



the right to protest

the need for an
intersectional and
transfeminist approach



The Right to Protest:

The need for an intersectional and transfeminist approach

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1. Introduction

The right to social protest is recognised and protected by international human rights law and implies specific obligations for states. In recent years, international and regional protection mechanisms have further developed standards for the handling of protests from a human rights perspective. In particular, they have referred to the need for specific actions in regard to certain higher-risk groups, such as women and LGBT+ persons.

In spite of the above, states do not seem to fulfil their obligation to adopt a differential approach; rather, there have been numerous violations of the rights of women and LGBT+ persons in the context of protests, which affect their possibility of exercising their right to expression, assembly and demonstration, as well as the exercise of their role as human rights defenders.

Different types of violence occur due to the gender of activists or protesters, which increases the vulnerability and risk of protesters who are already subject to institutional violence. These gender-based types of violence cover a wide spectrum of situations that take on different modalities in the different scenarios. Some examples are the stigmatisation by authorities; verbal, physical and sexual aggression; the improper use of criminal law to criminalize them; legal limitations on the exercise of the right to protest. It is also worth highlighting that these situations are exacerbated when there are intersectionalities, such as women or LGBT+ persons who are black, brown or Afro-descendant, rural or indigenous, or who live in rural areas or working-class neighbourhoods.

This adverse scenario for the right to protest is intensified by the insufficiency or absence of institutional responses. This condition is a consequence of both the androcentric logics of the bureaucracies involved and of the insufficient research on the specific nature of these violations and a constant absence of gender and intersectional perspective.

This document contains the surveys conducted on this issue and proposes possible actions towards a more complete elaboration of standards for the management of protests from an intersectional and transfeminist perspective.

2. Methodology and countries analysed

To produce this report, we worked with primary and secondary sources of information with the aim of building on existing knowledge in the region by adding reflections on the phenomenon from social movements and organisations. We included the perspectives and experiences of women and LGBT+ persons in relation to the specific gender-based violence they have been or are victims of during protests. Multilateral human rights protection institutions at regional and global levels worked on the issue and provided information and standards. However, this was done in the framework of broader reports on issues of protest or the use of police force, or the situation of women or LGBT+ persons, but was not specifically addressed.

This report delves into the situation faced by cis women, lesbians, gays, transvestites, transsexuals and transgender persons (LGBT)¹ in relation to protest in Latin America. We focus specifically on the gender-based violence and restrictions that people suffer in these contexts of public action, which are different from the historically recognised scenarios of gender-based violence, such as homes, sex-affective relationships or workplaces. These everyday places where gender-based violence occurs have been extensively analysed and specific interventions have been derived from these analyses, which would be deficient or even incorrect in the cases we are interested in. For this reason, we aim to analyse the sources and testimonies in order to delimit and characterise the singular logic of gender-based violence in the context of protest. On this basis, we will analyse the protections and preventions to be developed from a intersectional and transfeminist perspective. For this reason, we share the analysis that has been carried out.

Regional coverage:

The interviews and report reviews have been conducted in the following countries: Argentina, Brazil, Chile, Colombia, Dominican Republic, Honduras, Mexico, Nicaragua, Peru and Uruguay.

¹ For the sake of simplicity, we will use the term "trans" to refer to transvestites, transsexuals and transgender persons. This does not imply that we consider that it can be used across the board as a term that includes so many different identities and expressions that would be rendered invisible by the use of one term.

Latin America is vast and contains diverse geographies even within each country or district. For this reason, we cannot aspire to have complete regional coverage in this initial study. The amount of information obtained from different countries in this work varies due to the differential access to information that we have had. We understand that more research and surveys in rural areas, and in areas far from large urban centres, are needed.

Two of the countries covered (Chile and Colombia) recently went through periods of massive demonstrations in almost the entire national territory that lasted for months, and in which numerous cases of gender-based violence were verified. Therefore, there is more information from those countries.

1. We started studying reports from international and regional human rights protection institutions in order to identify:
 - a. Standards for handling protests in relation to women and LGBTI population groups.
 - b. Recommendations or proposals for police or security intervention in the context of social protests.
 - c. Reports on violence against women and LGBTI persons committed by police, military and security forces during protests.

2. We spoke with numerous women's organisations in different countries and some national institutions to learn about cases of violence against women and LGBT+ persons in the context of protests in the region. The organisations contacted ranged from large international organisations to national groups, and even local or community-based groups. We also interviewed lawyers responsible for field legal monitoring to get a sense of the evolution of judicial investigations and the role of different state agencies in relation to the cases.

3. We have surveyed and analysed reports issued by organisations or state bodies: Human Rights Institutes and Ministries or Gender and/or Diversity Areas.

4. We conducted in-depth interviews with key informants who are members of feminist and LGBT+ rights organisations in order to incorporate their field vision regarding the extent of violence, institutional responses and possible needs or proposals for the improvement of gender standards and institutions. Some of the interviewees were victims of abuse or violence, others were partners of victims, while others worked on their cases in feminist, LGBT+, human rights or community centre organisations. All their names have been changed so as to protect their identities, except for those who expressly authorised the use of their names.

The work, descriptions and diagnoses are based on a comprehensive analysis of the information and cases analysed. They do not aspire to focus on the particular situations in each country, especially in terms of legal frameworks and institutional designs, due to the enormous variability between countries in the region. They do identify some situations that have the scope to mark relevant differences, such as the existence or not of gender identity laws, or the militarisation of state security institutions.

3. The right to protest

In recent years, the Universal Human Rights System and other regional protection systems such as the Inter-American Human Rights System (IAHRS) have affirmed that states are obligated to respect, protect and guarantee human rights in contexts of protest. They have highlighted the interdependence and indivisibility of the rights exercised through public demonstrations and social protest actions (in particular political rights, freedom of expression, freedom of assembly and freedom of association). Moreover, these rights together make the democratic game possible.²

The right to protest is recognised and protected by Article 21 of the International Covenant on Civil and Political Rights (ICCPR). Protest is a temporary and deliberate gathering for a specific purpose with the aim of expressing opinions, grievances and aspirations or allowing celebrations. It comprises different types of expressions and manifestations which may be.³

² IACHR. RFOE. Protest and Human Rights Report, 2019.

³ United Nations. Human Rights Committee, General Comment No. 37 (2020), on the right of peaceful assembly CCPR/C/GC/37; Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper handling of demonstrations, A/HRC/31/66; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27.

- Regarding the venue: in public and private spaces, outdoors, indoors and online.
- Regarding the duration: limited in time but prolonged protests and sit-ins, such as an occupation, are also protected.
- Regarding the form: they can be stationary or mobile and take many forms, including meetings, demonstrations, strikes, processions, rallies, campaigns, sit-ins, candlelit vigils, flash mobs, pickets and occupations.

The right to protest must be interpreted in such a way as to ensure that those exercising it enjoy the protection, even when other individuals in a crowd commit acts of violence.

Collective experience shows that a protest is often classified as “violent” or “non-peaceful”, even when the vast majority of people present do not engage in acts of violence. This classification is often used to justify the deployment of repressive actions by the state. In order to avoid this problematic dichotomy (peaceful - non-peaceful), we speak here of the “right to protest”, rather than the right to peaceful assembly. The classification of an entire demonstration as “non-peaceful” does not arbitrarily override the assembly rights of a large number of individuals.

4. Violations of the right to protest in the region

Restrictions on the right to protest do not only affect women and LGBT+ persons. The pattern of response to protest in the region includes the abusive and disproportionate use of force by security forces, mass and arbitrary arrests, and the criminalisation of protesters and leaders of social movements and entities that call for and organise demonstrations. Women and LGBT+ persons who participate in these spaces often suffer special and aggravated violations, which are related to their condition. These violations are exacerbated when there are intersectionalities involved, such as indigenous people, Afro-descendants or other historically relegated groups. Furthermore, in recent years there has been a proliferation of legal reforms that resulted in the creation of new criminal offences and aggravating circumstances, an increase in penalties, and the criminalisation of protesters for legitimate conduct, typical of social protests.⁴

Violence against women and LGBT+ persons in the context of protest is further characterised by excessive and unnecessary use of force, gender-based verbal and physical abuse and sexual violence.⁵ These differentiated forms of violence are a consequence of the historical and structural inequality that has characterised power relations and discrimination against women and LGBT+ persons.

Just to cite a few examples, in Mexico, between 2020 and 2021 there were serious cases of repression of protest in 10 states. Women were victims of physical, psychological, verbal and sexual violence based on gender stereotypes. In some cases, there were also subsequent criminal prosecutions to criminalise their participation in protests.

In Colombia, during the National Strike in 2021 (hereinafter, the Strike), allegations of sexual violence by security forces became common and aggravated in the case of women and LGBT+ persons of African descent or indigenous people.⁶ Violence took the form of sexual manifestations, sexual aggression (inappropriate touching), psychological violence including sexual harassment, harassment, threats against integrity, rape, murder and disappearances.⁷

In Honduras, after the coup d'état, protests were continuously subject to repression for two years. Notwithstanding, according to local organisations, the context has changed since Xiomara Castro took office. Elisa, a feminist and LGBT activist in Honduras says, “we went out on January 25 (national day of Honduran women, because it is celebrated as the day to exercise the right to vote) and on November 25 (security and violence) and we were gassed and repressed during the mobilisation. Some of our comrades were beaten. The repression was severe for three years. After that, it was women from native peoples who were subject to more repression. Once Miriam was gassed.”⁸

⁴ IACHR, 154th Sessions. Public Hearing on Social Protest and Human Rights in the Americas. 16 March 2015. IACHR, Annual Report 2015, chapter 4 A, paragraphs 59 and 60. Amicus CELS, Atenco case.

⁵ CELS. Report on protest in Latin America and Amnesty International. The Era of Women and IACHR Hearing on the human rights situation of women and girls in the context of protests in Mexico (28/10/2021).

⁶ High Commissioner's Report and IACHR Visit.

⁷ Report “Organizaciones de derechos de las mujeres y de personas LGBTIQ presentan informe a la CIDH sobre violaciones a los DDHH en medio de las manifestaciones” (Women's and LGBTIQ rights organizations submit reports to the IACHR on human rights violations amid demonstrations).

⁸ Fieldwork interview in Honduras.

Violence escalates when the people involved are young, Afro-descendants, members of indigenous communities or live in low-income areas. The racist component in the police response is very common. For example, after the murder of George Floyd, a public altar was erected and there was a violent response from nationalist groups and the police were very aggressive. *“On that occasion, they took two female activists who had been leaders for years, mistreated them, and took them to several hospitals without masks. Nationalists were not subject to the same treatment.”*⁹

The organisation Somos Identidad¹⁰ documented that in Cali, as in all cases of violence against black people of African descent, there was racist violence, as well as physical and sexual violence. In addition, CODHES recorded an unnecessary or disproportionate use of force in the cities and areas of the country where the protest had a greater presence of Afro-descendant and indigenous people.¹¹ In this respect, Temblores points out that *“The high number of cases of police violence committed in Valle del Cauca is not only due to the massive concentrations that took place there during the National Strike but to a racist and classist character in the actions of the security forces (and some civilians) that privilege the defence of infrastructure or certain areas of the city over life.”*¹²

In Brazil, the people interviewed stated that *“there is certainly a particular type of violence against black people. There are many more arrests and criminalizing processes against black and peripheral people.”*¹³

The participation of young women, mostly students, who are new to activism and suffer traumatic experiences is a concern in many countries such as Chile, Colombia, Brazil and Mexico. In Brazil, the environment of psychological torture and sexual abuse for these women was very intense, and it is common for them to be threatened with having their hair cut or their armpits shaved.¹⁴

Amnesty International Mexico notes that *“Several of the participants in the documented demonstrations were participating for the first time. Some of them, as well as other women who had participated previously, expressed that they were afraid of going out again to protest at least in the short and medium-term; therefore, the occurrence of human rights violations can have an inhibiting effect on the exercise of their right to demonstrate, especially in adolescents who were participating for the first time.”*¹⁵

Ariana, a young woman detained five months after a demonstration in Queretaro, Mexico, informed the Inter-American Commission on Human Rights (IACHR) of how she was detained without explanation, without being read her rights, and was then pressured to plead guilty. In the end, a judge removed her from the process due to flaws in the investigation and also because her location data had been obtained illegally. Ariana had anxiety and depression before the repression she experienced, but this aggravated the situation to such an extent that she attempted suicide on two occasions and was admitted to a psychiatric centre.¹⁶

Demonstrations represent a risk to the integrity of women to such an extent that women's organisations establish self-care guidelines, such as going out accompanied, carrying a charged mobile phone, identifying exit routes, setting up meeting points or informing someone they trust that they will be at the demonstration.¹⁷

Women defenders are at particular risk of being criminalized. Moreover, they are often victims of the misuse of criminal law, when defending certain rights and causes, such as the defence of land and environmental rights by peasant, indigenous and Afro-descendant leaders, labour rights by trade union leaders, sexual and reproductive rights, and LGBT rights.

In Peru, Unión Latinoamericana de Mujeres has stated that criminalisation has been used as a weapon to suppress opposition to the extractive industry, mainly large-scale transnational mining projects.¹⁸

In Tegucigalpa, Honduras, *“in recent years COPIN were constantly repressed for demanding justice for Berta Cáceres. They gathered in front of the public prosecutor's office (an emblematic place for demands) where no one had ever been repressed until COPIN came and they were repressed. Women moved with their children and the elderly. The repression was totally disproportionate, it lasted about two hours. There had been no violence on the part of the demonstrators, they had only put up some banners. Authorities deemed it an “attack on a public building”. In another case of communities, where men were the ones who were*

⁹ Fieldwork interview - Somos Diversidad in the Dominican Republic.

¹⁰ Fieldwork interview - Somos Identidad, Colombia.

¹¹ CODHES https://codhes.files.wordpress.com/2021/09/informe_ilex_race-codhes.pdf
<https://codhes.files.wordpress.com/2021/05/codhes-wp-analisis-ecc81micoracial-del-paro-en-cali-df.pdf>

¹² Temblores: REPORT ON POLICE VIOLENCE ACTS OCCURRED DURING 2021.

¹³ Interview - Article 21, Brazil.

¹⁴ Interview - Article 21, Brazil.

¹⁵ Amnesty International Mexico, The Age of Women, 2019.

¹⁶ Hearing before the IACHR, Situation of women's and girls' human rights in the context of the protests in Mexico, 28/10/2021 (min 12:30)

¹⁷ SISMA Women <https://www.sismamujer.org/wp-content/uploads/2021/08/Pautas-autocuidado.pdf>

¹⁸ IACHR. Criminalization of the work of human rights defenders. 2015.

imprisoned, they exposed them a lot and mistreated them in front of their wives. Thus, the women threw themselves at the agents and they were repressed".¹⁹

The marginalisation and exclusion that stem from belonging to the periphery, especially for victims of human rights violations, are also known by the authorities, who sometimes take advantage of this condition of greater vulnerability. A Mexican feminist activist recounted that the police told her: "enough, you're fucked. Not in this city."²⁰

Article 19²¹ explains that, in rural areas, far from the big cities, new strategies of repression that lead to self-censorship have emerged. *"In Brazil, the women's collective in the north of the Amazon took a long time to decide whether to call for 8M. They think carefully before organising the protest. False information and false proposals of criminalisation by state authorities combined with lack of information instil fear and limit mobilisation, which has even been stronger in rural areas, where the groups are much more invisible."*

In addition to the criminalisation of women, there are other threats that do not affect men, such as proceedings in relation to the custody of children. In the cities, mothers of single-parent families who go to demonstrations with their children are often accused by the police of placing their children at risk, and the guardianship bodies initiate legal proceedings to take the children away from them.

