. Antonia remembers that they shouted **“criminal accomplices and old hag”** at them. Manuela* said that the cases overwhelmed her, especially because of the raw accounts of survivors who describe the serious psychosocial impacts of the violence: **“they did not penetrate me physically, but they penetrated my head and soul. I was called a bitch, a guerrilla, a bastard; they kicked me, threw me to the ground.”**⁹⁷

On 29 April 2021, Liliana*, a 27-year-old journalist, was reporting on the ground for a local radio station and recalls that she was wearing clear press identification. There had not been any violent incidents at the scene when she was approached by armed men in civilian clothes who forcibly took her to an unknown location, which she says looked like a police station. She was then forced to get into a private vehicle, without any explanation. She remembers that they yelled at her **“this is where we’re going to rape you and throw you in some ditch (...) everything they said was extremely frightening, threatening and I began to cry in terror, I began to pound the door of the truck with my body and (...) they threatened to hit me more and shouted ‘keep quiet or it’ll be worse for you’”**,⁹⁸ while she begged that, if they were going to kill her, that they do it at once, because she felt **“death very close and I began to cry more and more, I begged them, I begged them to kill me right now, to please not torture me any more, they laughed and repeated what they would rape me before killing me.”** After this journey, she was dropped off at a police station and met by an officer who did not seem surprised or question the armed men.

Liliana* decided to file a complaint, but the Attorney General’s Office has asked her to expand her account, so she had to retell the traumatic events more than three times. In fact, they continue to call her, but a year after the events there had been no substantive progress in the investigation. Liliana* believes that she was tortured and that this happened because of her activism, to silence her voice as a journalist.

⁹⁵ Interview conducted 6 October 2021.

⁹⁶ Interview conducted 6 October 2021.

⁹⁷ Case documented by Vorágine, <https://voragine.co/encierrenlas-y-ahoguenlas-abuso-policial-en-palmira-durante-el-paro/>

⁹⁸ Interview conducted 6 October 2021.



ACCESS TO JUSTICE AND COLLECTIVE COPING MECHANISMS



The state's response to gender-based violence, including sexual violence, must be comprehensive and focused on guaranteeing the rights of survivors. There are a series of obligations for different institutions, including those that are part of the administration of justice. In this section, Amnesty International documents worrying trends in state behaviour, evidenced in various cases. Among other concerns, there are allegations of incorrect categorization of the offences reported, lack of protection of complainants and, in general, lack of confidence in the institutions responsible for receiving and processing complaints.

Some survivors of the events presented in the previous sections decided to go to the state entities responsible for care, protection, access to justice, security and mental and physical healthcare. Their statements to Amnesty International set out the areas that need to be strengthened so that institutions can provide comprehensive support and create greater security for processes of recovery and access to justice. For survivors who actually filed complaints with the authorities or sought care and whose cases are documented in this report,

the process of approaching the institutions has been revictimizing due to barriers created by the attitudes of those dealing with the cases or to delays in investigations and little access to information.

Colombian civil society organizations have documented the barriers to reporting and access to justice in cases of gender-based violence. Thus, for example, Sisma Mujer reports that, despite the clear increase in gender-based violence during the years 2020 and 2021, this reality is only reflected in the information collected by institutions focusing on women and gender.⁹⁹

Most survivors do not have the confidence needed to approach state institutions because of fears that they could be revictimized or receive threats or attempts on their lives for reporting.

Despite these fears, this section highlights the collective coping mechanisms, which have been developed mostly by survivors of sexual violence in the context of the armed conflict who opened their doors to survivors of violence inflicted in the context of the 2021 demonstrations.

⁹⁹ Sisma Mujer, La lucha feminista no se detiene. Comportamiento de las violencias contra las mujeres en Colombia durante 2020 y 2021, 25 November 2021, <https://www.sismamujer.org/wp-content/uploads/2021/12/%C2%A1La-lucha-feminista-no-se-detiene.pdf>

SHORTCOMINGS IN THE IMPLEMENTATION OF CARE PATHWAYS AND ENSURING ACCESS TO JUSTICE

The Attorney General's Office publicly reported that, as of December 2021, it had received complaints from 36 survivors of gender-based violence, but did not reveal what progress had been in the investigations or the protocols applied in order to comply with international human rights standards.¹⁰⁰ According to information from OHCHR, the national government reported that between 28 April and 30 July 2021, there were no calls to Line 155, which was designed to receive complaints of gender-based violence at the national level.¹⁰¹ These figures are not consistent with reports from civil society organizations and institutions. The Ombudsperson's Office, for example, received reports of 87 cases of gender-based violence between 28 April and 14 May 2021.¹⁰² While, the Campaña Defender la Libertad alone recorded 34 cases.¹⁰³

The National Police, in response to a request for information submitted by Amnesty International in May 2022, reiterated its commitment to maintaining annual training processes on gender-based violence. Among the outcomes

described, it reported that “an administrative act, Resolution 03872, 19 November 2021 was put in place” which “*adopted guidelines on a cross-cutting gender perspective in the National Police, a policy document that establishes the care pathways, prevention protocols, differentiated care and other guidelines that allow the institution a starting point for the implementation of the mainstreaming of the gender perspective.*”¹⁰⁴ This communication did not include information on progress in internal investigations into allegations of gender-based violence.

