CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN

Reflections from the cases of secondary and university students in Chile, Colombia, Nicaragua and Honduras

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With the support of: The Norwegian Students’ and Academics’ International Assistance Fund (SAIH)

Coordination: Camilla Crosso, Giovanna Modé and Adelaida Entenza

Research and texts: Rodrigo Sánchez (coord) Rayen Alday, Michelle Nuñez, Estibhaliz Backit, Marcelo Reyes and Cristián Aburto, Adelaida Entenza and Giovanna Modé

Media research: María Cianci Bastidas (Coordinación, Asociación Latinoamericana de Educación y Comunicación Popular – ALER), Nelson Rodríguez (Radio Universidad, Nicaragua), Iolany Pérez (Radio Progreso, Honduras), Elías Muñoz (Tehuelche Noticias, Coyhaique, Chile) and La Esquina Radio - Asociación Palco (Medellín, Colombia)

English Translation: Pia Figueroa

Photographic direction: Diego R. Ramos

Graphic Design: Adesign

Cover image: Mauricio Dueñas Castañeda

Editorial Criteria: For the public version of this investigation, it has been considered omitting the identification of the names involved (students, other victims, defenders, authorities, among others), despite the fact that this was not expressly requested, and many of the situations mentioned have been public knowledge. The same criterion was used in the case of images with profiles of young people in the foreground, which have been intentionally altered.

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CLADE's Office
Av. Prof. Alfonso Bovero, 430, cj. 10
Perdizes - São Paulo - SP - CEP 01254-000, Brasil
Phone: 55 11 3853-7900
E-mail: clade@redclade.org
www.redclade.org

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1 Consultant team, part of the Centro Alerta work cooperative, member of the Forum for the Right to Public Education in Chile.

2 CLADE Executive Coordination Team.
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foto: GILVAN BARRETO
PRESENTATION

In recent years, the Latin American Campaign for the Right to Education (CLADE) has expressed its concern about the negative response of many States to claims and demands of students and teachers for greater participation in public debate and decision-making on education policies. There is a progressive shutdown of the dialogue of the State with subjects of the educational community in several countries and, more than that, a growing criminalization of these subjects in contexts of social protests.

In this scenario, this Regional Report is addressed to the situation of students in Latin America and the Caribbean as protagonists in the defence of the right to education and other human rights. In recent years, there have been many examples of criminalization, police repression, political persecution, use of lethal weapons, raids, arbitrary arrests, and the prosecution of students from different countries in the region, among others. At the same time, a series of normative instruments have come into force in recent years in Latin America and the Caribbean (laws, decrees, protocols and reforms to criminal law with the creation of new criminal figures), as well as an increase in government policies and practices which have become instruments for marginalizing critical positions, discouraging the exercise of democratic freedoms and increasing punitive controls. All of this contravenes multiple international treaties that guarantee human rights as unrestricted duties to be safeguarded by States.

CLADE, together with members of its network and other organizations, has stated its position and urged local, regional and international authorities to immediately stop the repression of peaceful protest and other human rights violations, such as the militarization of schools in Brazil, the repression and criminalization of student protest in Honduras, the repressive action against teachers and adherents,
as well as the disappearance of students in Mexico, the closure of teachers’ unions and Human Rights and student organisations, the accusation of terrorism of students in Nicaragua, imprisonment without the guarantees of due process and the right to defence, among others.

All of the above has allowed us to identify that there are common challenges throughout the region, and that these events are part of a broader context of regression and restriction of social protest and weakening of democracy. Currently, many of these violations are not systematically collected; numerous cases of human rights violations against students remain undocumented, and are not investigated or prosecuted. In other cases, human rights violations occur precisely in the investigative and judicial stages.

In 2018, CLADE and the Norwegian Students’ and Academics’ International Assistance Fund (SAIH) signed a cooperation agreement aimed at deepening the study of this phenomenon and developing a series of actions, including a collection and analysis of situations, in order to increase the knowledge, visibility and justiciability of human rights violations against students in Latin America and the Caribbean.