LGBT+ persons in the region are subject to various forms of violence and discrimination based on their perceived sexual orientation and gender identity or expression.²² In Chile, the lesbian organisation Rompiendo El Silencio explains that police violence against LGBT+ persons has always occurred, but it is most evident in contexts of crisis and protest, such as social unrest.²³

In the last two years, the situation has worsened due to the pandemic. The rights to movement and protest have been restricted. In addition, the pandemic has also led to increased poverty, which deepens previous structural inequalities and has a demobilising effect. As Article 19 points out, *"Organisations are focused on hunger. People fail to organise to claim other rights"*.

The contexts of authoritarianism and coups d'état experienced in some countries of the region exacerbate violence and reinforce conservative values, gender and the stigmatisation of LGBT+ persons, who suffer disproportionately from limitations on freedom of expression and protest. In some countries, such as Nicaragua, the level of repression is extremely high: LGBT+ activists feel that they cannot carry out an act of protest without risking their physical integrity or their lives. Corriente Feminista points out that, when the crisis arose, the organisation's members demonstrated by occupying public spaces to explain their position on the systematic violation of human rights. Every time they demonstrated in public spaces or the media, they suffered harassment, mockery, discrimination, offensive graffiti on their homes, threats of rape, death or mockery due to their sexual orientation. Many activists went into exile to protect their lives.

In countries undergoing conflict, such as Colombia, the language and warlike approach permeate conflict management and affect the exercise of the right to protest. This factor aggravates violence. The UN Human Rights Council devoted its latest resolution to this issue, with a specific focus on the dangers and impacts on women human rights defenders. *"Recognizing further the importance of gender equality and the role that women play in conflict and post-conflict situations in upholding human rights and supporting efforts for peace, and deeply concerned at the persistence of the multiple and intersecting forms of violence, intimidation and discrimination against women human rights defenders and women peacebuilders"*.²⁴ The resolution calls on states to adopt effective gender and age-sensitive prevention measures. It urges them to refrain from smear campaigns, using surveillance technology against defenders and shutting down the internet, which are actions that increase the vulnerability of these women.

Types of protest repression

In addition to the general trends in response to protests in the region previously mentioned, some countries have tightened restrictions on the right to protest through the criminalisation of actions that belong to the exercise of this right, such as the occupation of roads in Honduras and Colombia, and the limitation of freedom of expression in Brazil. In the latter country, the practice of criminal prosecution for

¹⁹ Interview fieldwork in Nicaragua, Mesoamerican Women Human Rights Defenders Network.

²⁰ Amnesty International. The Age of Women. 2019.

²¹ Fieldwork Interview - Article 19, Brazil.

²² AG/RES. 2435 (XXXVIII-O/08), Human Rights, Sexual Orientation and Gender Identity, 3 June 2008 and subsequent.

²³ Fieldwork interview - Rompiendo El Silencio, Chile.

²⁴ https://www.eldiario.es/internacional/violencia-agentes-desnudamientos-torturas-violaciones_1_1279837.html

²⁴ A/HRC/49/L.9 Recognizing the contribution of human rights defenders, including women human rights defenders, in conflict and post-conflict situations, to the enjoyment and realization of human rights.

the crime of slander has been extended against certain expressions contained in banners usually used in the Amazon region, where women occupy a preponderant place of leadership. Furthermore, in Brazil, administrative resolutions that limit certain slogans have been issued, such as a resolution of the Ministry of Education that prohibits demonstrations against Bolsonaro in the educational sphere.

In other countries, such as the Dominican Republic, limitations on the granting of legal status to certain organisations restrict the possibilities of protest. The organisation Comunidad de lesbianas inclusivas dominicanas (COLESDOM) was first denied legal status in 2017, arguing that granting it would imply recognising a hierarchy of one social group over others; after an administrative process and international advocacy, it was finally recognised in 2019.

With regard to the LGBT+ population, the right to expression and protest is violated by laws that prohibit consensual sexual relations between adults of the same gender, ban same-sex unions, or impose charges like public scandal on transgender persons.²⁵

In 2019, during a wave of protests in Chile, it was alleged that detentions for identity checks had been used to identify transgender persons.

In this regard, the IACHR has stated in various reports that Article 13 of the “American Convention encompasses the right to express one’s own sexual orientation and gender identity and that this kind of expression enjoys a special level of protection under InterAmerican instruments because it conveys an integral element of personal identity and dignity”. Similarly, the IACHR has highlighted the importance of freedom of expression in protecting women’s rights to a life free of violence.²⁶

In addition, this right is limited by the provision for the use of firearms by police or military agents in the context of protests in legal frameworks, the empowerment of military intervention in the management of protests and a regulatory framework based on the idea that protests must be repressed (as happens in Brazil, Colombia or Mexico). It is concerning in Mexico the creation of the new National Guard due to its composition and its functions. Human rights organisations warn that *“Most of the personnel and commanders come from the military sector, and the regulations on the use of force have not regulated control mechanisms. There is a legal framework that would allow repression”*.²⁷

a. Stigmatisation and stereotyping of the fights of women and LGBT+ persons

On many occasions, social activists are described by public officials and media as “terrorists”, “enemies of the State”, “political opponents”, “criminals,” “conspirators,” “enemies of development,” “eco-terrorist”, or “counter-revolutionaries”. Statements of this nature generate an adverse environment for the defence of human rights and also constitute the prelude to the initiation of unfounded criminal accusations and judicial proceedings against them.²⁸ Furthermore, women or LGBT+ persons are also called “whore”, “unruly”, “faggot”, “liar” or “bad mother”, because gender stereotypes²⁹ are the basis of all violence. They also reflect changes in the gender roles established by patriarchal society. This kind of stigmatisation is also reproduced in the media and replicated in the public opinion.

Feminist and anti-gender-based-violence demonstrations are often stigmatised as violent or linked to criminal groups. The credibility of women who report having been victims of abuse is also called into question, with statements that stigmatise them and challenge the veracity and good faith of the victims. These statements made by authorities and the media contribute to an atmosphere of social rejection and even legitimise violence against them.

A protester arbitrarily detained in Guanajuato, Mexico, reported that people in the area were indifferent to the arbitrary arrests of women following the August 22 march: *“People just looked around and we heard them say: ‘Well, that’s good, you fucking troublemakers.”*³⁰

²⁵ Belize, Dominica, Grenada and Nicaragua do not allow name changes. While as a general rule, El Salvador does not allow name changes, there have been some exceptions. (...) Codes of morals, good customs and coexistence, along with public space policies are frequently used against trans people in Chile, Dominican Republic, El Salvador, Honduras, Peru and Venezuela. ILGA, According to the Trans Legal Mapping Report, 2019.

²⁶ IACHR. RFOE. 2019.

²⁷ Fieldwork interview - Frente por la libertad de expresión y protesta social, Mexico.

²⁸ IACHR. Criminalization of Human Rights Defenders. 31/12/2015 (OEA/Ser.L/V/II. Doc. 49/15).

²⁹ The terms “Gender stereotypes” refer to “a pre-conception of attributes or characteristics possessed or roles that are or should be performed by men and women respectively. Taking into account the manifestations made by the state (...), it is possible to associate the subordination of women to practices based on socially dominant and socially persistent gender stereotypes, conditions that are aggravated when the stereotypes are reflected, implicitly or explicitly, in policies and practices, particularly in the reasoning and language of the judicial police authorities” Case of González et al (“Campo Algodonero”) v. Mexico. November 16, 2009.

³⁰ Amnesty International. The Age of Women. 2019.

In Colombia, during the Strike, demonstrators were attacked with obscene language emphasising that women and LGBTQ+ persons should not be doing that work, but that they should comply with gender roles like staying at home, not taking to the streets, remaining silent and not questioning authority.³¹ These expressions were heard in the streets, on social media and television. During its visit, the IACHR noted “a climate of polarisation that is directly related to both structural ethnic, racial and gender discrimination, as well as to factors of a political nature. This phenomenon (...) manifests itself in stigmatising discourse which in turn leads to an accelerated deterioration of public debate”.³²

In Peru, indigenous women denounce that they are threatened with rape and defamation campaigns on local radio stations in an attempt to silence them. Claims are made that they are crazy women who go to meetings and protests because they like going out with other men.³³

Moreover, under this stigmatising construction, women are blamed for different political-social situations. The media and social media play an essential role in the reproduction of these prejudices.

In Cancún, Mexico, protesters who suffered police attacks on their personal integrity said that acquaintances and state authorities have asked them to stop demanding justice because of the negative impact of their demands on the tourism sector, on which the local economy depends.³⁴

In Brazil, women, indigenous people and Quilombolas are now considered “internal enemies” because their struggles are related to the structural inequalities they experience. Violence against these groups is historical but, according to the public discourse these days, these groups are responsible for the current crisis. This social legitimisation of violence raised concern among organizers of the indigenous women's marches in 2020 and 2021 about possible aggression from extreme right-wing organisations, in addition to historical structural violations and police violence.

A few years ago, the demonstrations of #EleNo, a women's movement against Bolsonaro's candidacy, were repressed. Some sectors of the press blamed them for having caused Bolsonaro to win the election, which caused a wave of attacks on social media against them for having carried out these actions.³⁵

Members of the organisations Agrupación Ciudadana por la Despenalización del Aborto and Colectiva Feminista para el Desarrollo Local de El Salvador, who requested a pardon for 17 women who were accused of abortion and sentenced to up to 40 years in prison, were stigmatised, singled out and harassed in different spheres, including the media.³⁶

This characterisation by authorities and the media undermines the recognition of rights, creates a hostile environment for women's and LGBT+ persons' right to assembly, delegitimises their activism and facilitates violence against them by authorities and individuals. The impact of stigmatisation transcends the moment of the demonstration; it is something that continues on. In some countries, such as Nicaragua, the aggression resulting from this repression can come at any time. One Nicaraguan trans activist recounts that “as leaders, we went to the marches, we published photos. In interviews with the press, we were very critical. Several times I was threatened and told that if I continued speaking out, I would be murdered, as was another colleague. They told me to keep quiet [...]”. Sometime later, she suffered a beating that almost killed her, and caused her multiple traumas, for which she needed to undergo operations and medical care for months. “I was traumatised thinking about why this had happened to me. Many of our comrades went into exile. They have threatened to disappear us if we didn't stop our activity. Many of them were arrested and then released on the condition of silence: if they talk, they go back to prison”.

The indifference and silence of public authorities also contribute to legitimising violence. In Chile (in 2019) and Colombia (in 2021) there were no or very isolated pronouncements against violence against women despite the dozens of reports of sexual violence, which calls into question whether authorities truly reject this type of violence.

Moreover, these stigmas often have consequences for women that go beyond the individual level and are expressed at the family and community levels, including the breakdown of family relationships and loss of work.

³¹ Campaign to Defend Freedom: Everybody's Business. THE RISK OF DEFENDING FREEDOM IN THE STREETS. Report on attacks on human rights defenders in Colombia from April 28, 2021 to June 2021.

³² IACHR, Observations and recommendations working visit to Colombia 2021.

³³ Field interview in Peru, Defensoras del Conga.

<https://wayka.pe/violencia-genero-y-territorio-conoce-las-historias-de-las-defensoras-del-agua-de-conga>

³⁴ Amnesty International Mexico, The Age of Women, 2019.

³⁵ Interview fieldwork - Article 19, Brazil.

³⁶ IACHR. RFOE. 2019.

b. Discriminatory and stereotypical verbal abuse

Lascivious looks, gestures and discriminatory and gender-stereotypical verbal aggressions are commonplace in interactions with security forces in the context of protests. They begin even before the use of force or any kind of conflict takes place during the demonstration. Women human rights defenders in Bucaramanga, Colombia, explain that every time they went to marches as observers, there was an ESMAD agent (Colombian anti-riot squadron) who would make sexual gestures to intimidate them.

A similar reality is experienced by women in São Paulo, Brazil, where demonstrators have reported on-duty police officers for directing sexually suggestive looks and gestures at them. They've told demonstrators participating in a march is not for women, calling them whores.

In Guanajuato, Mexico, during a women's demonstration, a police cordon protected a public building to prevent them from approaching it. The police officers on the frontline, who were women, told them *"this is the reason why those things happen to you. Then you ask 'why are we raped?'"* and *"first you are here doing this and then you come to complain because you have been raped"*.³⁷

Something similar happened in Chile, where during the social outburst of 2019, all interventions included verbal and stereotypical violence, with frequent outbursts from officers such as *"Go home and take care of your children"* and *"do your chores"*.³⁸ In Colombia, the police are deployed on the sidewalk along the entire route of the march. From their posts on the sidelines, they make sexist comments directed at the women marching on the streets.³⁹

In Honduras, some organisations explain that, after the coup, women were the main targets of police repression, who told them that they needed husbands and were there because they had nothing to do at home.⁴⁰

In Peru, the president of the Regional Women's Council of Cajamarca, explains that *"The denigration of women was the target of insults from the police. They told us 'why aren't you at home looking after your children?' in addition to even more offensive remarks. We received all kinds of insults. That's the type of gender violence we suffered"*.⁴¹

The Inter-American Court has already pointed out that the highly rude and sexist ways in which the police officers addressed the victims—obscene remarks, allusions to their imagined sex life and alleged failure to fulfil their roles in their homes, as well as their alleged need for domestication—are a clear proof of the profoundly sexist stereotypes that seek to reduce women to a sexual or domestic role. Stepping out of these roles to demonstrate, protest, study or document what was going on (i.e., their mere presence and performance in the public sphere) was enough for punishing them with various forms of abuse.⁴²

This violence is intensified when force is used, demonstrations are forcibly dispersed, and arrests are made. This stereotypical response is related to the police officers' view of how to approach a female demonstrator. They question their participation. They make references to their bodies and their sexuality. They threaten them with rape. This has a negative impact on women's freedom, leading to many women thinking twice as to whether they will go out again the next day.

This violence is not only gender-based. It interacts with other intersectionalities: in the Dominican Republic, women were attacked not only for being women but also for being Haitian, migrants, or women's rights defenders.

Trans activists detained as political prisoners in Nicaragua are humiliated with expressions such as *"you're a man, you've got balls"*, *"women's clothes are not allowed here"*, and *"you can't wear make-up here"*. They were also assaulted with expressions such as *"you're going to regret having messed with the Commander"* while they were forced to do squats completely naked. Thus, police and prison institutions in the country use gender identity and sexual orientation to humiliate and denigrate prisoners of conscience.⁴³

It is important to point out that this verbal violence is largely invisible, due to the seriousness of other physical and sexual violence, and is not reported on its own. That is to say, it appears in all the complaints accompanied by other forms of violence. In general, when the aggression is only verbal and psychological, it is not reported.

³⁷ Amnesty International. The Age of Women. 2019.

³⁸ NHDR field interview, Chile.

³⁹ Field interview—Pueblos Colombia.

⁴⁰ Field interview in Honduras.