It is clear from the research carried out by Amnesty International that in three cases the survivors managed to identify the members of the National Police responsible, in the others, the circumstances in which the incidents took place prevented them from doing so. In two of the cases where the officers were identified, there is no information on internal measures taken by the National Police following the complaints. In its response

¹⁰⁰ Office of the United Nations High Commissioner for Human Rights, El Paro Nacional 2021: Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia, para. 133 <https://www.hchr.org.co/documentos/el-paro-nacional-2021-lecciones-aprendidas-para-el-ejercicio-del-derecho-de-reunion-pacifica-en-colombia/>

¹⁰¹ Observaciones del Gobierno Nacional al documento “Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia”, submitted to the OHCHR on 9 December 2021.

¹⁰² Ombudsperson's Office, “La Defensoría ha recibido 87 reportes de violencia basada en género a mujeres y personas OSIGD durante la protesta social”, 14 May 2021, <https://www.defensoria.gov.co/-/la-defensor%C3%ADa-ha-recibido-87-reportes-de-violencia-basada-en-g%C3%A9nero-a-mujeres-y-personas-osigd-durante-la-protesta-social>

¹⁰³ Campaña Defender la Libertad, Boletín Informativo #16: Paro Nacional, 2 June 2021, <https://defenderlalibertad.com/boletin-informativo-16-paronacional/> Ministry of National Defence, Colombian National Police, No. GS-2022-022067-DIPON-ACDEH-3.1, 3 June 2022. Amnesty International translation.

¹⁰⁴ Ministry of National Defence, Colombian National Police, No. GS-2022-022067-DIPON-ACDEH-3.1, 3 June 2022. Amnesty International translation.



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<https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/colombia-lesiones-oculares-gareth-sella/>

the National Police also failed to report on the progress made in implementing the recommendations of the IACHR.

In response to the request for information sent by Amnesty International in April 2022, the Attorney General's Office noted that it *"had begun implementing a methodology on the investigation of the crimes reported on the day of a protest, which establishes as an essential element evidence of the circumstances surrounding the incidents under investigation, in such a way that these incidents are not subject to isolated verification and assessment, but on the contrary, incorporate an investigation of all the elements of time and place in which they occurred, highlighting not only the situation before, during and after the incident, but the circumstances, as well as the nature of the aggression, the tension generated in the public, and the characteristics of the victim and the perpetrator, among other aspects"*.¹⁰⁵ In its response, the Attorney General's Office does not mention the human rights standards followed in its investigation protocols and does not refer to the primacy of survivors' testimony as fundamental proof in cases of sexual violence. As of February 2022, the Attorney General's Office had launched investigations into 13 cases of sexual violence that occurred in the National Strike protests. In the institution's latest official response to Amnesty International's request, no update was given to this figure.

However, in Colombia, various norms have been adopted on the rights and protection of women survivors of gender-based violence and sexual violence within the family in the public sphere and in the context of armed conflict.

¹⁰⁵ Attorney General's Office, Directorate of International Affairs, Re: response-measures implemented to guarantee access to justice for gender-based violence (GBV) and sexual violence, 08/30/2022, response to issue n 20221700059021.

The pathway for care, protection and accompaniment of survivors of this type of violence is regulated by Law 1257 of 2008 and Law 1719 of 2014. These laws have developed the human rights standards drawn from international instruments that Colombia has ratified and included within its constitutional corpus. Colombia, therefore, recognizes the rights of survivors of sexual violence to be treated with dignity, both in healthcare and in access to justice; the right to information about available services; the right to free, timely and quality healthcare; and the right to protection.¹⁰⁶

The relevant laws¹⁰⁷ highlight the obligation of the state to implement an inter-institutional care pathway for victims of gender-based violence and sexual violence, which brings together different sectors such as health, justice and education, among others, to guarantee their rights.

In particular, they set out the responsibility of the state to train National Police officers on gender-based violence in order to prevent and eradicate it. With the approval of Law 1719 of 2014, protection was extended to survivors of

sexual violence and the guarantee of access to justice was emphasized, especially for survivors of these crimes in the context of the armed conflict.

Thus, the regulatory framework in Colombia has advanced towards the recognition of the right to live a life free of violence, but in practice both the Attorney General's Office and those responsible for the administration of justice have fallen short of their duty to protect and guarantee the rights of survivors. These entities are responsible for guaranteeing access to justice in dignified, accessible conditions, guided by the principle of putting survivors at the centre and avoiding revictimization. The rights of victims of sexual violence are clearly set out in the law and include the right to be heard, to have their needs addressed and to be protected; to receive advice; to have their privacy and confidentiality maintained at all times, ensuring the confidentiality of the information; to emergency contraception and safe abortion; to be informed of the progress of proceedings; to not be discriminated against on the basis of their sexual orientation; to have particular conditions of vulnerability taken into account, such as their age, disability, membership of an ethnic group or groups facing discrimination; to not be confronted with the attacker at any stage of the process; and to have their testimony as having fundamental probative value.¹⁰⁸

¹⁰⁶ Mesa de género de la cooperación internacional en Colombia, Law 1257 of 2008, <https://colombia.unfpa.org/sites/default/files/pub-pdf/ley1257de2008.pdf>

¹⁰⁷ Law 1257 of 2008 and Law 1719 of 2014.