This document is part of this joint effort. It aims to contribute to identifying how the criminalisation and violation of students’ human rights in Latin America and the Caribbean is manifested, initially through the eyes and ears of student actors (university and secondary school), human rights defenders, in four countries of the region: Colombia, Chile, Honduras and Nicaragua. In addition to learning more about the various expressions and dimensions of this phenomenon, the Report offers as a contribution an analytical matrix that can be used to document cases and
identify abuses. Its online version will also allow students to expand the information from cases they have experienced or known, so that knowledge about the regional situation can be further expanded. The cases identified will also be documented through the global initiative Students’ Rights’ Monitor developed by SAIH, which seeks to support students in their efforts to achieve quality higher education, academic freedom and protection of their human rights.

Based on the initial analysis of recent cases in the aforementioned countries, listening to the students themselves as well as to organizations and social actors who are closely monitoring the situation, the document offers a series of recommendations and a call for urgent action from States to overcome all forms of violation of students’ human rights and to set up spaces that effectively promote dialogue and non-violent conflict resolution.

Enjoy your reading.

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3 Student Rights Monitor in: https://studentsrightsmonitor.org/en/
OUR STARTING POINT
In front of the growing criminalization that students in contexts of social protest and claiming for their rights suffer in our region, it is urgent to advance in knowledge and visibility of this phenomenon. Also, it is urgent to channel adequate actions for the protection and guarantee of their rights.
For several years now the issue of the situation of human rights defenders has been a serious concern at the regional level, and has significantly increased due to a context of “growing sophistication of actions aimed at preventing, obstructing, or discouraging the work of defending and promoting human rights” (IACHR, 2015). Within the Inter-American Commission on Human Rights (IACHR), a specific Thematic Unit was set up in 2001 to monitor the situation of those who defend human rights throughout the region. In view of the importance of the phenomenon, it was established in 2011 as the Rapporteurship on the situation of human rights defenders.

The United Nations High Commissioner for Human Rights (UNHCHR), as well as various civil society organisations working on human rights, also warn of worrying regional trends towards repression and restriction of citizens’ demands, the right to peaceful demonstration and social protest. The State’s response is inappropriate and contrary to the human rights framework, such as excessive and indiscriminate use of force, arbitrary detentions, forced disappearances, torture and even summary or extrajudicial executions, enactment of laws limiting the exercise of the right to demonstrate, submission to judicial proceedings without due guarantees, among others. This scenario has led the OHCHR Regional Office for South America, together with other human rights institutions, to present a compilation and

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4 Concern for the subject has led to a more in-depth study as well as the definition of various actions within the scope of its competences. In recent years, this has been particularly noticeable: consultations with States and civil society, the publication of two hemispheric reports on the regional situation of human rights defenders, the publication of a report on the criminalisation of human rights defenders, public hearings (ex officio) on the “Misuse of criminal law to criminalise human rights defenders”, as well as acceptance of requests for hearings submitted by various civil society organisations that have been monitoring and denouncing these situations of criminalisation of human rights defenders and social protest. At: https://www.oas.org/es/cidh/defensores/
systematisation of the standards at the international, regional and national levels (for Chile) applicable to the exercise of the right to social protest, so that it may serve as a reminder and framework of guidance for the actions of States in situations of protest⁵.

It is relevant to highlight that **women human rights defenders** face differentiated risks and disproportionate effects based on gender. This in turn are exacerbated according to the rights they defend, their sexual orientation and gender identity, ethnic origin or territorial location (IACHR, 2019).

Among the most visible situations that have occurred in recent years, demanding the intervention of international human rights mechanisms, we can mention the case of the disappearance of 43 students from Escuela Normal Rural “Raúl Isidro Burgos” in September 2014 in Mexico (Ayotzinapa case), which is still unresolved⁶; the murder of Berta Cáceres, well-known indigenous leader and defender of human and environmental rights, in March 2016 in Honduras⁷; the assassination of Marielle Franco, councillor and well-known human rights defender, in March 2018 in Brazil⁸; the increase in acts of violence against defenders and social leaders involved in the defence and implementation of the Final Peace Agreement in Colombia⁹, the continuous attacks on human rights defenders of LGBTI people (Lesbian, Gay, Bisexual, Transgender and Intersex) in several countries in the region, among many others.