⁴¹ <https://wayka.pe/violencia-genero-y-territorio-conoce-las-historias-de-las-defensoras-del-agua-de-conga>

⁴² IACHR, Case of Women victims of Sexual Torture in Atenco. Sentence November 28, 2018.

⁴³ La Corriente Feminista. Observatorio de violaciones a derechos humanos de personas LGBTIQ+ en Nicaragua. Annual Report 2021.

c. Digital violence

Today—especially given the level of hyper-connectivity accelerated by the pandemic—social media and the digital environment are essential tools for the exercise of the right to freedom of expression and the right to protest. They play an undeniable role as a space for expression, dissemination, denunciation and organisation. Moreover, they've been instrumental in the dissemination of major movements such as Black Lives Matter and #MeToo.

However, this virtual space is also a space where women and LGBT+ persons suffer constant aggression due to their gender or sexual orientation. In 2018, the UN Human Rights Council expressed deep concern that all forms of discrimination, intimidation, harassment and violence in digital contexts could prevent women from fully enjoying their human rights, including the right to freedom of opinion and expression, the rights to freedom of peaceful assembly and association, and the right to privacy.⁴⁴

In the fieldwork carried out, digital violence was permanently present in various forms, including gender-based harassment and aggression by private individuals and, in some cases, also by groups linked to certain military or governmental sectors. Digital tools have also enabled mechanisms of espionage and violation of privacy, generally carried out by police and military personnel. Cases of criminal prosecution or police repression have even been identified as a result of network interventions and an increase in surveillance strategies through technology.

However, at the same time, digital media is also a tool that supports and catalyses protests and the organisation of spontaneous and heterogeneous groups in the streets. However, there have been cases reported of blocked or restricted access to internet connectivity, telephone networks, accounts or social media content in an attempt to hinder protesters' attempts to organise. Complaints filed by Karisma in Cali, Colombia, during the strike⁴⁵ are an example.

In Nicaragua, where the ban on protest is almost absolute, social media has become a space for resistance. [Kevin Monzón](#), an LGBT+ activist who became known for his Tik-Tok videos mocking the dictatorship and its leaders, was arrested three times. He was harassed, threatened, and had his house raided before he went into exile.

Another trans activist in Nicaragua was also a victim of hate speech on social media, and at home, for being an activist and a trans person. When she was vaccinated against COVID-19, nurses and doctors recorded her and posted videos on social media mocking her for using the public health service while criticising the regime.

The Observatorio de La Corriente Feminista explains that, in many of the cases of cyber violence, there is a group of trolls that have been proven by journalistic investigations to be financed by the government. In addition, offices that operate exclusively to attack dissident leaders have been set up. In the case of LGBT+ persons, they directly attack this personal attribute.⁴⁶

In Mexico, the Marabuntas brigade, which participates in protests and accompanies families searching for the bodies of disappeared persons, began to receive harassment on social media following statements by the country's president, who publicly declared that this organisation protected obscure interests.

These realities are replicated throughout the region. In Colombia, the organisation Pueblos explains that, since the first mobilisations of 2019, they have identified persecution on social media, with photos of people who had allegedly participated in violent actions during demonstrations being published, calling on the population to identify them.

In the Dominican Republic, activists from the group Colesdom experienced strong digital harassment for using inclusive language in a television interview, during which they questioned the draft reform of the criminal code that excluded gender identity and sexual orientation as grounds for determining the existence of a hate crime. The journalists asked them why they were using inclusive language if the word "we" includes both men and women, and an avalanche of criticism was unleashed against them on social media. Another activist in the Dominican Republic stated that she suffered a lot of harassment on social media because of her activism and decided to close her account after suffering an attack in 2021.

⁴⁴ A/HRC/RES/38/5. Resolution adopted by the Human Rights Council on 5 July 2018. Accelerating efforts to eliminate violence against women and girls: preventing and responding to violence against women and girls in digital contexts. Likewise, the Resolution adopted by the Human Rights Council for the promotion and protection of human rights in the context of peaceful protests (A/HRC/RES/38/11). In addition, the Resolution A/RES/68/181, adopted by the UN General Assembly, related to the protection of women human rights defenders, also makes reference to digital violence as a form of violence against women.

⁴⁵ <https://web.karisma.org.co/paronacionalcolombia-te-han-bloqueado-internet-redes-telefonicas-o-censurado-contenidos-o-cuentas-de-redes/>

⁴⁶ Interview - Frank Hoover, La Corriente Feminista, Nicaragua.

In Peru, two journalists were the target of smear campaigns aimed at intimidating them in light of their investigations into sexual abuse of young people by the Sodalitium Christianae Vitae and sexual harassment of teenage girls by a congressional candidate.⁴⁷

A feminist activist narrates how abortion rights advocates in El Salvador have been the victims of a campaign of harassment by fundamentalist groups on social media, who used tactics of defamation, stigmatisation, and discrediting.⁴⁸

In Chile, an exploratory study on political violence against women found that when women are mentioned in the media opinions tend to be favourable. However, when feminism is mentioned, i.e., when it is linked to political activity, the comments have a negative tone. It also found that more men than women expressed opinions about women. Regarding women of public interest or candidates, the types of violence in digital media with the highest percentage are related to disparagement with sexual content, disparagement of their abilities, or comments related to women as objects or objects of desire.⁴⁹

The case of Ofelia Fernández in Argentina illustrates the harassment of a student leader who moved into the national arena. The violence occurred mostly in relation to her sexual and reproductive rights work and during her move from the student sphere to national politics. Hostile expressions of misogynistic violence were combined with criticism of youth involvement in politics. Ofelia was the youngest president of the Student Council in her high school, at the age of 15. She headed the first formula consisting of two women. Media coverage of student sit-ins organized by the council made her a public figure. In the midst of the green tide that fought for the legalisation of the voluntary interruption of pregnancy, she repeatedly and publicly spoke out against gender violence and demanded reproductive rights for women. She positioned herself as a student and feminist leader. Ofelia participated in the public hearings on the right to abortion in the National Congress. After that, she toured all the provinces and decided to launch her candidacy to become a legislator for the Autonomous City of Buenos Aires (CABA).

The aggression against her on social media and television programmes had already begun during the school sit-ins, but it escalated and became more violent when she began her campaign as a legislative candidate at the age of 19. When she won and became a legislator in 2019, the attacks reached new levels. In November of that year, there was a coordinated attack from organised accounts: her mother was accused of working at a company laundering money, with her full name and address made public.

From then on, many attacks against Ofelia were carried out. When the pandemic began, there were coordinated attacks on her birthday. In addition, it was common to hear about her supposed lack of qualifications and the fact that she had never worked. It was also heard (and reproduced in the media) that she had not finished high school, which was false. The messages included threats with references to the military dictatorship and rape. One of the most frequent themes is the objectification of her body: she was called fat and her body was drawn as a square. It has also been combined with an attack on her youthful appearance: with critics questioning whether how she dressed was appropriate for a female legislator. This attack on the political activism of young people, and in particular young women, is very direct. As a consequence of the attacks, Ofelia had to close her Twitter account, a working tool for anyone involved in politics.

Some of these attacks, that were carried out online during the pandemic, started to become real once the lockdown was over: people were waiting for her at the door of the legislature, insulting her, etc. One of the most arrogant men who had insulted her the most on the internet (calling her 'fat' and 'unbearable' more than 10 times) was elected legislator and, on the first day of sessions, Ofelia dedicated a speech to him, talking about these aggressions in March 2022.

During all this time, the mass media (TV and radio) repeated and amplified the aggressions: they reproduced the violence and magnified what had happened without any kind of investigation to check the facts in an uncritical manner. That these aggressions occurred on Twitter made them a newsworthy "fact". The media thus ended up legitimising and institutionalising online aggressions.

Gender-based violence against women in politics is a daily reality. In 2016, the Inter-Parliamentary Union commissioned a report covering 39 countries in five regions. One of the findings was that 81.8% of the female parliamentarians interviewed stated that they had experienced some form of psychological

⁴⁷DEMUS.

<https://www.demus.org.pe/noticias/la-violencia-sexual-como-modalidad-de-ataque-para-silenciar-a-defensores-de-cuerpos-y-territorios/>

⁴⁸ AGAINST THE WAVE: Civil society responses to anti-rights groups.

⁴⁹ Humanas, "Violencia política hacia las mujeres en las plataformas digitales: un nuevo espacio público" (Political violence against women on digital platforms: a new public space) <https://www.humanas.cl/wp-content/uploads/2021/04/ESTUDIO-EXPLORATORIO-VIOLENCIA-POLITICA-HACIA-MUJERES-EN-ESPACIOS-DIGITALES.pdf>

violence during their mandate, and social media was the main channel through which this violence has been exercised. Although there is no systematised data for the region, the work of some organisations shows the seriousness of the situation. The Latin American Team on Justice and Gender (ELA) found very similar results when interviewing women parliamentarians in Argentina: eight out of 10 reported having suffered violence.⁵⁰ During the 2020 municipal elections in Brazil, online expressions of political violence were mapped. Machismo, racism and LGBT phobia were among the main expressions of political violence identified.⁵¹

In Brazil, the families of some young women students used the posts they made (calling for demonstrations or of pictures taken during demonstrations) in order to exercise verbal or physical violence against them and punish them for having violated the expected gender role. This led many of them to close their social media or create anonymous profiles in order to participate without being stigmatised.⁵²

In the context of arrests or criminalisation processes, there are increasing reports of situations of digital violence that mainly affect the right to privacy. There is a new practice that has been recorded particularly in Mexico and Brazil, in which, at the time of arrest, the authorities or members of the forces sometimes force women to give them their phone and social network passwords, which gives them access to their posts, images and private conversations. In some cases, they are pressured or threatened to disseminate this content. This undue access generates a demobilising impact due to the fear of the use of this information that can be made. Women lawyers involved in the defence of detainees have also suffered this type of intimidation in relation to their mobile phones and the information they contain, as happened in Colombia.

In Mexico, different human rights organisations have recently expressed their concern about a pattern of intimidation and harassment by police forces against women protesters that is developing. It consists of the possession and use of their personal information, as well as threats of physical and sexual violence and death, which intensifies on important dates for women's rights, such as March 8.⁵³

Although it does not exclusively affect women, nor is it a new modality in the region, the irregular use of digital surveillance tools to identify or monitor activists is also of concern. The Brazilian intelligence agency (ABIN) has been using a series of tools for the identification and persecution of activists through social media for some years, which have recently been condemned by a court. In rural areas, there have been cases of drones hovering over the houses of leaders to follow them from the moment they leave their homes to attend meetings or demonstrations.⁵⁴

d. Police operations and the use of force

In the region, there are police and security structures that respond to patriarchal and conservative values. In addition, in many cases, they respond to values linked to the church.⁵⁵ These characteristics condition the intervention in the management of protests and even more so when women or LGBT+ persons are involved.

In the Dominican Republic, women's rights organisations are aware of the fact that "*there is violence when the interests of the church are threatened or called into question*".⁵⁶ In Uruguay and Argentina, although the levels of repression of protest are low, there is a coercive attitude towards the symbolic, and the conflict is ideologically based.⁵⁷

Another element in the relationship with the police lies in the questioning of these institutions by women's marches, which often prove that they are incompetent at preventing and investigating violence suffered by women and LGBT+ persons. This is clearly shown by the slogan used in Mexico: "*my friends take care of me, not the police*".⁵⁸

⁵⁰ ELA - Latin American Team for Justice and Gender. Political violence against women in Argentina: first-person experiences. 2018. <https://mujeresenelpoder.org.ar/archivos-documentos/2-VIOLENCIA%20POL%20CONTRA%20LAS%20MUJERES%20EXPERIENCIAS%20N%20PRIMERA%20PERSONA.pdf>

⁵¹ ALSur. Political Gender Violence on the Internet.

<https://www.alsur.la/sites/default/files/2021-07/Violencia%20Pol%C3%ADtica%20de%20G%C3%A9nero%20en%20Internet%20ES.pdf>

⁵² Field interview—Artículo 19, Brazil.

⁵³ Amnesty International Mexico, The Age of Women, 2019 and Hearing before the IACHR, Situation of women's and girls' human rights in the context of the protests in Mexico, 28/10/2021 (min 9:25)

⁵⁴ Field interview—Artículo 19, Brazil.

⁵⁵ Amnesty International Mexico, Temblores, interviews Brazil, Argentina, Chile.

⁵⁶ Field interview, Dominican Diversity, Dominican Republic.

⁵⁷ Azul Córdón, journalist, Uruguay.

⁵⁸ Amnesty International Mexico.

Furthermore, working conditions and treatment of personnel also impact how police handle interventions. An Amnesty International report points out that police personnel in Mexico are confined to barracks for long periods before demonstrations, deprived of decent accommodation and food, or are called to go to demonstrations after working long hours without rest.⁵⁹ In Argentina, as a mechanism to prevent excessive use of force, one of the measures regulated by the action protocols was the mandatory replacement of intervention teams that had been on the front line for several hours.

Moreover, an element that appears constantly in the interviews is the negative effect of the intervention of untrained police personnel in protest issues. In some cases, security or proximity personnel do not have any equipment or training in public space issues; this was seen in the social unrest in Chile, the general strike in Colombia, and different interventions over the last two years in Mexico.⁶⁰

In recent years, some local governments have tried to adopt a gender perspective to police intervention but, so far, this has not been achieved. Far from being addressed in a comprehensive manner and with concrete tools, there are two strategies which are basically used: on the one hand, the enlisting of women, and, on the other, a nominal reference in the protocols to the need for a differentiated use of force against higher-risk groups, such as women and LGBT+ persons.

These efforts can be positively acknowledged, but it is essential to go deeper and take more effective actions. The presence of female police officers alone is not enough to change police culture and practices; indeed, *under current conditions*, it does not seem to have any positive impact, as it could, for example, facilitate the repression of women protesters.

The presence of female officers in the region does not exceed 13% and their working conditions in police institutions also reproduce situations of subordination to a male environment and command, where gender-based violence also exists. Demonstrators in countries that have enlisted women in the front lines of intervention in demonstrations state that policewomen “hit just as hard or harder”.⁶¹ In general, women replicate the patriarchal and macho model. They are what Temblores defines as “macho women”.⁶²

A similar phenomenon has occurred in cases where Afro-descendant police officers are integrated into the front lines. Particular forms of oppression appear for both the demonstrators and the police officers, who are obliged to act in a certain way to prove their corporate loyalty at the same time they are being used to control the population to which they belong.⁶³

These measures, in isolation, are insufficient if they are not accompanied by broader policies aimed at eliminating the repressive culture of the police forces.

Of the many cases of abuse recorded by different human rights organisations in different countries in the region, only in one case did the intervention of a policewoman prevent a situation of sexual violence. In Guanajuato, Mexico, Camila was abused by the officers who had arrested her. She explains that the harassment stopped when a policewoman said: “Hey, stop. Leave them alone, these ones are mine”. After that, the policewoman buttoned up her jumper and apologised for her colleagues’ behaviour. Confiding in Camila, she said that female police officers were also subjected to similar situations. They are a minority within a macho organisation that, in many cases, also exercises violence against them, which does not favour an organisational culture change. It is necessary to work in order to increase both the representation of women at all levels of the organisation and gender equality within the organisations, which can then be transferred to their interventions.

Regarding action protocols, despite the IACHR and the UN have recently recommended that “special measures should be foreseen to avoid discriminatory effects and aggravated effects”,⁶⁴ neither the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials nor the UN Code of Conduct for Law Enforcement Officials make any mention of gender.

