

Santiago, 11 November 2019

PRESS RELEASE

**International Human Rights Observation Mission
Courthouse of Justice of Santiago**

Delivery of results and preliminary recommendations

The mission of International Human Rights Observers has visited Chile from November 6th to 11th, 2019, within the framework of the protests that took place as of last October 18th. First of all, we would like to thank the different human rights and civil society organizations in Chile that have convened and organized this visit to learn the political context of the social protest and to document the serious denounces of human rights violations. In turn, we also thank the different authorities of the Chilean State who received us and delivered information on the different impacts.

We have visited the cities of Santiago, Valparaíso and Temuco, to meet with human rights and civil society organizations, collectives and groups that have organized in response to demonstrations, victims and state institutions such as the National Institute of Human Rights, the Public Defender's Office, the National Prosecutor's Office, the Children's Defender's Office, the Vice-Secretary of Human Rights of the Ministry of Justice and the Supreme Court.

The goal of this preliminary press release is to present the main findings and urgent recommendations identified by the mission, based on the testimonies of victims and witnesses and information provided by civil society organizations and public authorities. Through testimonies and first-hand observation, we see that the security forces use the elements of deterrence in an uncontrolled, non-gradual and indiscriminate way.

The protocol approved in March 2019 regulated some conditions that establish when the different elements of force that *Carabineros de Chile* can use. However, in practice, the principles of ultimate ratio, proportionality and gradualness in the use of force are completely absent in the actions of the police and security forces

The Mission is particularly concerned about the way in which less lethal weapons are being used by police, with the intention of injuring and punishing protesters and without complying with minimum standards of gradualness and proportionality.

As is public knowledge, more than 200 people have been victims of severe eye trauma, remaining in conditions of visual impairment for life.

Through the testimonies we have received, through our direct observation in the demonstrations, as well as the audiovisual record made by the media, there is no doubt that *Carabineros* uses riot guns without adherence to the protocol in place, which only allows it as a last resort to protect the physical integrity of third parties or law enforcement.

In addition to not complying with this protocol, which says *when* you can shoot, even more worrying is the *way* and *how* they are shooting. The *Carabineros* do not aim the legs. The *Carabineros* aim horizontally at the head and torso of the protesters, which does not meet any norm of the rational use of force.

What was announced yesterday, November 10, 2019 by *Carabineros* is not only insufficient to end the problematic practice that has been looked into in recent weeks since it does not establish clear rules that prohibit firing horizontally and to the torso, but also aggravates the situation and grants more power to law enforcement to attack and injure protesters.

The protocol approved in March 2019 only allows it as a last resort to protect the physical integrity of police and third parties. Only physical integrity. In its statement, *Carabineros* announced that these weapons will be used when there is a risk of life of police or civilians, but added that they will be used in the face of a “manifest threat to public and private assets.”

Allowing the use of less lethal weapons that have very serious consequences on the life and physical integrity of people, to protect public and private property, is a setback with respect to current regulations and does not conform to international norms for the rational use of force

In general, during demonstrations the public force uses tear gas, water cannon equipped cars and riot guns not to repel an attack or disperse a violent demonstration, but directly to instruct and punish protesters. In the context of mass demonstrations, the arrests made by police officers have been completely indiscriminate, detaining people who are expressing themselves peacefully and not necessarily those who perform acts of violence. On many occasions, arrests occur after protests are over and through persecutions in the streets to people who are returning home.

We have verified that post-demonstration arrests do not have the necessary safeguards to ensure the protection of the rights of persons deprived of their freedom. Similarly, the minimum conditions are not ensured so that injured people can care for their injuries confidentially with medical personnel, nor that international protocols are applied to detect cases of torture and ill-treatment.

In addition, detainees do not have access to legal advice in the first hours of detention. In many cases, the Public Defender’s Office does not contact the detainees until the control hearing the day after their arrest.

At the same time, the prosecutors do not appear in the police stations and do not carry out any control of the conditions of legality of the detention, nor verify if the police officers have violated the rights and integrity of the persons.

In addition to all of the above, let’s mention the people who are held or conducted by the security forces, temporarily deprived of their freedom, without formalizing their detention afterwards.

These minimum safeguards are intended to prevent persons deprived of their liberty from being subjected to ill-treatment or torture during the first hours of detention, which has been the case in recent weeks.

From meetings with organizations and public authorities, as well as from the direct testimonies, we have heard that at the time of arrest, during the transfer in the police van and at the police station, ill-treatment and serious cases of torture have been notified.