**Those situations that particularly involve the defence of the human right to education, with the exception of specific cases, have not been so visible**, despite the fact that it is a phenomenon of growing importance and dimensions, hence the efforts of CLADE in this regard.

This Report adopts as its standpoint the concept of criminalisation affirmed by IACHR: those processes in which “unjust or unfounded proceedings are carried out against persons who legitimately demand respect for and protection of human rights”, more precisely “the initiation and subjection to criminal investigations or unfounded legal proceedings with the aim of intimidating the work of human rights defenders and causing them an interruption in their work, when their time, resources and energy should be devoted to their own defence”¹⁰. Based on the constant complaints and clear evidence provided, this organization also stated that there is a systematic misuse of criminal law, which affects integrity, and work in defence and promotion of human rights. In this sense, it defines this practice as the manipulation of the punitive power of the State by both State and non-State actors, in order to obstruct their defence work, thus preventing the legitimate exercise of their right to defend rights¹¹.

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¹¹ IACHR has recognized that this can occur “through the presentation of unfounded denunciations or based on criminal types that do not conform to the principle of legality, or on criminal types that do not comply with inter-American standards, taking into account the conduct that they punish. It can also occur through the subjection to prolonged criminal proceedings and through the application of precautionary measures for non-prosecutorial purposes. The manipulation of criminal law to the detriment of human rights defenders has become an obstacle that merits priority attention by States, since it has the effect of intimidating the work of defending and protecting human rights, and paralyzing the work of human rights defenders, since their time, resources (financial and others) and energy must be devoted to their own defense. Report of the Inter-American Commission on Human Rights on the Criminalization of the Work of Human Rights Defenders (2015): [http://www.oas.org/es/cidh/informes/pdfs/criminalizacin2016.pdf](http://www.oas.org/es/cidh/informes/pdfs/criminalizacin2016.pdf)
These processes have also been considered as the implementation by the State of legal frameworks, strategies and political-judicial actions with the intention of treating the exercise of certain civil rights as illegitimate and illegal\textsuperscript{12}, to the defence, promotion and protection of human rights, with the ultimate aim of attacking people who play the role of human rights defenders or hindering the work they carry out\textsuperscript{13}.

\textsuperscript{12} International Commission of Jurists (ICJ), at: \url{https://www.icj.org/wp-content/uploads/2013/06/28Criminalizacion-de-la-protesta-social.pdf}

\textsuperscript{13} Echeverría, J. (2012). ‘Criminalisation of social protest.

It is from these characterizations of criminalization in the field of human rights that CLADE approaches the issue, also bearing in mind the multiplicity of other strategies and actions that are often part of the process and contribute to the construction of a context in which it is possible. Thus, for example, actions of intimidation, harassment, disqualification, stigmatization, defamation, delegitimization, which as we will see in the case of repression to the student movement will be central.
BRIEF DESCRIPTION OF THE PHENOMENON: SPECIFICITIES OF THE CRIMINALISATION OF ACTORS OF THE EDUCATIONAL COMMUNITY

Based on this context and conceptual framework, and having the defence of the human right to education as its central axis\textsuperscript{14}, CLADE intends to specifically shed light on the situation of students and the multiple violations they suffer in the context of peaceful protests, particularly considering the progressive increase of mobilizations in defence of public education, which mostly get a state response that involves repression mechanisms, abusive use of force, criminal prosecution and criminalization.

In recent years, CLADE has undertaken several strategies to deepen the understanding, characterization, visibility and denouncement of this phenomenon. Among them, process monitoring, dialogue and mediation facilitation, elaboration of a dossier on the issue\textsuperscript{15}.

\textsuperscript{14} Fully established in the international human rights legal framework as “an intrinsic human right and an indispensable means for the realization of other human rights” as well as in the national frameworks of all countries in the region, and therefore enforceable and justiciable.