In this sense, the fact that some precepts have been included represents great progress. An example is that, when organising operations, it should be assessed whether the participation of groups “*who, due to their characteristics of age, sex, marital status, educational level, ethnic origin, physical and/or mental situation or condition, sexual preference and gender identity, require an additional effort to be incorporated into development and coexistence*”⁶⁵ and also that, where appropriate, differentiated strategies for the use of force should be applied.

However, without a specific definition of what consequences this assessment will have or what is meant by a “differentiated strategy for the use of force”, the impact of these statements in practice will be almost

⁵⁹ Amnesty International. The Age of Women 2019.

⁶⁰ Recommendation by the Guanajuato Human Rights Ombudsman's Office, 26/02/2021.

⁶¹ Field interviews in Honduras and with INDH Chile and Pueblos de Colombia.

⁶² Interview with Temblores, Colombia.

⁶³ Devon Carbado, Acting White

⁶⁴ IACHR. RFOE, 2019 and A/HRC/RES/38/11. The promotion and protection of human rights in the context of peaceful demonstrations.

⁶⁵ Protocols of Action of the Members of the Police Institutions in the State for the Use of Force in the State of Guanajuato and Mexico City.

null. In other words, if the information prior to the operation identifies the participation of groups that deserve special protection, then what is to be done with the design of the operation? In order to understand how little protocols impact agents' concrete actions, it is necessary to recognise how they are trained, as well as understand their organisational culture that prioritises loyalty. In addition, more work needs to be done on disciplinary systems and on how non-application of protocols can be treated as internal misconduct.

In Brazil, for example, it is clear to human rights organisations that the police on the street exercise more repression and moral harassment of women, which starts even before the protest. They arrive much earlier on the scene in disproportionate numbers and are generally men. This has an intimidating effect on women protesters.

The experiences of the demonstrators also show that, during detention, the gender of the detained person is often not respected; basic needs, such as going to the toilet, are not taken into account; family or friends are not allowed to know about the detention, which causes concern for their integrity.

Some of these situations constitute abuse and even inhuman or degrading treatment, which we will analyse in greater detail in later sections. That aside, some situations could be avoided by having a better design of the operations. For example, some options for a gender-sensitive approach could be that police officers set up in places and in numbers that do not intimidate demonstrators; to provide adequate conditions for transfers with sufficient personnel and means to avoid unnecessary delays; to provide public toilets or access to them if necessary; to emphasise the guarantee of non-violent searches that are in accordance with the gender identity of the demonstrators.

In addition, if a situation arises where the lives of marchers or others are at risk and, after a test of proportionality and necessity, it is considered urgent to use force, what would be a differential strategy? It could be, for example, refraining from using strategies such as encapsulation or restricting the use of weapons that may harm or kill children, pregnant women, persons with a physical disability or health impairment, and the elderly.⁶⁶ These and other strategies can help to effectively operationalise the principles of legality, necessity, proportionality and non-discrimination.⁶⁷

The police protocol drawn up in Mexico City provides specific protection for women human rights defenders and journalists, including a prohibition on seizing work material and removing records, which constitutes a practical and specific measure that may be positive.

Another important element is that, in general, very few countries provide for dialogue prior to the design of the operation or during conflict management. This principle has been reinforced in the latest developments in the human rights system.⁶⁸

Moreover, in those countries that do provide for them, the criticism is that the people responsible for the dialogue are generally men, who are armed and who have very tough behaviour and attitudes.⁶⁹

Again, in the Mexico City protocol, there is a provision for a negotiation instance prior to the use of force, which would also be in charge of a team under the Dirección General de Enlace Institucional (Institutional Liaison Directorate-General). This difference in roles is relevant and could be positive. In these instances of prior dialogue, it is valid to ask the question: why should the police be in charge of these negotiation instances? According to local organisations, the protocol has not been put into practice, so it is not possible to assess its real effects.

When force is used in an abusive manner to disperse a demonstration, gender connotations are also evident. Women are beaten in sexualised areas such as the breasts or vagina and, in general, there is also a particular viciousness. When the March 8, 2017 demonstration in Argentina ended, the police used force to clear the streets. The police first used a water cannon to disperse demonstrators and then began arresting people, targeting anyone who, in one way or another, criticised the police action. The common denominator, however, is that none of these people attacked the police officers; they were mostly women who simply shouted at them, but all of them were victims of abusive practices including being thrown to the ground, pushed or hit on the legs, pepper-sprayed in the face at close range, beaten when they were already restrained, and dragged to the detainee transports without being allowed to stand up, or with particular viciousness.

The police response is not only gendered; in general, there is a pattern in which police repression is aggravated when they intervene in working-class neighbourhoods or peripheral areas. This phenomenon is

⁶⁶ IACHR. RFOE. 2019.

⁶⁷ United Nations Guidance on the Use of Less Lethal Weapons in Law Enforcement.

<https://hchr.org.mx/wp-content/uploads/2021/05/Orientaciones-de-las-Naciones-Unidas-en-materia-de-derechos-humanos-sobre-el-empelo-de-armas-menos-letales.pdf>

⁶⁸ Human Rights Committee, General Comment 36 and UN Guidelines on the Use of Less Lethal Weapons in Law Enforcement.

⁶⁹ Field interview—Article 19, Brazil.

not new, (it was already pointed out, for example, in a report by CELS in 2015)⁷⁰ but it remains and has been confirmed throughout the interviews carried out. For example, in Cali, Somos Identidad reported that the patterns of police action varied based on the neighbourhood and the population group targeted by the intervention. They highlighted the use of gas and firearms against people that belonged to the lowest strata of the population. They also mentioned many cases of aggression by people from the upper economic strata towards popular demonstrators in the presence of police officers, for which there was no police response.

In Chile, INDH data show that most cases of abuse occurred in the southern region of the Santiago metropolitan area, which mainly consists of working-class neighbourhoods.

In São Paulo, Human rights activist Camila Marques explains that “in the outskirts [of urban areas], police violence is common. Black mothers are much more repressed and made more invisible. In addition to assaults with firearms, there are incidents of psychological and physical torture. There are several cases of women who lost their children to the São Paulo militia. Known as the Mothers of May, they are black. In rural areas, operations tend to be more violent and the weapons used are more harmful, usually including firearms.”⁷¹

Situations linked to police interventions in evictions, where there is a large presence of women, are often particularly violent. The IACHR has repeatedly stated that “in accordance with international norms and standards, States must restrict forced evictions and are obligated to take measures to protect persons and communities harmed by such operations, as cases of forced evictions, *prima facie*, are incompatible with the principles of international law. In the event that they are carried out, the necessary measures must be taken to minimize their impact on the affected population, in particular with respect to vulnerable groups such as children, persons with disabilities, older adults, women, and indigenous peoples, among other marginalized groups and sectors.”⁷² The burning or violent destruction of homes in the framework of forced evictions and violent actions by the police was considered by the UN Committee against Torture as cruel, inhuman and degrading treatment under the terms of article 16 of the Convention against Torture.⁷³

In Uruguay, women are also the main figures in the struggles for housing, where they are on the front line. Finally, acts carried out by private security agents, most often hired by large companies or landowners to carry out forced evictions or to intimidate indigenous or peasant families who have ancestral rights to land, are frequently linked to violent interventions against women and their families. There are also repeated reports of threats made against children and husbands to intimidate women.

e. Arrests and transfers. The worst moment of violence

In the context of protests, preventive arrests and detentions are used against women in a way that evidences an unnecessary, excessive and disproportionate use of force and as a way to restrain their right to protest.⁷⁴ In most cases, arrests are carried out on the grounds of suspicion that women are going to commit a prohibited action, and their mere presence in the context of a demonstration is sanctioned.

In Sinaloa, Mexico, the municipal police preventively detained three women who had plans to demonstrate on September 10, 2020 because they suspected that they were going to paint the city's Municipal Palace, and a civic judge fined them for making a “scandal on a public street”. The scandal, of course, was that they dared to consider demonstrating.

Temblores explain how, during the Strike in Colombia, there was a “witch hunt” where anyone was arrested without individualisation and they recorded cases of arbitrary detention in several cities such as Bogotá, Cali, Barranquilla (which had several victims), Sabana Larga, Medellín, Popayan, Palmira. However, it does not seem to be an issue that only affected women. There are records of arrests taking place even around the protest: with the police arresting people who were simply taking donated goods to the demonstrators. The organisation followed the case of a journalist who was not even at the protest and they tried to prosecute her for terrorism.

Arbitrary and random arrests are also characterised by the fact that the conduct is not specified and, in general, after a more or less lengthy process, the demonstrators are acquitted. In some cases, the arrests are not even recorded. For example, in Guanajuato, Mexico, the municipal police illegally and arbitrarily

⁷⁰ CELS. The Latin American States and Social Protest.

⁷¹ Field interview—Artículo 19, Brazil.

⁷² IACHR, RFOE, 2019.

⁷³ Committee against Torture, Communication. No. 161/2000.

⁷⁴ Amnesty International Mexico, 2019.

detained at least nine people after the demonstration on 22 August 2020. These people, mostly women, were not committing any crime or administrative infraction. The authorities did not identify themselves, did not inform the reasons for their detention, and used unnecessary and excessive force in their detention.

These patterns are repeated and exacerbated in the cases of young people, indigenous or migrant women and people of African descent. In Honduras, a feminist activist explains that, prior to the current government, female students were the movement at the forefront of the regime, and the only ones who were detained. After the takeover of the university, criminal proceedings were initiated against them and some of them were detained for up to a week, which was not regulated by law.

In Mexico, in many cases, minors were denied the right to have their legal representatives at the time of making a statement.⁷⁵

In Bucaramanga, Colombia, *“Women’s marches are a very recent phenomenon, something new. In June 2020, there was a demonstration outside the military battalion because a case of rape against indigenous women had been reported. Arrests were made. They chased them with guns, they went into shops to look for them. They dragged them away and held them for a few hours before eventually releasing them.”*⁷⁶ The story is repeated over and over again. In another case, in the Cauca area, an indigenous boy—subjected to racist and homophobic aggressions—was physically and sexually assaulted. Among the cases of racially motivated aggression, there are several cases involving women, including the spokesperson of the Unión de Resistencias Cali (UCR) who was referred to as *“that black motherfucker leader”*⁷⁷ by an agent of the National Police Mobile Anti-Riot Squads (ESMAD).

In Argentina, the police of the city of Buenos Aires arrested nine women who were eating at a pizzeria after a march on March 8 and stayed to accompany another woman who had been pepper-sprayed. None of them had been involved in any altercation; the searches and violence they suffered were of varying intensity. In the case of one of the young Peruvian women, she was forced to undress and was subjected to a particularly invasive search on the grounds that, as a migrant, she probably had drugs in her vagina.

The transfers of women detainees are one of the most violent moments. These can be unnecessarily long. Sometimes, they are taken for walks for the sole purpose of prolonging the transfer, taken to sections or police stations that do not correspond to the district in which they have been detained,⁷⁸ are kept for hours in transport vans⁷⁹ or transferred in conditions that aggravate their suffering—for example at night and in the open air—even in the presence of children.

In addition to the repeated sexual violence that is detailed in the following section, and the physical violence that is registered in numerous cases, these conditions imply the denial of certain basic conditions such as being able to go to the toilet. It should be taken into account that, in general, in the context of a protest, it is already difficult for a woman to access a toilet. If a woman is detained, this situation may last for hours. Furthermore, menstruating people are not given appropriate care or access to menstrual products. Several women reported that their clothing became stained with menstrual blood when they were not allowed to change their menstrual products for hours, adding another factor of mockery used by police forces against them.

In Nicaragua, while imprisoned, trans women who were victims of political violence were subjected to isolation in maximum security cells where they suffered constant physical aggression, harassment, humiliation and mockery, as well as death threats, due to their gender identity. Although they recognise themselves as women, they are sent to men’s prisons, disrespecting their gender identity. They also suffer threats of rape or rape as a corrective measure.

Moreover, the denial of specific health care is an added violence. Carolina, a Nicaraguan transgender girl, had a very delicate health situation and did not receive medical assistance for her chronic problems. In addition, she suffered a lot of psychological violence. As a result of this violence, she died shortly after her release from detention.⁸⁰

In contexts where there is evident violence against women, beyond police violence, such as in Mexico or Colombia, there are cases in which this risk is taken advantage of in order to exercise more violence against women. For example, after detention, they are intentionally released in remote areas or areas that are considered dangerous, intentionally putting their physical integrity and their lives at risk.

⁷⁵ Guanajuato District Attorney’s Office.

⁷⁶ Field interview by Pueblos, Colombia.

⁷⁷ The National Strike 2021: Lessons Learned for the Exercise of the Right to Peaceful Assembly in Colombia (OHCHR Colombia) https://www.hchr.org.co/documentoseinformes/documentos/Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacion-al-2021.pdf

⁷⁸ Amnesty International, Mexico, 2019.

⁷⁹ Interview to Diego Morales, CELS, Argentina.

⁸⁰ Interview to Franz Hook, Observatorio de La Corriente feminista, Nicaragua.

Another relevant factor for the safety of women and their families is that, in general, they are not allowed to communicate with anyone once they have been detained, which produces great uncertainty and concern among their loved ones. Moreover, there is also no provision for the care of minors who may be dependent on these women, whether the children are present at the time of their caretakers' arrest or have been left in the care of third parties for the time being.

In Argentina, during the height of the COVID-19 pandemic restrictions, a woman was detained in a supermarket for she complained that the supermarket was in breach of health regulations. After being violently detained, she tried, unsuccessfully, to communicate with her children to let them know what was happening so they would not be so worried that she had not returned home. The only response she was given was "you, old shit", "motherfucker, we're in charge here and you're not going to talk to anyone".⁸¹

Regarding this type of violation, it is worth recalling that "*The authorities may not compel persons detained in demonstrations to remain for an unreasonably long period of time under climatic conditions posing a risk to health, nor deprive them of access to food and water, nor of medical care in the event that they are injured or belong to vulnerable or high-risk groups, such as the elderly, women, children, persons with disabilities, or persons with illnesses requiring special attention*".⁸²

In addition, the Standard Minimum Rules for the Treatment of Prisoners, in particular rules 33, 34 and 54, include the principle of non-discrimination on the basis of sex, gender segregation in places of detention, and the provision of special measures for pregnant women.

f. Sexual violence as a sobering mechanism

The differentiated impact of the violence suffered by women and LGBT+ persons due to their gender is tangible in the crimes of sexual violence during arrests, transfer and accommodation in police or military facilities. Sexual violence is the most commonly reported violence.

This violence takes different forms, such as verbal aggression of a sexual, homophobic, transphobic and misogynist nature; humiliation; touching of breasts and genitals; threats of nudity or rape; sexual intimidation; sexual harassment; forced nudity and rape. Sexual torture is present in multiple forms and is accompanied by the reproduction of gender stereotypes and roles, which, in this context, are the basis for the deployment of humiliation techniques designed to increase the victim's vulnerability as a woman.

Paradoxically, we find that the moment of greatest fear for women is when they are under state custody: the fear of rape there increases for they know it is a real and habitual risk.