¹⁰⁸ Congress of the Republic of Colombia, Law 1719 of 2014, http://www.equidadmujer.gov.co/ejes/publicaciones/Derechos-victimas-violencia-sexual-Ley_1719.pdf

Although these legislative advances have been highlighted by the CEDAW Committee, in its observations on Colombia's periodic report of 2019 it reiterated that concern persists about

*“the limited institutional capacity of the judiciary, in particular in rural areas, and the high level of impunity, in particular in cases related to femicide, sexual violence and violence against women human rights defenders, which disproportionately affect women from vulnerable groups, such as indigenous women, Colombian women of African descent, rural women, women with disabilities and lesbian, bisexual and transgender women.”*¹⁰⁹

Defenders of women's and LGBTI people's human rights reported that in the context of the National Strike, there were shortcomings in care pathways, protection and access to justice and the rights of survivors were not protected. For example, the lawyers of the Cali La Manada Colectiva Feminista, who provide legal advice and psychosocial accompaniment to survivors, described the institutional violence experienced when approaching entities such as the Attorney General's Office or the Ombudsperson's Office;

they told Amnesty International that **the care practices adopted by officials were poor, which resulted in revictimization and as a result victims abandoned their efforts to seek justice.** This is consistent with the differences between the numbers of cases of gender-based violence reported during the days when the protests occurred and the complaints actually received by institutions such as the Attorney General's Office.

According to La Manada Colectiva Feminista, the failure of institutions to respond appropriately when survivors first approach them combined with threats act as barriers to survivors' access to justice since *“they prevent in a decisive way the defence, guarantee and promotion of the human rights that the Colombian state has committed to defend in the international legal framework by signing the international covenant on human rights and treaties, conventions and other documents that regulate the actions of states on human rights issues in the signatory countries”*.¹¹⁰

The Attorney General's Office has a protocol for the investigation of sexual violence developed in conjunction with women's organizations and the advice of the OHCHR, in which guidelines are set out for the criminal investigation and prosecution of these crimes.¹¹¹ This protocol, established in 2016, sets out the obligation of the officials of this body who investigate sexual violence

¹⁰⁹ Committee on the Elimination of All Forms of Discrimination against Women, Concluding observations on the ninth periodic report of Colombia, 14 March 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCOL%2fCO%2f9&Lang=es

¹¹⁰ La Manada Colectiva Feminista, Informe sobre violencia policial contra las mujeres en el Paro Nacional, Colombia, 28 de abril-julio de 2021. Amnesty International translation.

¹¹¹ Attorney General's Office, Protocolo de Investigación de violencia sexual, Guía de buenas prácticas y lineamientos para la investigación penal y judicialización de delitos de violencia sexual, <https://www.fiscalia.gov.co/colombia/wp-content/uploads/Protocolo-de-investigacio%CC%81n-de-violencia-sexual-cambios-aceptados-final.pdf>

to develop their methodological plan guided by international standards, with a gender and intersectional perspective and differentiated approach, following an analysis of appropriate context and guaranteeing the protection of victims. One of the first guidelines is the recognition of the victim's complaint as the main source of information in these cases, the need to coordinate with the health sector to guarantee comprehensive

care, the appropriate gathering of evidence without revictimization and comprehensive psychosocial support.

Two of the cases documented by Amnesty International in this report reflect survivors' lack of confidence and fear of bringing their cases before the entities responsible for investigating and providing protection:



Alba*, a woman who ran a “community kitchen,”¹¹² received threats and was the victim of sexual violence by armed men in civilian clothes, whom she believed may have been police officers. She decided not to report this for fear of reprisals against her life and that of her family.

Clara*, a woman who belonged to the Mobile Support Brigade,¹¹³ was the victim of gender-based violence while accompanying a demonstration. After the incident, the impact was such that she could not carry on studying or working. She subsequently received threats that if she filed a complaint, she would have to bear the consequences.