\textsuperscript{15} CLADE (2016) Dossier “Criminalisation of Social Protest in the Field of Education”.
exchange and articulation of strategies with human rights protection agencies and Thematic Rapporteurs of the Inter-American and Universal Systems, public statements, interventions in front of different governmental and human rights instances, accompaniment of students, articulation of strategies with civil society organizations in the field of the right to education and the defence of human rights.

This report corresponds to a new stage, which aims to better understand the scenario in Colombia, Chile, Honduras and Nicaragua, countries with recent cases with global impact, and from there to reflect on the situation in Latin America and the Caribbean, giving recommendations. In addition to examining how the criminalisation and violation of students’ human rights is manifested in Latin America and the Caribbean, the document offers as a contribution an analytical matrix that can be used to inform cases and identify abuses, as we will discuss later.

In general terms, the protests are part of processes of opposition to a certain political, economic and social context, with very high levels of inequality and the imposition of neo-liberal logic such as: privatisation of enrolment in non-public institutions, socio-educational segregation by students, standardisation through tests, endo-privatisation and exo-privatisation processes followed by public policy in this area. In the same context, situations of weakening or restriction of democratic spaces, processes of corruption, the rise of the extreme right, the advance and action of non-state anti-rights groups and some religious groups, the attack on journalists and independent media, the exploitation of the environment, as well as the weakening of the rights agenda in general and of gender equality are also observed.

In line with this scenario, one of CLADE’s priorities has been to understand, from the perspective of the actors involved, the main demands and agendas of students, as well as the elements of the regional situation that directly affect their right for education. From different spaces of intervention, articulation

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A growing role of the actors in the educational community is noted. Primarily as defenders of the right to education, and more generally of the human rights platform more broadly, with a framework of demands through social protest.

and consultation that have been carried out\textsuperscript{17}, as well as from accompanying student groups and movements\textsuperscript{18}, it is clear that the demands regarding education are wide and varied. Among them, these stand out: the defence of free, quality public education, more resources for public education, recognition of diversity and overcoming the multiple forms of discrimination and violence present in educational systems, better conditions of access to school and infrastructure, rejection of privatization and the imposition of standardized tests,

\textsuperscript{17} For instance, the Regional Seminars on Secondary Education in Latin America and the Caribbean organized by CLADE with the support of UNICEF Regional Office for Latin America and the Caribbean (held in Colombia in 2013 and in Costa Rica in 2014) and the Conversation with Secondary School Students “The Implementation of Agenda 2030 in Latin America and the Caribbean”, held in Mexico City on November 10, 2016.

\textsuperscript{18} Through consultation with national coalitions advocating for the right to education and forming its CLADE network, the monitoring of materials produced and publicly disseminated by student organizations and groups.
and the guarantee of the right of students to participate in the debate and definition of educational policies.

Note that the demands go beyond the sphere of the right to education, focusing in turn on the priority of building a different, democratic, sustainable and peaceful community and planet, based on notions of citizenship and active sustainability, respect, collaboration, empathy and solidarity among all.

All of this has led to a growing role for actors in the educational community, primarily as defenders of the right to education, and more broadly for the human rights platform, with a framework of demands through social protest.

Beyond the right to education, it has been noted that there are a number of restrictions, on freedom of expression, opinion, assembly and association, movement, as well as the right to social protest. But because of the particular implications for the exercise of the right to education, the right to participation deserves special emphasis. This right is provided for in various international human rights instruments, which reaffirms participation as a necessary condition for the full and effective exercise of democracy based on the principles of equality, autonomy, free of charge, respect for diversity and non-discrimination.

Specifically in the field of education, as far as student organization and participation are concerned, almost all educational laws in the region include specific provisions in this regard. The Education Agenda 2030 also recognises the importance of listening to and opening up spaces for youth, students and their organisations, whether at national, regional or international level, as these actors are “best placed to identify the requirements for enhancing learning as active and responsible learners”.

The Framework for Action on Education 2030 includes among its strategies: strengthening the efficiency and effectiveness of institutions, school leadership and governance through increased community participation; increasing the democratization of the decision-making process, with the voices and priorities of citizens; and refers to the participation of families, communities, teachers and their organizations, students and student organizations, and civil society organizations. It refers to institutionalised and guaranteed participation, and covers the development and implementation of education policies at all levels and in all stages (planning, monitoring and evaluation).