Sexual violence against women in the context of the actions of civilian or military security forces is unfortunately not a new phenomenon. In Mexico, for example, the recurrence of sexual torture in women detainees is up to four times higher than in men.⁸³ In Chile, women who demonstrate are exposed to sexual aggression by the police.⁸⁴ However, their regularity in the context of demonstrations, especially in recent years, seems to show a tendency towards the systematisation of sexual violence. In Bogotá, it is not something new but it has acquired some particular characteristics from the restrictions generated by the pandemic in which conflicts between citizens and police increased. "*At the end of 2020 there was a case of a journalist who took photos of a police shield, she was forced to undress and squat. Then, during the National Strike, we saw many similar behaviours; it became a very generalised practice*".

In Colombia, the Office of the High Commissioner received allegations of sexual violence against 60 persons, of whom 48 are women and 12 men, one of them was motivated by sexual orientation, and five were children. The Ombudsman's Office identified a total of 112 acts of gender-based violence against women and persons with diverse sexual orientations and gender identities. The Defend Freedom Campaign registered 29 cases of gender-based violence, including different forms of sexual violence.

In Chile, the number of complaints filed against Carabineros (police officers) for sexual torture in the last nine years tripled from 16 cases to 53 in just 22 days during the social protests in 2019.⁸⁵

Sexual violence generally occurs at three moments: in the street, with insults, morbidity and threats, which is a prelude to what can happen later; at the moment of the transfer, when they enter the transport vehicle,

⁸¹ CELS Argentina, información de la causa. And Página 12, <https://www.pagina12.com.ar/257291-vieja-de-mierda-ahora-vas-a-ver-quien-manda>

⁸² IACHR, RFOE, 2019.

⁸³ Mujeres con la frente en alto. PRODH center.

⁸⁴ Field interview to Chilean Network against Violence against Women

https://www.eldiario.es/internacional/violencia-agentes-desnudamientos-torturas-violaciones_1_1279837.html

⁸⁵ NHDR

the violence worsens because there is no oversight; and then, in some cases, it escalates inside the police station.⁸⁶

In Peru, a human rights defender and her partner were publicly offering to print posters and graphic material free of charge for the citizens' days of protest that began on November 9, 2020. The police, without identifying themselves as such, asked them to print something and then arrested them on that pretext. There was a joint arrest: they arrested her and her partner, but only she suffered sexual violence with a clear aim to break her and humiliate her. She was taken to a special centre for investigations, stripped naked, forced to exercise naked, and assaulted with sexual touching and mockery for not being from the city.

Sexual violence also occurs against gay men and transgender persons, in a process of feminisation of these bodies. For example, in Nicaragua, a gay man who had been detained was taunted, being told "*you're a crazy girl*" and then pushed into a cell. Other detainees were encouraged to abuse him.⁸⁷

The armed actors are aware of the symbolic effect that the perpetration of acts of sexual violence has on the demonstrators which, in addition to affecting the direct victims, has a stigmatising effect on women's bodies. It also seeks to discourage all those who participate in the marches due to the structural fear that women have of sexual violence in public and private spaces, but with serious effects on the right to social protest.⁸⁸ Thus, sexual torture is used as a mechanism to repress, humiliate and punish demonstrators and, in so doing, to silence their demands, provoking terror and demobilisation.⁸⁹

In Guanajuato, two young women, who were participating in a demonstration, were arrested and had their vulvas, breasts and buttocks touched. When they got out of the patrol car, one of them was not allowed to pull down her skirt, which had previously been hiked up. Both male and female police officers, as well as detainees for other crimes, were able to observe her with her skirt up.

From Cali, Diana reports that "*today I was the victim of a carnal and violent act by ESMAD police. As I stood to one side with my hands up, letting them know that I was not armed and had no intention of doing anything, they attacked and separated our group with gas and stun guns, leaving me in a small group of 10 people or less, where the men were beaten and taken away and the women were separated. At that moment, one of the ESMAD approached me and abused me, in the presence of all his colleagues, including a woman*".⁹⁰

In Peru, Andean and Amazonian indigenous women defenders are constantly attacked with sexual violence in their communities in an attempt to silence their demands made in defence of their territories, water, the environment, and their collective rights. In protests and states of emergency, they were the first to denounce sexual violence by the police and military, but their voices have not been heard, due to the systemic *machismo* and racism.⁹¹

During transfers, violence escalates. Psychological and sexual abuse begins as soon as the women get into the patrol cars, which is when they are usually first threatened with rape. "They are told what is going to be done to them and by whom. In addition to instilling fear, this threat shows the premeditation of sexual violence".⁹² In Brazil, women have thrown themselves out of moving vans in the face of a threat of sexual assault. In Guanajuato, Mexico, when detained women got in the vans, the male officers told them: "*now, I'm going to take out my rapist cock*" and a female officer told them "*now, they're going to take out their rapist cocks*".⁹³

Women also experience great vulnerability and abuse during searches, which are generally used as an excuse for humiliation and inappropriate touching. Dozens of women report being forced to undress in the presence of men, having their breasts touched, having fingers inserted into their vaginas, and being made to walk or do squats completely naked. Together with verbal aggressions, these are the most frequent forms of violence.

In Argentina, the group of women detained without justification for their participation in the march on March 8 were subjected to searches of varying intensity. L.A. was told that she had to take off her bra and pull down her trousers and underwear and that, if she refused, they would do it by force. A.I. had her T-shirt lifted and her breasts touched, while other detainees were forcibly undressed, by more than one policeman, or had fingers inserted into their vaginas. V. was forced to strip completely naked and squat against the wall, while a policewoman spread her buttocks.

⁸⁶ Field interview—Article 19, Brazil, and Temblores, Colombia.

⁸⁷ Field interview La Corriente feminista, Nicaragua.

⁸⁸ Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2020. SISMA Colombia.

⁸⁹ IACHR, Case of Women victims of Sexual Torture in Atenco. Sentence November 28, 2018.

⁹⁰ <https://www.elespectador.com/judicial/mujer-denuncio-que-un-policia-la-abuso-sexualmente-durante-una-manifestacion-en-cali-articulo/>
⁹¹ <https://www.demus.org.pe/noticias/la-violencia-sexual-como-modalidad-de-ataque-para-silenciar-a-defensorxs-de-cuerpos-y-territorios>

⁹² Field interview, Temblores, Colombia.

⁹³ Amnesty International Mexico. The Age of Women. 2019. In addition to a threat, this phrase could be intended as a response to or mockery of the feminist slogan "rape dicks to the blender" used in demonstrations against gender-based violence.

In Guanajuato, Mexico, Africa explains the fear she felt when a policeman told the other policemen *“the one wearing green clothes is mine. I’m going to fuck her”*.⁹⁴

In Bogotá, Colombia, a woman detainee was stripped naked by a policewoman and forced to go out naked in plain view of all the other detainees, including male detainees.

Threats of rape are also a constant threat against transgender persons. Many trans women and lesbians have also been threatened with corrective rape. In Nicaragua, the situation is so serious that many have been forced into exile. These aggressions are directly linked to their activism; they are women who recognise themselves as feminists, lesbian activists, and also opponents.

In most cases of sexual violence, there is strong complicity between police officers, who encourage one other to commit sexual violence either as individuals or as a group. There is a culture of rape in the police organisation. In Acacias, Colombia, there is a [recording](#) of a policeman putting a detained woman in a truck and, as he hands her over to the other policeman, he says *“do whatever you want to her.”*

In addition to the violence suffered, control mechanisms do not work or are non-existent. Making a complaint is very complicated and, in many cases, even medical professionals refuse to file a report. In Brazil, for example, the regulations establish that medical examinations are only carried out if there is something very evident or at the request of a lawyer. This measure clearly lacks a gender perspective because, in the majority of cases, sexual assault or rape is not evident.⁹⁵ In Argentina, several women pointed out that the doctor who made the report did not include their statements or check them for injuries that were not visible despite their statements.⁹⁶

In general, the Istanbul Protocol is not applied to complaints or reports of sexual violence.

The impacts of sexual violence are very serious and profound. Alison Mendez was a 17-year-old girl from Popayan, Colombia, who was arrested for filming the protests. A passer-by recorded the moment when she was detained by four ESMAD members, as she shouted that *“they were taking her trousers off”* and reproached the fact that it was four men who were detaining a woman. Alison was released a few hours later and the following day, after denouncing what had happened to her on social media, she committed suicide.

It is important to remember that rape committed by a State authority is considered by the IACHR Court as torture and that the use of various forms of sexual violence as a way to discipline and punish women for defying gender stereotypes can be classified as torture and inhuman and degrading treatment.⁹⁷

g. Violence against trans women ⁹⁸

“As trans women, we don’t exist, it seems that we are not human”, “being trans is frowned upon”, and “our bodies are not worthy” are expressions that are repeated in all interviews with trans women.

In Latin America, *“the vast majority of trans women are immersed in a cycle of violence, discrimination and criminalisation which generally begins at an early age, due to exclusion and violence they are subjected to in their homes, communities and educational institutions. This is coupled to the lack of recognition, in the majority of countries in the region, of their gender identity (...) trans women are killed mostly before 35 years of age and are particularly vulnerable to violence by law enforcement agents”*.⁹⁹

Diversidad Dominicana¹⁰⁰ explains that trans women in that country face restrictions on their right to free movement because they are trans, *“there are times, places and sectors in which they seem to be vetoed”*. Their access to restaurants, bars, and public bathrooms is restricted, as well as walking through a public

⁹⁴ Amnesty International. The Age of Women. 2019.

⁹⁵ Field interview—Artículo 19, Brazil.

⁹⁶ CELS Argentina (case information)

⁹⁷ IACHR, Case of Women victims of Sexual Torture in Atenco. Sentence November 28, 2018.

⁹⁸ The term trans women includes those who identify as trans women, transgender women and transsexual women and those who, despite using other categories, live their subjectivity and corporeality in the spectrum of femininity and do not align themselves with the sex assigned at birth. We also include transvestites in this category, which in South America corresponds to a political identity claimed by the sexual and gender diversity movement itself. See in L. Berkins (2006). *Travestis: Una identidad política*. Available at <https://hemisphericinstitute.org/es/emisferica-42/4-2- review-essays/lohana-berkins.html%20>

⁹⁹ IACHR. Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. 2015.

¹⁰⁰ Field interview with Diversidad Dominicana and the report Enterezas. Violencias, acceso a la justicia y (re)existencias de mujeres lesbianas, bisexuales y trans en Honduras, República Dominicana, Nicaragua y Colombia. 2020. <https://enterezas.com/wp-content/uploads/2020/09/Enterezas-en-movimiento-dos.pdf>

square or a park. Moreover, they are exposed to constant harassment, mockery, humiliation and even physical violence. This violence intensifies in cases of migrant or black trans women.

The high level of daily violence they face acts as a disincentive to exercise their right to protest. They feel unprotected and experience extreme insecurity rooted in the risk of being victims and the numerous experiences of impunity in response to their reporting acts of violence. In Brazil, it is said that *“Trans women do not want to participate in the marches because no one will protect them.”*¹⁰¹ It is a sentiment echoed in statements made in several countries in the region.

LGBT+ collectives such as Colombia Diversa, Caribe Afirmativo or the GAAT foundation in Colombia underline that the contempt and humiliating practices have worsened during the arrests, with episodes of harassment and constant threats. Therefore, they denounce that there are no guarantees for them to exercise their right to demonstrate without suffering discrimination and exclusionary prejudices, due to the homophobia and transphobia they suffer on a daily basis.¹⁰²

A Dominican trans activist¹⁰³ also points out that *“The LGBT population does not mobilise except on 17/05 and in June, due to the violence they suffer and the trans-hating culture”*.

Moreover, activists and organisations point out that these repeated experiences of impunity for violence are one of the main reasons why LGBT+ persons, and especially trans women, refrain from reporting incidents. Even in countries with high recognition of rights, such as Uruguay, there is widespread invisibility and lack of response to violence against trans persons. In small towns, harassment faced by the trans community is still very strong: they are persecuted and, when they go home, they are forced to dress according to a gender expression contrary to their self-perceived gender identity. Impunity for crimes against trans women is almost absolute: in 2021, 7 out of 8 murders went unpunished.¹⁰⁴

In many cases, activists suffer double violence due to their status as trans women and human rights defenders. In addition, in authoritarian contexts, they are considered “opponents”, which increases persecution and violence.

A trans activist in Nicaragua, who requests anonymity for fear of further violence, recounts her experience of an attack that almost killed her: *“two men on a motorbike grabbed me at the entrance to my office and beat me. They stabbed me seven times, some in sensitive areas (breasts, buttocks, head). They threw a paving stone at my face. I had to undergo surgery. They broke my jaw. They broke my collarbone. They put me in a bag with detergent. That’s part of what they did to me. They thought I was dead when they left me in the bag tied up.”* Due to the verbal aggressions, the previous threats and also the gesture of wanting to destroy her image and her face, she is convinced that this attack had to do with her condition as a trans woman and a leader. After her medical recovery, she filed a complaint but the investigation was never pursued: the police misplaced or failed to collect all the evidence from the scene, such as stones and the bag. She explained that, after the assault, she was summoned to make a statement. *“They made me do a sketch. I described one of the people I most clearly remembered but they did not draw that person as I described him. They drew someone else. I told them that he wasn’t like that. It was nothing like him.”* She only received help and support from social organisations.

The observatory of La Corriente Feminista in Nicaragua has systematised the experiences of violence suffered by activists. The most common ones are siege and persecution in homes, police taking photographs and interrogations when activists are leaving activities or homes, constant death threats, kidnapping and subsequent imprisonment, trans women placed in prisons for men, psychological and physical torture in the prison system, hate speech, illegal searches of homes, and forced exile.

In general, when trans women are deprived of their liberty they suffer multiple experiences of violence and injustice, different from what other groups may suffer. Some of the most common ones are the following: disregard for their identity, severe limitations on access to medical services, impediments to conjugal visits, sexual violence by the prison population and disproportionate use of confinement.

In Chile, there have been many cases of trans persons who, while arrested during the social unrest, were raped with police-issued batons. These cases occurred in specific police stations in one area of Santiago, which indicates the existence of a pattern of particular viciousness towards the trans population.¹⁰⁵

In Honduras, the Asociación Cozumel Trans, which accompanies people deprived of their liberty, some of whom live in the United States, explains that *“In the U.S., trans women are dressed in orange or red, uniform colours generally reserved for inmates deemed aggressive or violent. The treatment is inhumane and degrading”*.

¹⁰¹ Dandara Rudsan, Artículo 19 and Núcleo Estratégico de Direitos Humanos e Promoção da Paz (Nepaz), Brazil.

¹⁰² Mesa Colombia

¹⁰³ Field interview in Honduras.

¹⁰⁴ Interview by Azul Córdón, journalist.

¹⁰⁵ Field interview—NHDR Chile.

The pandemic situation aggravated the realities of precariousness and exclusion suffered by trans women in the region. They have been disproportionately affected by the pandemic's restrictions due to the fact that most of their income comes from the informal economy with many relying on sex work to survive. In addition to lost income, they were more exposed to being sanctioned by the police for non-compliance with the lockdown measures. In some cases, violence increased, "we, trans women, could not adhere to lockdown measures because we had no regular work. Even people who made house calls were robbed. They were stabbed for performing sex work. They were beaten".¹⁰⁶

The negative impacts extend beyond the period of restrictions and impact their possibilities of organising and exercising their rights. Cozumel Trans explains that "After the pandemic, we were forced to close our offices because we had no funds [to pay rent]", which directly affected the possibility of organising demonstrations.