Survivors of gender-based violence and sexual violence face **barriers and obstacles in bringing their cases** to justice and accessing efficient processes, in line with human rights standards and victim-centred processes. **In at least 50% of the cases documented by Amnesty International, the victim choose not to report the incident to the criminal justice system for fear of being revictimized, stigmatized or persecuted.** According to one of the lawyers interviewed by Amnesty International for this

report, **making the decision to take a case to the authorities can mean not only revictimization, but also being judged by public officials who blame them for being victims because they were protesting in the streets.**

For many, filing a complaint means submitting themselves to the scrutiny and judgement of the public officials who deal with them. In addition, some say that they do not believe that this means

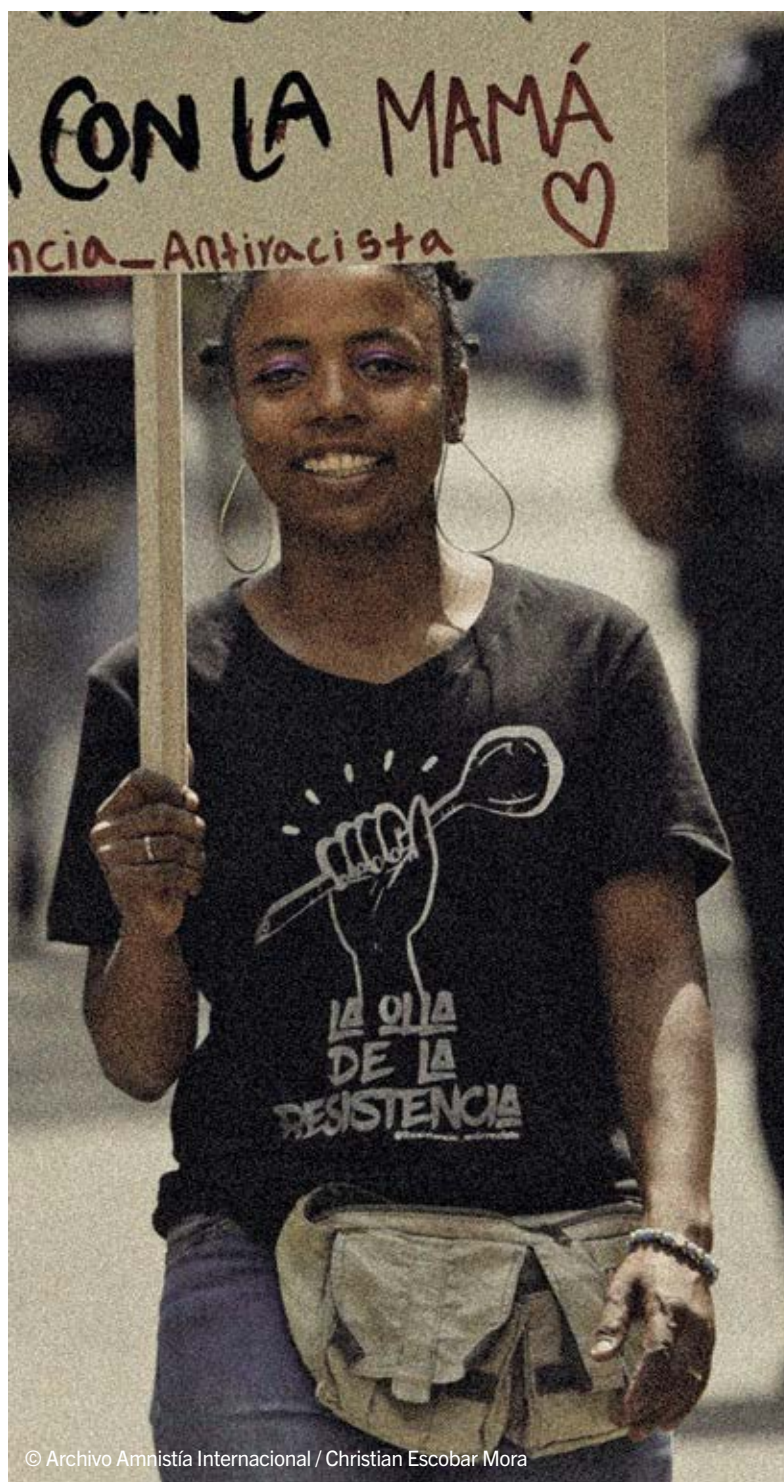
¹¹² According to the organization Derecho a no Obedecer, the aim of community kitchens is to provide a community meal prepared by several neighbours and friends, in a public space in the neighbourhood. It is a space where people gather and all the participants contribute food and work to prepare a meal for everyone to eat.

¹¹³ During the 2021 National Strike, health personnel and medical students organized Medical Support Brigades to care for the injured.

that their case will not result in impunity, since investigations of this type of offence rarely make progress and, therefore, they decide not to report it. In fact, one of them said that she received calls from an official at the Attorney General's Office to persuade her to abandon her complaint because it was not worth it. In the case of the LGBTI survivors who shared their stories for this report, they say they have no confidence to report incidents to the courts, because they are discriminated against and abused because of their gender identity or sexual orientation and this makes it difficult to describe the violence suffered.

One of survivors' main fears is that they will not be believed and, therefore, they prefer to turn to in other civil society bodies rather than to judicial entities. An example of this is sharing cases on social media, with the media or with civil society organizations because the judgement of public opinion is a more efficient way of eliciting an immediate response from public entities than filing a complaint with the Attorney General's Office.