We gathered numerous testimonies of different types of torture that occurred in detention during transfers, as well as at the police station. The tortures described have gone from blows with an open hand and / or police truncheon, knees or kicks, in some cases by various agents, different forms of physical neutralization and even hangings that in some cases have resulted in loss of consciousness. Many of these were performed after having caused injuries. In other cases, prolonged use of handcuffs in various positions, upper limb torsions, and use of irritating gas, deprivation of water and food, and exposure to cold temperatures with many of the detainees arriving wet without the possibility of changing clothes. Deserving a special attention, those related to sexual violence, such as prolonged undressing accompanied by squats, or rape performed with various objects such as weapons or police truncheons, infringed on men, women and even minors. On the other hand, various forms of psychological torture have been described, mainly derived from death threats, threats of group rape, or physical assault on family members. These threats have also been made with the goal of deterring detainees from making complaints later. There have even been statements of subsequent harassment from police forces towards victims.

In other words, most of the figures presented by the authorities are based on cases of complaints formalized in some way in order to initiate a criminal proceeding, so there is an underreporting in the figures that have been known, which do not account of all cases of violation.

We received a large number of testimonies from victims of violence who did not make complaints. In many cases based on the fear of reprisals or post-detention harassment, mainly in Temuco and Valparaíso, and in many other cases because of lack of belief that the allegations have any concrete effect.

The actions deployed by the government have not aimed to de-escalate the conflict and end the recurring practices of torture and ill-treatment that have been taking place throughout the country in the framework of the social protest of recent weeks.

Among the different testimonies received, the involvement of vulnerable groups, such as minors, women, elders, people with disabilities, migrants and members of the LGTBIQI+ community, deserves special attention. Although the actions have been carried out indiscriminately, we have been able to verify threats of deportation to migrants, of rape, of death, as well as homophobic, racist and misogynistic insults. Furthermore, the mass involvement of minors who have not been protected by any of the specific safeguards that should protect these groups deserves particular attention.

After having interviewed Mapuche communities and received reports from civil society, we are able to identify patterns of repression and criminalization of their activities that are now applied to Chilean society as a whole in the context of current demonstrations. We have solid and consistent information on the excessive and disproportionate use of force against members of the Mapuche people at the time

of their arrest by (not exclusively) groups of Special Police Operations of *Carabineros*. Mapuche families who have suffered torture, intimidation, even those who were irreparably injured or have deceased relatives in unclear contexts are being triggered over again, now constantly hearing shots, helicopters and experiencing situations that retraumatize.

RECOMMENDATIONS

1. Immediate demilitarization of the management of protests and demonstrations, prioritizing mediation channels and use of non-violent measures, applying the principles of precaution, necessity and proportionality in the use of force. Until an independent evaluation does not review the action protocols in the light of the widespread human rights affectations produced, the use of firearms (shotguns) must be suspended and “less than lethal” equipment (tear gas, pepper gas, water cannons) must stop being used in a generalized manner and with the illegal objective of causing damage to people.
2. During and after the demonstrations, it is recommended that unannounced inspections be carried out in places of detention managed by *Carabineros*, Investigations Police and the Justice Centers by the Public Defender’s Office, the National Prosecutor’s Office, the Judiciary and the National Institute of Human Rights - INDH. These inspections must include confidential interviews with persons deprived of liberty in order to detect situations of torture and ill-treatment, assist victims, provide them with adequate protection against reprisals, investigate the occurring facts and punish them administratively and criminally.
3. It is recommended that every person deprived of liberty systematically access a medical check to verify injuries in public health institutions, that this occurs with the corresponding privacy, and that the health record be completed by health personnel. It is also recommended that the medical action be documented, with special emphasis on the proactive detection of injuries, in accordance with the Istanbul Protocol, that the patient-detainee’s compliance be expressly recorded, and that the report, based on confidentiality, be delivered in a sealed envelope addressed to the guarantee judge. Moreover, the health system is also urged to keep a record of detection of injuries compatible with torture and ill-treatment and of allegations received by the persons deprived of liberty examined.
4. It is recommended that the Chilean State provides all the facilities to the Inter-American Commission on Human Rights - IACHR to conduct its on-site visit in the country.
5. It is recommended that during and after the demonstrations it is ensured that journalists, human rights observers and health care personnel and volunteers can carry out their duties in a proper manner and cease the attacks and arrests against them.
6. It is recommended to carry out an investigation by an independent body about the human rights violations that are being committed and the adoption of immediate disciplinary / criminal measures in cases where there are public officials identified in irregular behaviors that violate human rights, particularly the right to life and personal integrity.

7. It is recommended to strengthen the work of the INDH at the national level by ensuring that there are no obstacles to the full development of its functions, in particular in controlling the situation of deprivation of liberty during the first hours of detention and in protecting against torture and ill-treatment.
8. It is recommended that the State of Chile and the INDH finalize the effective implementation of the National Mechanism for the Prevention of Torture. Likewise, conditions so that civil society organizations can effectively and freely fulfill their role of protection of human rights, providing documentation, records and contact with persons deprived of liberty shall be ensured.
9. Noting that the social protest experienced in Chile in recent weeks is mainly based on the demand for human rights, including the right to self-determination, we urge powers of the Chilean State to seek ways for their legal-political recognition as a manner to guaranteeing its full exercise by all the people who inhabit this territory and by the citizens.