Beyond the clear abuses perpetrated by public agents, this Report identified a series of dynamics that contribute to the criminalisation of students in order to legitimise the multiple violations they experience, especially in the context of the struggle for their rights. As an introduction, it highlights the participation of other actors, such as political parties, religious, anti-rights and conservative civil society groups, as well as private and business sector actors, who are focusing on educational issues and promoting a negative and stereotypical view of those who defend the right to public education. Centrally, they contribute to the formation of the idea that there is a “model” student, who does indeed have demands, but “demands them through official

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20 For example: Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; American Declaration of the Rights and Duties of Man; American Convention on Human Rights; Inter-American Democratic Charter; Ibero-American Charter for Citizen Participation in Public Administration.

and institutional channels”, versus “dangerous and delinquent young people, who are on the streets disturbing public order”.

In this sense, a central axis of this document is the treatment given to peaceful protests and their subjects by the mass media. In today’s society, their influence is unquestionable; they significantly influence people and cultures. It has been suggested that they have important effects, not only because of their ability to influence individual behaviour and attitudes in the short term, but also because they influence the ways in which people know, make sense of and interact with reality and collective perception.

Students are in the media on a daily basis. The way they are represented contributes strongly to the formation of fabricated images about them. How do they deal with their demands? How do they refer to the student movements and especially to their representatives? How do they show the violations? Who speaks publicly about the issue? Looking closely at the way they are treated, Kaplan (2011) highlighted that the way the media create and recreate a specific form of sensitivity to the problem of violence, where young people are shown to be dangerous and the school is shrouded in suspicion. The criminalised image of students protesting or claiming to be students is built up at the level of public opinion by the mere fact of questioning the order established on the basis of their status as students in Latin American society, as if they were “groups out of control”.

“The reductionist discursive operation mechanically associates violence with crime and makes young people the target of responsibility. Adolescents and young people, both in and out of school, are nominated as threatening subjects. They appear as the transgressors who exceed the thresholds of tolerance that we supposedly assume as a society. The fear of young people is one of the symbolic effects of this adjective as dangerous subjects. The attribution of “violent” produces a social barrier or symbolic wall or symbolic limit that is a product of the process of stigmatization of young people that operates as a regulatory mechanism of the threshold of tolerance supposedly admitted by the social order”.22

As will be seen in more detail, situations of criminalisation and harassment of students, generate a series of impacts of varying magnitude and severity, either directly or indirectly. In many cases, these are also affecting their personal, family or social environment, having in turn collective implications by affecting the issues and people they represent. Thus, for example, the risk to their lives and personal integrity, effects on physical, psychological, and moral integrity, on educational curricula, effects on legal matters (arrests, investigations, trials, and convictions), on the economy, and on facing situations of exile, among others.

Finally, it can be seen that in this scenario of social protest and criminalisation of actors in the educational community and defenders of the right to education, some national, regional and international human rights instances have played a fundamental role. Thus, many of these situations have involved the intervention or involvement of national mechanisms for the protection of human rights (Ombudsman Institutions and Ombudsmen), instances of the Inter-American System of Human Rights - ISHR (such as the Inter-American Commission on Human Rights and its Thematic Rapporteurships), or the Universal System for the Protection of Human Rights - UDHR (such as the Office of the United Nations High Commissioner for Human Rights, Special Rapporteurships, or

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other organisms or agencies of the UN System) as well as civil society organizations that work in the field of the defence of rights, such as CLADE, its national coalitions and allied networks. These interventions have been carried out from various dimensions and different approaches (by virtue of their competences and/or mandates): direct interventions, presentation and follow-up of complaints, observation and monitoring of situations, support in dialogue and mediation processes, pronouncements, press releases, admission to various thematic hearings on the issue, situation reports, recommendations, precautionary measures, as well as in some cases support to students who have had to leave their country.
METHODOLOGY

Regarding methodology, this Regional Report was prepared using a matrix as starting point, an analytical tool that would allow the identification of multiple forms of violence perpetrated against students in the context of their struggle for educational rights. Often these phenomena are not named as such, so it is a useful exercise not only for this document, but rather for the identification, documentation and future denouncement of mechanisms, from which students' behaviour and actions are criminalised. Through this matrix, it was possible to establish an overview, learn more about the scene in the four countries, reflect on the situation in Latin America and the Caribbean, and draft recommendations.