The lawyers who shared their statements with Amnesty International were consistent in reporting that the **Attorney General's Office did not charge people in the cases they dealt**



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¹¹⁴ See Law 1257 of 2008 and Law 1719 of 2014 and the Committee on the Elimination of All Forms of Discrimination against Women, Concluding observations on the ninth periodic report of Colombia, 14 March 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCOL%2fCO%2f9&Lang=es

¹¹⁵ In Colombia, the military criminal justice system can deal with crimes committed by members of the security forces on active duty and where the act was committed while they were in the service. However, when it comes to human rights violations, the investigation must be conducted by the ordinary justice system as stated by the Constitutional Court, Judgment SU-190 of 2021, <https://www.corteconstitucional.gov.co/relatoria/2021/SU190-21.htm> (Spanish only).

with the crimes of sexual violence or sexual abuse, but rather with offences such as personal injury or other type of crime, failing to adopt a gender-based perspective and to put in place the additional protection that survivors need.

Such miscategorizations not only point to a serious lack of awareness of gender-based violence on the part of the authorities, but are also in breach of the state's duty to combat all forms of gender-based violence and constitute gender-based discrimination.

In addition, in an interview with Amnesty International, one lawyer noted that in one case of sexual violence in detention, the Attorney General's Office decided not to pursue the link with the police officers who encouraged and were complicit in the crime. This is despite the fact that this was a direct request made to the person in charge of the investigation.

The organizations accompanying proceedings before the Attorney General's Office consistently told Amnesty International that when filing a complaint, **victims often receive threatening leaflets** and hate messages on social media and experience suspicious instances of being followed. This suggests possible links between some judicial officials and police officers, which could lead to testimonies being disclosed to the perpetrators. The clear connection that exists between those who carry out judicial police activities in Colombia and the security forces are indications that lead organizations to believe there are such links. This is true both for the staff of the National Police Criminal Investigation Directorate (Dirección de Investigación Criminal

de la Policía Nacional) and of the Technical Investigation Unit (Cuerpo Técnico de Investigación) of the Attorney General's Office.

The psychosocial impacts of this type of violence are exacerbated by insensitive processes and the failure to comply with the protocols established for the investigation of sexual violence. Victims are required to give their testimonies time and again and to expand on their version of events, which can result in serious harm to their mental health and revictimize them.

Finally, a common concern about the processes is the length of time it takes to even start the investigation. In addition, despite the fact that Colombia has a comprehensive set of regulations for the protection of the rights of survivors of gender-based violence,¹¹⁴ prosecutors charge perpetrators with crimes that fall outside this category of offence. In some cases, they charge sexual touching or harassment or forced nudity as the offence of abuse of power. What is most worrying is the proposal to investigate cases under the heading of "acts committed while on duty" ("actos del servicio"),¹¹⁵ which means that they fall within the scope of the military criminal justice system. This is a breach of victims' right to justice and the state's obligations to investigate with due diligence, impartiality and full guarantees for victims of human rights violations.¹¹⁶

It is worth mentioning that, according to international human rights standards, States have an:

¹¹⁶ Amnesty International has previously recommended that the Colombian state remove from military criminal justice jurisdiction crimes constituting gender-based violence, including sexual violence. See Amnesty International, Colombia: "Scarred bodies, hidden crimes": Sexual Violence against women in the armed conflict, 13 October 2004, <https://www.amnesty.org/en/documents/amr23/040/2004/en/>

“States have an obligation to investigate effectively, impartially and in a timely manner any allegation or reasonable suspicion of unlawful use of force or other violations by law enforcement officials, including sexual or gender-based violence, in the context of assemblies. Both intentional and negligent action or inaction can amount to a violation of human rights.”¹¹⁷

Gender-based violence is a form of discrimination and therefore state authorities have a duty to take into account the link between gender and certain types of violence at all stages of the investigation. This includes the duty to categorize gender-based violence under the appropriate criminal provisions

and to ensure that people have effective and prompt access to justice and redress mechanisms. Moreover, under international human rights law, rape, a specific form of gender-based violence, may constitute torture, and therefore states have specific obligations in the areas of prevention, investigation and prosecution and the protection of survivors.¹¹⁸

The IACHR has recognized that the failure to investigate and punish acts of gender-based violence with due diligence has grave repercussions. It also underscores that impunity for such crimes sends the message that this violence is tolerated, fostering its commission.¹¹⁹ It is the duty of the state to restructure and strengthen the processes of training, education and capacity-building of members of the security forces on gender, diversity, equality and non-discrimination to guarantee respect for the rights to freedom of expression and freedom of peaceful assembly.

¹¹⁷ Human Rights Committee, General Comment 37, (CCPR/C/GC/37), 17 September 2020, para. 90.

¹¹⁸ Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Rape as a grave, systematic and widespread violation of human rights, a crime and a manifestation of gender-based violence against women and girls, and its prevention, 19 April 2021, Committee against Torture, General Comment 3, (A/HRC/47/26), 13 December 2012, para. 39.

¹¹⁹ Inter-American Commission on Human Rights, Observations and recommendations Working visit to Colombia, June 2021,

IMPACTS AND COLLECTIVE COPING MECHANISMS

Surviving an assault on sexual integrity and freedom causes profound harm, impacting various areas of victims' lives.