Most of the stories, reports and cases collected in the region show an absence of state response to situations of violence and structural discrimination. In some countries, such as Honduras or the Dominican Republic, it is claimed that trans persons have begun to be appointed to some public positions "in order to make a good impression" but there are no fundamental changes: resources are limited or non-existent, policies are designed entirely by cis people without the participation of trans people, both in public positions and organisations. In some cases, such as Argentina, policies at a federal level do not reach the provinces or are designed without taking into account the specific realities of populations outside the big cities. In these cases, authorities are being called upon to work more closely with local communities so they can propose proper responses.

However, there are also some institutions that try to respond to the violence suffered by trans women. In Brazil, the Núcleo Estratégico de Direitos Humanos e Promoção da Paz (Nepaz) worked with the Public Prosecutor's Office to develop a project in which they receive complaints, thereby circumventing trans women's fear of going to police stations. They take down the complaint, accompany the victims, and send the complaint to the corresponding agency for processing.¹⁰⁷

In Argentina, the president of Siempre Diversidad Catamarca points out that, lately, authorities have been more open to addressing issues of discrimination by police forces. She also states that, although diversity training has yet to be established as part of the police training curriculum, there has been progress in the development and roll-out of sensitisation courses to raise awareness. She further highlights two recent cases of administrative sanctions in situations of discrimination. On the one hand, the INADI (National Institute against Discrimination) has condemned a priest for radio statements in which he said that LGBT+ persons were "anomalies and needed to be corrected", which was considered discriminatory after the complaint of the Asociación Siempre Diversidad Catamarca (ASDA). On the other hand, the provincial Ministry of Security of Catamarca has sanctioned a group of police officers who intervened in a party during the period of restrictions for COVID-19 in 2020 and treated LGBT+ persons in a derogatory and discriminatory manner. In addition to being suspended from duty, they were required to attend sensitisation courses.

h. Criminalisation of protesters, women leaders and activists

Criminalisation processes usually begin with the filing of baseless allegations or complaints based on criminal offences that do not conform to the principle of legality or criminal offences that do not meet inter-American standards.¹⁰⁸ These criminal offences are often linked to punishable conduct such as "incitement to rebellion", "terrorism", "sabotage", "incitement to crime", and "obstructing roads". When the criminalized persons are women, often, the misuse of criminal law is preceded by stigmatizing statements made by public officials.

In addition, human rights organisations have pointed out that judicial criminalisation is much greater in rural areas. There, the processes are longer and there is much less protection in the judicial process, for in the countryside there are not many legal support resources.¹⁰⁹ "It is possible to find common patterns regarding the disproportionate and illegitimate use of force in protests occurring in rural areas", where "indigenous and peasant communities have become the main figures in struggles for access, restitution, recognition and defence of land and territory".¹¹⁰

In the context of the Strike, social and peasant women leaders in Catatumbo were criminalized for their participation in the demonstrations. Local organisations report that the public prosecutor's office

¹⁰⁶ Field Interview Cozumel Trans, Honduras.

¹⁰⁷ <https://www.uol.com.br/universa/noticias/redacao/2021/10/14/advogada-defende-mulheres-lgbtqi-vitimas-de-violencia-n-o-para.htm?cmpid=copiaecola>

¹⁰⁸ IACHR. Criminalization of the Work of Human Rights Defenders. 2015. (OEA/Ser.L/V/II. Doc. 49/15).

¹⁰⁹ Field interview—Artículo 19, Brazil.

¹¹⁰ CELS, "Los Estados latinoamericanos frente a la protesta social". Buenos Aires, 2016.

stigmatises them and labels them as terrorists just because they live in a conflict zone. The impact of these processes is very strong, there is fear and a lot of pressure, which leads to inactivity, at least for a while. One of the two criminalized leaders was part of the peasant guard, which means that she is a person who has been elected by the community, which amplifies the impact.¹¹¹

In peasant or indigenous communities, criminalisation affects structures, leadership, the ability to function as a group, and collective symbols. When criminalisation affects persons which play significant roles it has a very negative impact on the collective as that person is prevented from exercising his or her position of representation, leadership, or authority.¹¹²

In some countries, such as Brazil, there is a very strong tradition in which housing and land protests are led by women, so the impact of criminalisation affects them much more and extends to their families and communities. In Mexico, the presence of women in these struggles is increasingly widespread and their detention also generates a lot of demobilisation.¹¹³

In Peru, the impact of criminalisation also affects women differently. A social leader, president of the women's peasant patrols in the village of Molinopampa (province of Celendín), who was prosecuted for defending the environment,¹¹⁴ explains the impact of her criminalisation. After 4 years of proceedings, she was acquitted but, in the middle of the process, she was pregnant with twins. The pregnancy had multiple complications and, in childbirth, she lost the baby girl and the baby boy drank meconium fluid, as a consequence of which, he was born with high blood pressure and under severe stress. She recalls that when the police attacked the women, they were attacking what represents feminine aspects. *"The police shouted at us, overturned the communal pots and even shot at them so that we could no longer eat. They beat us on our breasts and our private parts"*.

In Argentina, there is the paradigmatic case of Milagro Sala, who is a political, social and indigenous leader. She is the leader of the Tupac Amaru Neighbourhood Organisation and a member of Central de los Trabajadores Argentinos, the provincial congress, and Parlasur. Tupac Amaru is particularly well known for its work in the construction of thousands of homes for low-income families in her province. The politically motivated persecution by the current governor of the province, whom she opposes, began with a public campaign to discredit and stigmatise her. Subsequently, 11 criminal cases were brought against her with the sole purpose of ensuring her arrest and subsequent preventive detention. There was a permanent violation of the right to defence and the cases were loaded with misogynist and racist arguments. The main reason for her detention was that she had organised and participated in a mobilisation that culminated in an encampment after the Governor refused to respond to several requests for hearings. The Provincial Executive branch issued a decree in order to deprive the organisations that remained in the demonstration of their legal status. In addition, the decree was aimed at depriving the demonstrators who were in the encampment of their social rights. The persecution, criminalisation and harassment of Milagro Sala had a negative impact on the neighbourhood organisation Tupac Amaru: its legal status was suspended as a consequence of members exercising their right to protest. They were subjected to raids and even had to endure an intervention ordered by a decree issued by Governor Gerardo Morales. In addition to the impact on her personal life, as a result of what happened, other women who were politically active in the organisation decided to step aside. Milagro has been imprisoned since 2015 and the state has ignored the measures issued by the IACHR on different occasions to guarantee her rights.¹¹⁵

Women's rights defenders are another focal point of criminalisation. A Brazilian activist was sentenced to three months in prison, for exposing her breasts in protest during the 2013 March of the Whores in Guarulhos.¹¹⁶ Her sentence was later commuted to a fine of \$1,000 Brazilian reais for the practice of an *"obscene act in a public place"*. Before testifying, two police officers called her and asked her out to get access to her data; a practice that is becoming increasingly commonplace in Brazil. The impacts of this criminalisation affected many areas of her life: for instance, she lost her job because she had a criminal record. The violence against Roberta shows the selectivity of repressive measures: she was criminalized because she was a poor, black lesbian. In addition, it should be noted that *"Partial nudity contributes to the debate on the objectification of women's bodies. In other words, it is part of the core meaning of the protest undertaken by the group. In this case, it is part of the message of the women's protest to address issues related to the right over one's own body. To sentence this as an "obscene act" is to criminalize a content of the women's protests that is historical and occurs frequently not only in Brazil, but elsewhere in the world."*¹¹⁷

¹¹¹ Interview Pueblos, Colombia.

¹¹² IACHR. Criminalization of the Work of Human Rights Defenders. 2015. (OEA/Ser.L/V/II. Doc. 49/15).

¹¹³ Field interview—Frente por la libertad de expresión y protesta social, Mexico.

¹¹⁴ <https://wayka.pe/violencia-genero-y-territorio-conoce-las-historias-de-las-defensoras-del-agua-de-conga/>

¹¹⁵ <https://www.cels.org.ar/web/2022/06/ante-la-internacion-de-milagro-sala-insistimos-a-la-corte-idh-que-reitere-la-orden-de-medidas-de-proteccion/>

¹¹⁶ <http://www.justificando.com/2018/09/03/manifestante-da-marcha-das-vadias-condenada-por-ato-obsceno-tem-acesso-ao-stf-negado/>

¹¹⁷ Artigo 19, "Activista condenada por mostrar seios em protesto ira a novo julgamento".

<https://artigo19.org/2017/05/02/ativista-condenada-por-mostrar-seios-em-protesto-ira-a-novo-julgamento/>

In this kind of case, criminalisation is exercised in a sobering manner that is not only gender-stereotyped but also racist. There is also the case of an indigenous leader from Altamira, Brazil, who was prosecuted for participating in a protest against the racist statements made by a university professor. The rest of the non-black and non-indigenous people were not prosecuted. She is the leader of the movement, so her prosecution had a strong impact on the community. Another differential impact of the criminalisation processes is related to fines, which have a greater effect on women such as Monica, who is an indigenous and poor woman.

There are also cases of criminalisation of defenders who promote the rights of lesbian, gay, bisexual, and trans persons (LGBT). In this sense, many English-speaking Commonwealth Caribbean countries still criminalize sexual relations between consenting adults of the same sex, which negatively impacts the right of association of LGBT organisations that are seen as delinquent for promoting these rights.¹¹⁸

i. Military intervention

The presence of armed actors in civil society poses differential risks for women. For decades, women have been mobilising against the militarisation of civilian life.¹¹⁹ Different countries in the region continue failing to adequately differentiate between defence and citizen security actions, as well as involving military authorities in the management of social conflicts.

In Brazil, the militarisation of the police in recent years has intensified violence.¹²⁰ In 2013, a very strong wave of vigilantism began, with the coordination of intelligence agencies, military forces, and infiltrated agents both in-person and digitally. In 2015, one case that came to light involved “Balta” (the nickname of a demonstrator who was actually an enlisted army major assigned to infiltrate social movements). His activity was linked to a series of protests involving teenagers taking to the streets for the first time. “Balta” went as far as seducing two or three women to get inside information. He used Tinder to talk to girls who were organising to participate in a demonstration against Dilma’s impeachment, and finally organized an ambush of 17 young people at a cultural centre on Paulista Avenue. He organized a police operation, with helicopters, to arrest these young people.¹²¹

In Chile, during the social uprising, the military involved in managing the conflict perpetrated sexual violence. Local organisations reported threats of rape and inappropriate touching in intimate areas, saying they were particularly prevalent during operations with a military presence.

The executive branch in Colombia introduced the figure of “military assistance” through Decree No. 575 in May 2021, which orders governors and mayors to coordinate military assistance given to police forces so as to address public order problems in the context of protests and specifically to lift blockades.¹²² This led to an increase in militarisation and the abusive use of force. This initiative was condemned by civil society, especially women’s organisations such as SISMA, who pointed out that “Fortunately, many members of the military refused to do this (take command of the interventions), as they foresaw that they would end up being prosecuted”.

In Mexico, there are also numerous records of violence against the population in security interventions. The Inter-American Court has stated that “The presence of the army carrying out police work in the state of Guerrero has been a controversial issue in relation to individual and community rights and freedoms, and has placed the population in a situation of great vulnerability, affecting women in a particular way, [...] Military justice should only be used to judge active military personnel for the alleged commission of crimes in the strict sense of the term”.¹²³

The UN Secretary-General and the Security Council have also spoken out against military intervention in the context of protest¹²⁴ given its high impact on restricting freedom of assembly and demonstration.

A “re-reading of the security and defence sector, which has been designed from a male perspective and does not adequately guarantee the participation and incorporation of gender issues in its agenda” is essential. This redefinition must call for the incorporation of the concept of human security, which calls for

¹¹⁸ IACHR. Criminalization of the Work of Human Rights Defenders. 2015. (OEA/Ser.L/V/II. Doc. 49/15.)

¹¹⁹ Since the Beijing Declaration and Plan of Action, women have advocated for the reduction of military spending and its redirection to peacebuilding programmes.

¹²⁰ Raisal Cetra, Artículo 19, Brazil.

¹²¹ https://elpais.com/internacional/2016/09/09/actualidad/1473452777_631937.html

¹²² https://www.ilexaccionjuridica.org/wp-content/uploads/2021/08/INFORME_ILEX_RACE.pdf

¹²³ SISMA’s brief Rosendo Cantú et al vs. Mexico and Fernandez Ortega et al vs. Mexico.

¹²⁴ The Secretary General of the United Nations has stated that: “A militarized view of conflict prevention sells resolution 1325 (2000) short of its transformative vision of a more equal, just and peaceful world.” (Report of the Secretary-General on women and peace and security, S/2015/716, 16 September 2015). In addition, the Human Rights Council, in the Resolution for the promotion and protection of human rights in the context of peaceful protests (A/HRC/RES/38/11), recommended refraining from assigning military personnel to perform such duties.

a broader understanding of security, in which protection and empowerment of people are the basis and purpose of security,¹²⁵ and must take into account women's needs.¹²⁶

5. The institutional response

According to activists and organisations in all the countries analysed, the institutional response to gender-based violence in the context of protests is generally insufficient and ineffective. The region is characterized by the impossibility of access to justice, impunity, and the lack of gender perspective on both public security authorities and the judiciary. In many cases, there are no specialised institutions that receive complaints or investigate them, or which assist and compensate victims. When they do exist, the institutions that deal with situations of gender-based violence do not handle cases of institutional violence or violence in the context of protests. Instead, they are only "prepared" to deal with cases of gender-based violence perpetrated by partners at home. In contrast, the institutions that deal exclusively with institutional violence do not apply a gender perspective. In other cases, their resources are insufficient.

For example, in Uruguay, the Women's Institute, under the Ministry of Social Development, receives complaints of violence but not of institutional violence. The Human Rights Institution offers advice, receives and registers complaints, and makes reports with recommendations, but it does not have a gender area. In Peru, the National Plan against Gender Violence 2016–2021 included gender violence within social conflicts but, this approach is difficult to put into practice. For instance, the organisation DEMUS asked the Ministry of Women and Vulnerable Populations to provide legal support to a human rights defender who was sexually assaulted by the Peruvian National Police during a social conflict. DEMUS's request sought to avoid a compartmentalised treatment of gender-based violence and violence against the victim for being a defender.

Even though international institutions have been emphasising the importance of avoiding impunity for gender-based violence,¹²⁷ most of the victims we surveyed have not received redress or justice. The impacts of impunity have direct repercussions on the health of the victims, their perception of security, and the possibility of exercising their right to protest. A Mexican activist was ambushed by the police during a demonstration in Quintana Roo, Mexico, in November 2020, and told the IACHR,¹²⁸ *"when I managed to get on my motorbike, a policeman got in front of me so that I could not get out. He appeared in front of us and two others from behind were already shooting directly at us. I believe that it was there, those are the shots that hit my body... They put us on the grass, four policemen, plus the ones that came later. They began to beat us with their shields, with their truncheons, saying many curses and repeating "they wanted to demonstrate, that's what they get for bothering, that's what they get for going out". I thought that that was the worst part, but it wasn't. Everything was wrong: this whole year of impunity, of simulations, the fact that they have mocked us to our faces, and that we have been on the verge of the police being prosecuted but it then came to nothing"*.

From Cozumel, following the repression suffered by trans people during a demonstration on September 15, they said *"No complaint was filed due to violence because they don't take our complaints. They don't value our complaints. We have a colleague who tried to file a complaint, she was crying and was all beaten up. And they didn't assist her because she was a sex worker"*.

¹²⁵ United Nations. Report of the Secretary-General to the General Assembly, Human Security. A/64/701, 8 March 2010.

¹²⁶ IACHR, Case of Women victims of Sexual Torture in Atenco. Sentence November 28, 2018.

¹²⁷ The United Nations General Assembly has expressed its concern at the persistence of impunity for violations (...) social barriers and constraints with regard to addressing gender-based violence (A/RES/68/181, Resolution adopted by the United Nations General Assembly on the protection of women human rights defenders and defenders of women's rights). On numerous occasions, the IACHR has also recalled the importance of avoiding impunity and that the IACHR Court has stated that, "In cases where it is suspected that a State agent has perpetrated gender-based or sexual violence against a person in the context of a demonstration, the investigation must comply with a number of provisions in order to identify, prosecute, and punish those responsible. Such an investigation must: "i) document and coordinate the investigation procedures and process the evidence diligently, taking sufficient specimens, performing tests to determine the possible perpetrator of the act, preserving other evidence such as the victim's clothes, inspecting the scene of the incident immediately, and ensuring the proper chain of custody; ii) provide free legal assistance to the victim during all stages of the proceedings, and iii) provide both emergency and, if necessary, continuing medical, prophylactic and psychological care to the victim, using a treatment protocol aimed at lessening the consequences of the offense." In cases of alleged acts of violence against women, the criminal investigation should include a gender perspective and be conducted by officials with experience in similar cases and in providing attention to victims of discrimination and gender-based violence." (IACHR. RFOE. 2019 quoting IACHR Court case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of 20 November 2014. Series C No. 289, para. 242. I/A Court H.R., para. 242. Case of Veliz Franco et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs).

¹²⁸Hearing before the IACHR, Situation of women's and girls' human rights in the context of the protests in Mexico, 28/10/2021.

In addition to the lack of response from the justice system, when people file complaints, they are subject to more violence and fear their re-criminalisation.¹²⁹ Temblores explains that *“What happens afterwards—after detention and violence—is the intimidation of people who want to denounce [these acts], and the practice of concealment of everything that happens”*. In Mexico, Nicaragua and Honduras, women who have filed complaints in domestic or international bodies are persecuted, which puts their lives, as well as their family members’ lives, at risk.

In Colombia, SISMA points out that, *“in the Strike against illegal detentions, the purpose was to save lives. The women who were released left aside the violence they had experienced; they did not report”*. In addition, they face the issue that the complaints are sent to the military justice system, even though it is not the competent jurisdiction. There, the criteria applied are even worse. For example, it is accepted that penetrating an intimate orifice (the literal definition of rape in the criminal code) is valid as a search, as is forced undressing. *“Women prefer to denounce through social media rather than enter into the re-victimisation of the judicial instances.”*¹³⁰

These situations create an environment in which reporting is the exception in many countries. During the National Strike, Pueblos recorded 323 violations and only 15 people reported them.

In rural areas, the possibility of filing complaints is even lower, due to the scarce availability of information, and the lack of internet access and legal advice.

Many mechanisms lack a gender perspective. For example, in Colombia, the unified command points created during the strike—composed of the public prosecutor’s office and the ombudsman’s office—which analysed interventions in the conflict and made recommendations, did not have the categories of sexual violence or gender-based violence among the options for classification. These categories were then included at the request of the organisations. Temblores points out that the authorities minimise these forms of violence because, in absolute numbers, there are few cases. However, if there were a survey on women’s encounters with the police, it would be seen that these always involve gender-based violence.

Other existing mechanisms are ineffective in addressing the particularities of gender-based violence, especially sexual violence, such as the online complaint channels of the Peruvian Ministry of Women’s Affairs.

Others, which are supposed to incorporate this approach, have a totally insufficient dimension and lack resources. For example, the Mechanism for the evaluation of cases of sexual torture in Mexico, which depends on the Ministry of the Interior, has evaluated only three cases since 2015.¹³¹ In Honduras, the Ciudad Mujer project was implemented, inspired by the experience of El Salvador, which are complexes that watch over women’s rights, but with very limited action, very few resources and, in practice, everything continues to fall to civil society organisations.¹³²

In the Dominican Republic, COLESDOM explains that the Human Rights Department channels social organisations’ demands. However, they attribute this mainly to the personal commitment of the individual in charge. In addition, the organisation highlights that if they do go to a prosecutor’s office and the complaint is not received, they can contact the department and it will intercede. Moreover, they have created a diploma course for judges and prosecutors and LGBT+ organisations are encouraged to participate.

In Colombia, the gender duos of the Ombudsman’s Office, which provide legal and psycho-social support, work well. This is also the case with the Secretary of Women’s Affairs, an institution at the district level in Bogotá, which provides mainly psychosocial and legal support. *“There are some people with good intentions, but they fall short of their capacities”*, says Temblores.

In Brazil, some states have women’s defence centres. Although they work well, *“they have some difficulties, they are insufficient, they are far fewer than needed”*.¹³³ In recent years, in São Paulo, a system of guards has been created. They are present at sit-ins—demonstrations—and accompany pre-judicial investigations. They also have a telephone available, which is highly valued.

In terms of regulation, there is practically no special protection against gender-based violence in the context of protests. A good example is the case of Peru, where gender-based violence in social conflicts is expressly recognised in the National Plan against Gender Violence 2016-2021, approved by Supreme Decree No. 008-2016-MIMP. In Chile, a bill to explicitly prohibit the forced stripping of detainees arose as a result of this repeated practice during the demonstrations in 2019, but it has not further developed into parliamentary procedure.

¹²⁹ Field interview by Frente por la libertad de expresión y protesta social, Mexico.

¹³⁰ Field interview—Temblores, Colombia.

¹³¹ Field interview—Frente por la libertad de expresión y protesta social, Mexico.

¹³² Field interview, Honduras.

¹³³ Field interview—Artículo 19, Brazil.

Mexico has made progress in some attempts to incorporate a gender perspective into police intervention protocols in Mexico City and the State of Guanajuato. As analysed in the section “Police Operations”, these reveal good intentions but they have no impact in practice because they are not implemented.

6. Patriarchy runs through us: the invisibilisation of other gender-based violence

Gender-based violence is not exclusive to state forces: it is a form of violence that is rooted in the power relations on which our society is built and, as such, permeates it. Women and LGBT+ persons suffer the consequences of the application of gender stereotypes and discriminatory attitudes, including from within their own political parties¹³⁴ and movements. There have been cases that occurred in the context of protests. These situations have the added complexity that reporting is often associated with an attitude of betrayal and the victim is constantly re-victimised, which limits access to justice and reparation. Furthermore, the interventions provided by organisations or the state tend to focus on gender-based violence or institutional violence, but do not address the intersection between the two types of violence.

Although these situations were not included in the initial objective of the research, the interviews quickly brought them to the table. This led us to make explicit inquiries and revealed a difficult, uncomfortable and complex situation that needs to be made visible in order to be addressed.

Somos Identidad, which is committed especially to the protection of the rights of Afro-descendant black people, collected reports of situations of violence within the demonstrating groups in the framework of the Strike in the city of Cali, Colombia. They documented 18 cases of violence against Afro-descendants. In all cases, there was racist violence, as well as physical and sexual violence. Of the 18 cases, 11 were women (seven cis and three trans), six men (two cis and four trans), and one non-binary person with feminine expression. In 12 of these 18 cases, the perpetrators were members of the frontlines. In one of the community cooking pots, when it became known that the person cooking was a trans person, a group of people threw the food away, arguing that “as they are “freaks”, the food is likely to have AIDS”.

An Artículo 19’s advocate points out that in Brazil, “Macho violence is present within social movements. There are many cases of rape and psychological violence. But, in general, there is more disbelief at women reporting cases of abuse. It is very difficult to talk about it.”

In Honduras, an activist from Cozumel Trans recounts discriminatory situations they suffered when they tried to participate in the demonstrations: “When we took part in the demonstrations, they insulted us, they said too many things to us that made us feel bad. Thus, we stayed away from these protests of different sectors such as peasants, indigenous people, people of African descent, people with disabilities, and women. We are currently in last place, but the violence is not so intense.” She also states, “That is my perspective, but when a trans woman arrives at the march, awake because she has been doing sex work, with her skirt on, she arrives like that because she is on the corner. She arrives at the protest and the looks are discriminatory. These are situations that we experience on a daily basis.” And they feel that trans activists are not defended with the same effusiveness as cis activists. She explains that, during the Hernández government, there was a march that was repressed, “Some of our comrades were arrested, beaten. We asked the party for support, for protection and there was no interest. We said: who is going to go to the protest after what happened? Since then, we have started to go on demonstrations on our own. Now, we do activities other than protests.”

A feminist and LGBT+ activist also explains that, in Honduras, “we began to think of another space (the national resistance front) that would bring people together. We called it a platform of social and popular movements, we worked for about a year. From that convergence, women comrades from mixed organisations began to denounce the violence of their comrades. There was a case within the Broad Movement, by a misogynist, anti-feminist man. We stood up and raised the issue. The Broad Movement unheard the women and then, the platform collapsed. It happens all the time. The student movement denounced abuses. There is a particular case that has been judicially reported. COPIN did expel a comrade after a complaint of sexual abuse but, in general, little importance is still being given to women’s words and complaints.”

Several organisations in Colombia referred to the contempt still present regarding the participation and opinions of women and LGBT+ collectives, as well as the indifference to the specific violence suffered by Afro or indigenous women: according to the organisation ILEX, “patterns of gender-based violence have been generated against Afro-descendant women in which control is exercised over bodies and fear is

¹³⁴ A/75/184 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément N. Voule. Celebrating women in activism and civil society: the enjoyment of the rights to freedom of peaceful assembly and of association by women and girls.

*instilled from the historical connotation of the corporeality of black women.*¹³⁵ In the framework of the Strike, *“within the list of demands to be negotiated at the tables for each point, a section on gender-based violence was included. It was a little more than 15 points on a page and a half, but in the final negotiations it was reduced to two paragraphs in Cali, and at the national level it did not pass. Racism and LGBTphobia as structural practices were not included in any document. Part of the problem is that the protests are still understood in a very masculinised way. Those who occupy leadership positions are mainly men. The roles are seen very clearly, they are romanticised, the women were doing the cooking and those going to the political meetings were the men.”*¹³⁶

A Peruvian leader explains, *“There is anger among women about the mistreatment that comes not only from the mining transnationals and the police but also from our own organisations. Men in our community don't let us participate in community decision-making processes.”*¹³⁷

Further work needs to be done on the recognition and effective equality of women and LGBT+ persons, even within the organisations that fight for rights. The role of women in the public space and their leadership continue to be questioned. More work is needed on mechanisms to improve the conditions for the exercise of rights without discrimination and to achieve an approach to gender-based violence that gives a voice to all women and LGBT+ persons at all levels.

7. Final reflections

In general terms, the region needs to work towards a system that protects women and LGBT+ persons and guarantees their free exercise of the right to protest and access to justice. It must also provide redress in cases of violations and violence. There is also the need to work towards an effective implementation of the existing standards and protections.

Legal frameworks

Action should be taken in different areas: with regards to the legal framework, one of the first thoughts is to expressly prohibit forced stripping in police procedures in countries where it is still a practice (there is a bill in Chile to forbid that practice), as well as to strengthen monitoring mechanisms by bodies external to police forces. The issue of searches is a matter of constant concern in places of detention. The criteria for determining whether a full body search or cavity search is legally justified should be regulated in a highly restrictive manner, and require judicial supervision or validation of these measures.

There should be an obligation to respect the gender identity of persons at the time of searches and arrests, from determining which police personnel will be appointed for a particular situation to the places of detention chosen.

In addition, the involvement of the military in the management of demonstrations should be prohibited.

Regarding the promotion of the participation of organisations in public policies that affect them, we can think of integrating women's and LGBT+ persons' organisations in the generation and monitoring of mechanisms for the prevention of violence and the control and investigation of police and security forces. Community networks should also be strengthened and support should be given to organisations working for the defence of victims and the defence of human rights.

In addition, there are more general legal frameworks that treat rape as a form of torture and sexual violence as an element that can be considered inhuman or degrading treatment.

Interventions in the context of protest

Interventions in the context of protests should provide spaces for dialogue between organisations and authorities, prior to the demonstrations, in order to guarantee that the protest can take place.¹³⁸

¹³⁵ ILEX, “Informe de afectaciones a personas afrodescendientes en el marco del paro nacional en Colombia” available at: https://www.ilexaccionjuridica.org/wp-content/uploads/2021/08/INFORME_ILEX_RACE.pdf

¹³⁶ SISMA women.

¹³⁷ <https://wavka.pe/violencia-genero-y-territorio-conoce-las-historias-de-las-defensoras-del-agua-de-conga/>

¹³⁸ **A/HRC/RES/38/11 Resolution adopted by the Human Rights Council on 06/07/2018. The promotion and protection of human rights in the context of peaceful protests:** Underlines the important role that communication between organisers, demonstrators, local authorities and law

Communication channels should be established between the protest organisers and the authorities in order to be able to address and formalise the claims, with the participation of suitable officials in these spaces, who have gender training. It is also relevant to guarantee the exercise of observation by human rights defenders.

In many countries or local jurisdictions, the obligation to exhaust avenues of dialogue in the context of protest conflict before the use of force is not explicitly defined, including non-police negotiating teams that are diverse and involve women and LGBT+ persons, Afro-descendants, indigenous or peasant farmers, among others.

There are a number of recommendations that should be adopted with regard to the planning of police operations at protests. Police personnel involved in managing demonstrations should be trained and properly equipped in advance. The operations must have the necessary foresight to ensure that police personnel are not exposed to excessively long working hours, that they are relieved and that they are guaranteed food and decent working conditions. In particular, women should be provided with adequate equipment and access to toilets. Monitoring of the management of demonstrations should be guaranteed, especially in rural areas.

The use of detention as an action to disperse a demonstration must be strictly avoided. Such arrests are essentially arbitrary and constitute a violation of protest rights.

Many of the interviewees identified the transfer operations as the most frequent occasion for acts of violence. The transfer of detainees should be carried out in the shortest possible time, and, if a delay is strictly necessary, people, especially women, should have access to toilets. Positioning systems (GPS), and audio and video recording systems should be set up in the vehicles police used to transport detainees. Police intervention protocols should include the obligation to always respect the gender identity of persons, regardless of the gender stated on their identity cards, especially during searches and detention. The possibility of communication with a family member or a person of trust to notify of the detention should be guaranteed. At the time of arrest, it should be assessed whether the person is in charge of minor children, even if they are not present at the time of arrest, in order to adequately guarantee their protection. Audio and video recording systems should be set up inside police stations or places of detention.

Respond to possible acts of violence perpetrated by specific groups of demonstrators by identifying individuals, with differentiated and proportionate actions, respecting and protecting everybody's right to peaceful assembly.