Women's survivors' organizations highlight the psychosocial impacts of **gender-based violence**, such as feelings of helplessness and insecurity, which affect their personal, work and social relationships. Personal relationships can be shattered as a result of violence, as some survivors tend to isolate themselves and feel guilt or anger about what happened. In particular, sexual violence affects self-esteem, feeling that violence may be the result of transgressing an imposed social order, which can often lead survivors to question their roles in social spaces and demonstrations. In the case of women who have a leadership role or defend human rights, these impacts are also transferred to the collective, community and social spheres, affecting accompaniment and support processes.

Survivors interviewed by Amnesty International consistently said that these incidents have had serious consequences for their mental health, including depression, acute stress, anxiety, constantly remembering the incident and the inability to sleep or experience enjoyment. In their own words they describe feeling anger at what happened and also sadness and helplessness because they believe that they will not get redress for what happened to them,



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¹²⁰ UNICEF, Violence against children and adolescents in Latin America and the Caribbean 2015-2021, <https://www.unicef.org/lac/media/29036/file/Violence-against-children-in-Latin-America-and-the-Caribbean-2015-2021.pdf>

which not only affects them individually but also their families and their social networks.

Sexual violence committed against adolescents has a particularly marked impact and therefore requires an enhanced response focused on their protection and recovery. According to UNICEF, adolescents may be at particular risk of post-traumatic anxiety and depression, which in some cases could lead to self-harm or suicidal thoughts if they are not addressed as a priority and on an ongoing basis.¹²⁰

Regarding **physical impacts**, the health and physical integrity of survivors is significantly affected, with both short and long-term consequences. Survivors of sexual violence experience injuries to their bodies and require comprehensive healthcare. Emergency care must be provided according to standards and protocols as the risk of sexually transmitted infections and diseases, including HIV, are high, as well as the risk of pregnancy. If survivors do not have adequate emergency care and follow-up care, they may experience physical harm, such as problems urinating or defecating, chronic pain, reproductive impairment, sexual dysfunction or a disability. The accounts shared with Amnesty International highlight shortcomings in primary care for these forms of violence, revictimization during medical consultations and the lack of training of medical personnel to enable them to provide appropriate care, in particular to LGBTI survivors.

The impacts on survivors' security and livelihoods are both medium and long term, in particular for those who decide to file a

complaint and initiate judicial proceedings. Following complaints to public entities, the survivors interviewed by Amnesty International have been threatened and in some cases this has led to their forced displacement and one was even forced to leave the country to protect their lives. The effects on their work, economic and social life are greater, since some say that they are unable to continue working due to the physical or psychosocial impact caused by the traumatic event.

The victims who gave their statements acknowledge that thanks to the support of feminist and human rights organizations they have been able to feel accompanied, receiving support that they did not receive from public health entities. The coping mechanisms adopted are diverse. In particular, women survivors participate in collective spaces with other women to heal the harm caused by the violence.

In response to the history of violence and sexual abuse against women in the context of the armed conflict, collective and community spaces have brought together extensive experience of accompanying survivors, which has provided unconditional support for those who experienced sexual abuse by the National Police in the National Strike. During the demonstrations, feminist human rights defenders came to the fore, providing support and advice to survivors, focused on ensuring guarantees and redress.¹²¹

The final report of the Truth and Reconciliation Commission emphasized that, the persistence

¹²¹ La Manada Colectiva Feminista in Cali and the Esquema Feminista de Derechos Humanos in Bogotá are two examples.

¹²² Colombian Commission for the Clarification of the Truth, Coexistence and Non-Repetition, *Mi Cuerpo es la Verdad: experiencias de mujeres y personas LGBTIQ en el conflicto armado*, pp 84 and 199, July 2022, <https://www.comisiondelaverdad.co/mi-cuerpo-es-la-verdad>. Amnesty International translation.

¹²³ Interview conducted on 11 June 2021.

of structural violence resulting in conditions of social vulnerability, gender gaps, violence and lack of protection of women and girls, **“women continue to rebel against social strictures, waging historic battles not only to enhance their status as citizens, but often to demand rights for all. Colombia’s recent history also shows their transformative power, contributions to democracy with inclusive nationwide agendas, resistance in defending territories, great capacity for networking, fundamental role in the construction of peace, and that it is women who have underpinned the reconstruction of the social fabric.”**¹²²

In one of the stories shared with Amnesty International, a survivor said that her message is **“I don’t feel alone”**¹²³ because despite the difficulties in accessing justice and the intense emotional impacts that are still healing, she has had the unconditional support of women human rights defenders and women’s organizations.

Collective coping mechanisms in the face of gender-based violence in Colombia have enabled survivors to gain visibility and to fight together to guarantee access to justice and non-repetition. However, the fact that survivors have turned to collective coping mechanisms in the face of gender-based violence does not absolve the Colombian state from its human rights obligations. The institutional response to these incidents must be comprehensive, prompt and effective; in the cases documented by Amnesty International it was none of these. This is especially important when survivors are constantly speaking out to call for non-repetition.





CONCLUSIONS AND RECOMMENDATIONS



This report documented cases of gender-based violence, including sexual violence, committed by National Police officials, and in particular the ESMAD anti-riot squad, against demonstrators, mostly women. Despite coverage in the media and on social media of these incidents in which the survivors themselves described these attacks, the justice system has not been effective in guaranteeing their protection, putting survivors at the centre of processes or ensuring their safety.

This report sets out the main patterns of gender-based violence committed by ESMAD officials of the National Police against women, girls and LGBTI people and shows how this violence was also racially motivated, as it was committed against Afro-descendant women and members of Indigenous peoples. It also highlights the shortcomings of the institutional mechanisms in dealing with gender-based violence and the failure to provide appropriate and prompt responses to survivors and address their circumstances, taking into account the situations of risk in which they find themselves as a result of historical social contexts of discrimination.

Amnesty International is also adding its voice to the call of organizations that accompany survivors in these processes to request that the Attorney General's Office ensure that these investigations make progress and are guided by due diligence, efficiency and a victim-centred approach to guarantee survivors' rights to truth, justice and comprehensive reparation.

AMNESTY INTERNATIONAL MAKES THE FOLLOWING RECOMMENDATIONS:

TO THE PRESIDENT OF THE REPUBLIC, TO THE SENIOR OFFICIALS OF THE NATIONAL GOVERNMENT AND TO DEPARTMENTAL, DISTRICT AND MUNICIPAL GOVERNMENTS:

- **As commander of the state security forces, the President of the Republic must condemn and issue unequivocal orders for an end to human rights violations against demonstrators,** including gender-based violence and sexual violence committed by National Police officials, in particular the ESMAD.
- **Ensure that everyone is able to exercise their right to freedom of peaceful assembly without any discrimination,** including based on gender, gender identity and/or expression and sexual orientation.
- **Ensure that the Ministry of National Defence and the National Police implement an effective policy to end to gender-based violence, sexual violence and excessive use of force during peaceful demonstrations.** This includes ensuring that when a serious allegation is made, the alleged perpetrator is immediately suspended from active duty and removed from any place or function where they may interfere in the investigation, for example by intimidating witnesses, while the civil justice system conducts a prompt, effective, independent and impartial investigation, in accordance with international standards.
- **Ensure that any restrictions imposed on the right of assembly and freedom of expression are demonstrably necessary and proportionate** to meet any of the legitimate objectives expressly enshrined in international human rights law. In particular, the authorities should refrain from using criminal and administrative legislation to deter participation in demonstrations and otherwise silence criticism of the authorities.
- **Redouble efforts to implement a national plan for the prevention of gender-based violence,** including sexual violence, violence due to prejudice, political violence and violence within institutions, paying special attention to Indigenous, Afro-descendant and rural women and LGBTI people.
- **Implement a reparation programme that enables survivors to fully exercise their right to restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.** Reparation should include different measures, such as monetary compensation and the provision of legal, social and healthcare services, including sexual, reproductive and mental health services to facilitate a full recovery. It must also be adequate, promptly allocated, holistic and proportionate to the severity of the harm suffered.
- **Ensure that due attention is paid to gender in the process of ensuring that all people,** in particular members of groups that have become vulnerable, are treated fairly and equitably and obtain fair and adequate compensation, rehabilitation and other reparation measures that meet their specific needs.

- **Refrain from making judgements based on gender stereotypes** about allegations of gender-based violence committed against protesters and recognize the mandate of the judicial authorities over these cases.
- **Provide adequate and accessible protection mechanisms to prevent new or potential acts of gender-based violence**, without requiring that survivors take legal action. This should include the immediate assessment of risk and protection, the implementation of a wide range of effective measures and, where appropriate, issuing and following up eviction, protection, removal or emergency banning orders against alleged perpetrators, including appropriate sanctions in case of non-compliance. Protective measures should avoid imposing undue financial, bureaucratic or personal burdens on survivors.
- **Comply with the orders of the September 2020 ruling of Supreme Court of Justice**¹²⁴ on the establishment of protocols for the prevention of gender-based violence, incorporating an intersectional perspective.
- **Comply with the recommendations of the IACHR on the thorough, impartial and survivor-centres investigation** of gender-based violence and sexual violence.
- **Cooperate with and refrain from hindering the work of the IACHR's Special Follow-up Mechanism on Human Rights in Colombia.**
- **Publicly recognize the legitimate work of women and LGBTI human rights defenders**, journalists and reporters, doctors, psychologists and lawyers who have accompanied the cases of protesters before the justice system and advocate for their protection and respect.
- **Publicly underscore that women and LGBTI human rights defenders have the right to carry out their work free from attacks, threats or harassment and that seeking justice is a human right.**
- **Provide for the creation of independent mechanisms for the supervision of the National Police** that have political and functional independence, adequate financing, institutional legitimacy, powers to access information and proactive powers to review patterns of misconduct committed by members of the National Police, including patterns of gender-based violence during the National Strike and other peaceful demonstrations. These mechanisms must ensure the thorough, prompt and impartial investigation of allegations of human rights violations by state agents, including the ESMAD of the National Police.