Police training and police culture change

Repeated human rights violations in the framework of demonstrations have often brought into the public debate the issue of improving the training of police officers on human rights, gender, etc. Establishing constant and compulsory theoretical and practical sensitisation courses on violence, gender, sexuality and diversity for all administrative, judicial and police personnel seems to be a necessary part of law enforcement training. However, at the same time, experience has shown that this aspect must be part of a deeper reshaping of police culture. The elimination of the abusive use of force is a central component of these changes, but also the elimination of mandates placed on police to neutralise opposition demonstrations and the use of the imagery of "enemy", "subversion of public order", "delinquency" or "terrorism" to identify demonstrators.

Similarly, it is necessary to establish internal protocols for the prevention, identification and punishment of gender-based violence within police organisations. Not all countries have clear and transparent protocols that regulate police action at demonstrations. The countries that do have them do not always include specific content on gender issues, with clear and explicit lines of action. But even in the cases of countries that already have defined standards of action on these issues, constant efforts must be made to ensure compliance with these guidelines in practice, including the review and analysis of specific cases, the application of disciplinary sanctions in cases of non-compliance and constant training in coordination with Secretariats or Ministries of Gender or Equality. Non-compliance with the protocols of action is very common in Latin American police institutions. Accountability mechanisms are weak, there is little political will to move forward with investigations, a lack of technical capacity and excessive delays in response times.

For authorities and governments, we must stress the importance of refraining from making statements that stigmatise the struggles of women and LGBT+ persons and question their narratives and complaints in case of rights violations. This research has shown the impacts and consequences of such public

enforcement officials can play in the proper management of assemblies, such as peaceful demonstrations, and calls upon states to establish appropriate channels to this end.

statements by political leaders. It has also shown how such statements spread in the public sphere, in the streets and in virtual reality, generating waves of aggression that are difficult to control.

Smear campaigns and online harassment against women exercising their rights to freedom of protest and association should be publicly condemned and properly investigated. Those in positions of power who advocate or support violence against women in public life must be held accountable for their actions.

Justice and redress

One of the immediate measures called for is the establishment of a system of legal advice at the very moment of the protest and/or permanent presence in police stations. Legal protections cannot depend exclusively on the detainee's ability to make a phone call, as such action is often delayed or even prevented.

Adequately resourced assistance services, with proper personalised access channels, staffed by people specially trained to deal with gender-based violence, especially sexual violence, must be created. They should also be accessible in rural areas.

Moreover, comprehensive support services (including shelters, psychosocial services, counselling, medical care, and legal and social services) must be made available to all victims. A gender dimension must be integrated into the planning and implementation phases of all services, programmes and other interventions related to human rights defenders.¹³⁹

External monitoring mechanisms of police actions should implement a registry of data on institutional gender-based violence, including violence in the context of protests. Data should be disaggregated in a way that allows an intersectional analysis. These mechanisms should collaborate in the development of specific protocols for the investigation of cases of gender-based violence for both internal investigations and judicial proceedings. Moreover, they must adopt an investigative hypothesis that violence against LGBT+ protesters may be motivated or aggravated by prejudice towards their sexual orientation, gender identity or gender expression.

Establish the possibility of the participation of independent experts with a gender and intersectional approach in the investigations. Establish comprehensive reparation mechanisms for victims of gender-based violence in cases of institutional violence.

The latest developments by international and regional protection mechanisms have produced comprehensive standards for the handling of protests from a human rights perspective, referring to the need for specific actions in regard to groups such as women and LGBT+ persons.

However, as of now, we have not seen states fulfilling their obligation to adopt a differential approach, and there is need for clearer operational instructions with a gender perspective. There have been numerous violations of the rights of women and LGBT+ persons in the context of protests. This work aims to bring reflections incorporating the views and perspectives of feminist and LGBT+ organisations, activists, social leaders, and victims of gender violence to pave the way to the development and implementation of public policies that allow for full enjoyment of our rights. There we go.

¹³⁹ A/RES/68/181, UN General Assembly Resolution on the protection of women human rights defenders and defenders of women's rights.

ANNEX I - Legal framework

Universal law and differential obligations

The right to protest, as a human right, is governed by the principles of universality and non-discrimination enshrined in Article 1 of the Universal Declaration of Human Rights, which states that “all human beings are born free and equal in dignity and rights”.

However, there are groups (such as women, youth, children, persons with disabilities, foreigners, displaced persons, persons of African descent, indigenous peoples, people who are discriminated against because of their sexual orientation or gender identity, and human rights defenders) who share the experience of structural discrimination, unequal treatment and harassment, which have a differential impact on the exercise of their rights and generate invisibility and systematic exclusion from public debate.¹⁴⁰

In view of this, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association has recalled that Article 21 of the ICCPR should be read in conjunction with Article 2 of the Covenant, which states that “*Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex,¹⁴¹ language, religion, political or other opinion, national or social origin, property, birth or other status.*”¹⁴²

On the other hand, with regard to the interpretation and extension of this article, the UN High Commissioner for Human Rights adds that the specific grounds of discrimination mentioned are not exhaustive, which is why the phrase “*other status*” is included. This means that it includes protected or suspect categories depending on the context or that were not considered in the first place, such as sexual orientation and gender identity.¹⁴³

Similarly, in America, the IACHR has recalled that the rights to freedom of expression and association, enshrined in articles 13 and 16 of the American Convention on Human Rights (ACHR), are the rights of “every person” and that any restrictions to the right to protest must not perpetuate prejudice or foster intolerance. It has further noted that “*The general principle of nondiscrimination applies especially to demonstrations and protests. Indeed, States may not limit social protest on the basis of the prejudices and intolerance that governments or societies have towards an individual or group*”. In this sense, the Declaration of Principles on Freedom of Expression in Principle 2 states that, “*Every person has the right to seek, receive and impart information and opinions freely under terms set forth in Article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.*”¹⁴⁴

Since marginalisation means that these individuals and groups are less able to exercise their rights, the ability to assemble and associate is in fact a key component of empowering marginalised communities and individuals. Thus, restrictions imposed by states on the exercise of the right to protest only reinforce this marginalisation.¹⁴⁵

While both women and men face the well-documented threats to closing civic space, women also experience persistent gendered barriers, discrimination and impunity for the violation of their rights to peaceful assembly and of association.¹⁴⁶

¹⁴⁰ United Nations. Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of demonstrations, A/HRC/31/66. Also the Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29.

¹⁴¹ With regard to sex discrimination, we understand that the CEDAW interpretation of Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) should be followed, stating that “Although the Convention refers only to discrimination on the basis of sex, the interpretation of Article 1 together with Article 2 (f) and Article 5 (a) indicates that the Convention covers sex discrimination against women. The term ‘sex’ here refers to the biological differences between men and women”.

¹⁴² United Nations, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27.

¹⁴³ United Nations, Report of the High Commissioner for Human Rights. Discriminatory laws and practices and acts of violence committed against persons on the basis of their sexual orientation and gender identity. A/HRC/19/41.

¹⁴⁴ IACHR. RFOE. Protest and Human Rights, 2019.

¹⁴⁵ United Nations, Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of demonstrations, A/HRC/31/66 and Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29.

¹⁴⁶ United Nations, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément N. Voule. Celebrating women in activism and civil society: the enjoyment of the rights to freedom of peaceful assembly and of association by women and girls. A/75/184. References to “women” here include girls, as well as those transgender and intersex persons who identify as women and gender non-conforming persons affected by social constructions of women.

This violence and discrimination constitute gender-based violence because it is directed against women based on their gender or affects them disproportionately, constitutes a violation of their human rights and is one of the fundamental social, political and economic means by which the subordinate position of women in relation to men and their stereotyped roles are perpetuated.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association notes that women exercising their rights are often subjected to gender-based violence by state and non-state actors. This trend involves a renewed emphasis on “traditional values” and an insistence that “*the role of women should be limited to the private sphere, the family and procreation*”. Persistent obstacles and new attacks impact women in all aspects of their lives and have a compounded negative impact on women who experience intersectional forms of discrimination, disadvantages and obstacles. These practices, affected by such cultural, ideological and political factors, hinder women’s political participation.

He further notes that the threat of attacks such as sexual violence, faced on a daily basis in the public sphere, “*can become much more severe during peaceful protests and demonstrations*” and “*inhibits women’s participation in peaceful assemblies*”.¹⁴⁷

The Special Rapporteur on the situation of human rights defenders, in his report on the situation of women defenders, also emphasises the differential risks and obstacles faced by women. He notes that, in recent years, there has been a worrying proliferation of misogynist, sexist and homophobic discourse by prominent political leaders, which has normalised violence against women and those who do not conform to gender norms. Thus, they “face ‘sexist and derogatory comments about their gender’ on social media as part of [...] everyday life”.

In particular, the Rapporteur notes that the gender-related risks faced by women human rights defenders are:¹⁴⁸

- Non-recognition, marginalisation and systematic exclusion
- Public shaming, stigmatisation, attacks on honour and reputation
- Risks, threats and attacks in the private sphere and against families and loved ones
- Physical attacks, sexual violence, torture, killings and enforced disappearances
- Online harassment, violence and attacks
- Judicial harassment and criminalisation
- Denial of participation, restrictions and reprisals for engagement with international and regional human rights systems
- Threats to status
- Physical incarceration

The United Nations High Commissioner for Human Rights has also pointed out that, in all regions, people suffer violence and discrimination due to their sexual orientation or gender identity. “*In many cases, even the perception of homosexuality or transgender identity puts people at risk. Violations include—but are not limited to—killings, rape and physical attacks, torture, arbitrary detention, the denial of rights to assembly, expression and information.*”¹⁴⁹

While this violence and discrimination occur in all settings, it is remarkable how it is affected by political, economic and social crises, unrest, humanitarian emergencies, natural disasters and the destruction or degradation of natural resources,¹⁵⁰ hence the importance of developing explicit and detailed protections in these contexts.

The IACHR has also noted that there are certain groups of defenders who have been more frequently the target of these forms of criminalisation due to the causes they advance or the content of their demands, including those who defend rights concerning territories and the environment, the defence of labour rights

¹⁴⁷ United Nations, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément N. Voule. Celebrating women in activism and civil society: the enjoyment of the rights to freedom of peaceful assembly and of association by women and girls (A/75/184) and CEDAW General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, C/GC/28.

¹⁴⁸ United Nations, Report of the Special Rapporteur on the situation of human rights defenders. Situation of Women Human Rights Defenders, A/HRC/40/60; UN General Assembly Resolution on the protection of women human rights defenders and defenders of women’s rights, A/RES/68/181.

¹⁴⁹ United Nations. Report of the High Commissioner for Human Rights. Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. A/HRC/19/41.

¹⁵⁰ CEDAW, General Recommendation No. 35 on Gender-based violence against women, which updates the General Recommendation No. 19. C/GC/35.

by union leaders, the defence of sexual and reproductive rights, and the work to advance the rights of LGBT persons.¹⁵¹

These considerations are evident in the cases of Chile, during the social outburst of 2019, and Colombia, during the mobilisations of the National Strike in 2021. During these crises, gender-based violence by state agents was present in a very significant way.¹⁵²

As a paradigmatic example, since the coup d'état in Honduras in 2009, LGBTIQ+ people are among the groups facing the most severe forms of violence.¹⁵³

In the face of these violations, in compliance with the obligation to respect the right to protest and guarantee its exercise to all persons without distinction, states must refrain from performing actions that unjustifiably restrict it and develop actions to protect its exercise. States must also investigate and punish any type of violence perpetrated by agents of the state, or with its tolerance, against persons who are exercising their right to protest. In the fulfilment of these obligations, it is essential to incorporate a differentiated approach that compensates for the structural discrimination to which certain persons and groups are subjected and which hinders the exercise of the right. It is also essential to guarantee that responses based on stereotypes and discrimination do not take place.

In this regard, the UN Human Rights Council urges States to *“pay particular attention to the safety and protection of women and women human rights defenders from acts of intimidation and harassment, as well as gender-based violence, including sexual assault, in the context of peaceful protests”*.¹⁵⁴

With regard to the protection of women's rights and under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states have an obligation to ensure their protection against discrimination in the public and private spheres. In addition, states must ensure that all government bodies and agencies are fully aware of the principles of equality and non-discrimination on the basis of sex and gender. Furthermore, states must ensure that appropriate sensitisation training and awareness programmes are established and carried out.¹⁵⁵

In America, the Inter-American Court has said that states must have an adequate legal framework for protection against violence against women, which must be effectively applied. States must also have prevention policies and practices that allow them to act effectively in response to complaints, due to the reinforced obligation arising from the Convention of Belém do Pará. It has also stated on numerous occasions that *“The impunity of the crimes committed sends the message that violence against women is tolerated; this leads to their perpetuation, together with social acceptance of the phenomenon, the feeling women have that they are not safe, and their persistent mistrust in the system of administration of justice.”*¹⁵⁶

Furthermore, CEDAW has noted that a gender-sensitive approach is required to understand the degree of pain and suffering experienced by women in order to interpret whether acts of gender-based violence against women constitute torture or cruel, inhuman or degrading treatment.¹⁵⁷

The High Commissioner for Human Rights has also noted that it is imperative to “protect individuals from homophobic and transphobic violence, prevent torture and cruel, inhuman and degrading treatment on the grounds of sexual orientation and gender identity and also prohibit discrimination on these grounds, repeal laws criminalizing homosexuality, safeguard the freedoms of expression, association and peaceful assembly of LGBT+ persons and recognise the rights of LGBT+ persons to enjoy or exercise, on an equal basis with others, all human rights and fundamental freedoms”.¹⁵⁸

On the other hand, and specifically in relation to trans persons, Article 5 of the Inter-American Convention Against All Forms of Discrimination and Intolerance states that States Parties have the obligation to promote equitable conditions of equal opportunity, inclusion and progress for such persons or groups that are subject to discrimination or intolerance due to historical and structural disadvantages and inequalities, such as those faced by the trans population.

¹⁵¹ IACHR. Criminalization of the work of human rights defenders. 31/12/2015 (OEA/Ser.L/V/II. Doc. 49/15.)

¹⁵² OHCHR Report on the mission to Chile 30/10-22/11

https://www.ohchr.org/sites/default/files/Documents/Countries/CL/Report_Chile_2019_SP.pdf and OHCHR Colombia, El Paro Nacional 2021: Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia.

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¹⁵⁴ United Nations, Human Rights Council Resolution. The promotion and protection of human rights in the context of peaceful protests (A/HRC/RES/38/11).

¹⁵⁵ CEDAW, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, C/GC/28.

¹⁵⁶ Case of Gonzalez et al. (“Campo Algodonero”) vs. Mexico. 16 November 2009.

¹⁵⁷ CEDAW, General Recommendation No. 35 on Gender-based violence against women, updating General Recommendation No. 19. C/GC/35.

¹⁵⁸ United Nations, Report of the High Commissioner for Human Rights. Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. A/HRC/19/41

Therefore, “actions framed within the differential approach are neither discriminatory nor do they lead to the maintenance of separate rights for different groups in society; on the contrary, they are temporary measures that are appropriate to the objective of equal enjoyment of rights.”¹⁵⁹

Finally, with regard to the actors that may violate this right, it is important to bear in mind that the actions of non-state actors play a significant role in denying at-risk groups the space to exercise their rights. In this regard, the obligations of States extend beyond respecting and guaranteeing rights to protecting right holders from violations and abuses by third parties. The latter includes the duty to take positive measures to prevent a group of vulnerable demonstrators from being threatened or intimidated for exercising their rights.¹⁶⁰

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