¹²⁴ Colombia: Supreme Court of Justice, Civil Cassation Chamber, STC 7641-2020, Issue no. 1101-22-03-000-2019-02527-02, <https://cortesuprema.gov.co/corte/wp-content/uploads/2020/09/11001-22-03-000-2019-02527-02-STC7641-2020.pdf>

- **Develop a structural reform of the National Police that results in the protection and guarantee of human rights as the basis of its actions.** This reform must include the mainstreaming of a gender and differentiated perspective and guarantee the full participation of survivors of gender-based violence in the formulation of the reform, with appropriate safeguards in terms of confidentiality and non-revictimization.
- **Strengthen the processes for training and monitoring tools and protocols on the prevention of gender-based violence,** including sexual violence, and on the absolute prohibition of torture for National Police officials, and in particular ESMAD, which promote unconditional respect for the bodies, life and integrity of women, girls and people with diverse sexual orientation and expression or gender identity. Strengthen training and monitoring tools and protocols aimed at the provision of sexual and reproductive health services, including free and informed access to abortion in cases of sexual violence.
- **Strengthen the judicial system,** including by increasing the provision of specialized financial, technical and human resources so that it can deal with cases in a timely, gender-appropriate, non-discriminatory and competent manner throughout the country, particularly in rural areas.
- **Facilitate access to justice for Indigenous, Afro-descendant, rural and migrant women** by widely disseminating information on judicial institutions and procedural guarantees in their mother tongues.
- **Ensure that all measures to combat gender-based violence are implemented with a survivor-centred perspective, recognizing survivors as rightsholders and promoting their agency and autonomy.** These measures should be designed with the participation of women and LGBTI people and take into account the particular situation of those affected by intersectional forms of discrimination.



ATTORNEY GENERAL'S OFFICE:

- **Ensure that the principle of a survivor-centred approach is applied in all proceedings to guarantee effective access to justice without discrimination.**
- **Apply the international and Inter-American standard on the probative value of the testimonies of survivors of sexual violence, without imposing disproportionate burdens on the victims to provide evidence.** All allegations of gender-based violence based on survivors' testimonies must prompt thorough, effective and impartial investigations to establish the facts and identify suspects, who should, where there is sufficient evidence to justify it, be brought to justice in accordance with fair trial standards.
- **Conduct impartial, thorough and survivor-centred investigations in accordance with international standards** of competence, efficiency, independence and impartiality, including an analysis of the chain of command effective in determining the responsibilities of authorities at all levels for acts or omissions that give rise to gender-based violence and other human rights violations committed by state officials.
- **Provide timely and effective protection to women and LGBTI human rights defenders** who are the targets of intimidation, threats and/or attacks because of their work and in the exercise of their right to peaceful assembly. In addition, strengthen efforts to ensure that all allegations of intimidation, threats or attacks against such defenders are promptly, thoroughly and impartially investigated and that the perpetrators are brought to justice and held to account.
- **Ensure that cases of gender-based violence are classified correctly, in a way that reflects the discriminatory motive behind them.** Cases of sexual and other forms of gender-based violence that amount to torture should be classified accordingly. Ensure that the crime of torture is not subject to statute of limitations in order to avoid any risk of impunity in relation to the investigation of those responsible and the prosecution and punishment of perpetrators.
- **Strengthen training processes for those responsible for receiving and analysing cases of all forms of sexual violence.** Strengthen training and monitoring tools and protocols aimed at the provision of sexual and reproductive health services, including free and informed access to abortion in cases of sexual violence.

TO THE OFFICES OF THE OMBUDSPERSON AND THE INSPECTOR GENERAL:

- **Strengthen the care pathways for survivors of gender-based violence and violence due to prejudice against women and LGBTI people in the context of social protest.** Ensure that survivors always have access to information about existing pathways.
- **Ensure respect for due process** and that human rights violations, such as sexual crimes committed by National Police officials in the context of demonstrations, fall within the mandate of the ordinary justice system.
- **Ensure that investigations of the National Police officials**, in particular ESMAD, make significant progress and that civil society can receive periodic reports on them.
- **Include a psychosocial component in the criminal investigation strategy.** Officials in the Attorney General's Office should guarantee the confidentiality, privacy and security of victims and their families, taking into account in particular women's ties to family and the community.
- **Implement the recommendation made by the CEDAW Committee in 2019** aimed at increasing the number of judges and prosecutors specialized in sexual violence issues.
- **Fulfil the obligation to ensure the promotion, exercise and dissemination of human rights** with independence and impartiality and free from interference by political authorities.
- **Provide legal and psychosocial support to survivors of gender-based violence and sexual violence who have reported their cases to the courts, ensuring their protection.**
- **Strengthen coordination channels** with human rights organizations and defenders.
- **Progress diligently disciplinary investigations opened** by the Inspector General's Office in a thorough, impartial manner, putting survivors of gender-based violence and sexual violence at the centre.