Analysis matrices have been used by different disciplines linked to social and political sciences, allowing — in the field of human rights — the development of an approach to understand the notion and design of public policies applied to the reality of a country, territory, people and/or community, according to the subject of interest being addressed. For example, in the case of fair gender equality policies, it has been possible to identify and evaluate the associated public problems, the formulation, implementation and monitoring of policies, with respect to demands for redistributive justice, recognition and representation for a group exposed to various dimensions of injustice and not just one\(^\text{23}\), at the same time allowing the differentiation of hegemonic cultural domains that are being developed in the various States.

Often, these matrices allow the deployment of a methodological proposal that leads to the design of indicators. Garretón (1996)\(^\text{24}\), points out that this allows the study of social movements in different

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CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN
Latin American countries, and to abstract the relations among their participants with the State and other civil society entities, and the actions carried out by them. Due to the proliferation of diverse social processes, it is possible to conceive the validity of old matrices, and at the same time the need to contribute to the construction of new matrices according to the phenomenon to be studied.

For these purposes, three variables were considered: a) **Actors who drive criminalisation actions**. Firstly, state actors (from the legislative, judicial and executive powers, police and military forces) and non-state actors (private security, mass media, among others), b) **types of criminalisation actions** and finally c) **victims of criminalisation actions**.

For the latter category, we mean students from various student movements in Latin American and Caribbean countries who are victims of these criminalisation and rights violations. As a source, we had previous reports and documentary review, where we explored possible characteristics among students related to:

- **Urban/rural distinction**: the characteristics and conditions that students experience on a daily basis according to the territory in which they live, have a considerable geographical factor in the relationship between the city and the countryside. In Latin America and the Caribbean, 81% of the population lives in cities, so it is important to have data regarding the distinctions in these two areas.

- **Distinction between higher and secondary education**: we consider students in two large groups that suffer criminalisation at different levels. On one hand, students in secondary education and, on the other, students in higher technical, agricultural, commercial and university education.

- **Indigenous and Afro-descendant students**: this matrix aims to differentiate data and evidence of specific criminalization of indigenous groups, as well as Afro-descendants, who suffer a double invisibility of their violations of rights and sanctions of their organizational actions.

- **Distinction of gender identity and sexual orientation**: in addition to gender identity, the matrix also sought to capture how characteristics associated with LGBTQIA+ people (Lesbian, Gay, Transgender, Transvestite, Bisexual, Intersex, Queer, Asexual and other dissidents) transcended as factors that exacerbated the processes of criminalisation. That is, the special situation faced by lesbian, gay, bisexual, trans and intersex (LGBTI) people, or those perceived as such.

Based on this, it was considered necessary to interview members of the respective National Education Forums, members of CLADE in the countries analysed: Colombian Coalition for the Right to Education; Forum for the Right to Public Education in Chile; Dakar Forum in Honduras and Forum for Education and Human Development of the Initiative for Nicaragua. These first interviews allowed us to contact key actors, victims and witnesses of criminalization processes, human rights defenders in education, who provided fundamental information for this report. The following is an abbreviated list of the interviewees to protect their identity and to provide a quotation and footnote for this report:


a) Chile:
- representative of the Chilean Forum, from now on FORO-CL1,
- two representatives of the student movement, from now on EST-CL1 and EST-CL2 respectively
- two members of criminalised student defence organisations, from now on DEF-CL1 and DEF-CL2.

b) Colombia:
- two representatives of the Colombian Forum, from now on FORO-CO1 and FORO-CO2
- a member of the student movement, from now on EST-CO1
- a member of a human rights organisation, from now on DEF-CO1

c) Honduras:
- a member of the Honduras Forum, from now on FORO-HN1
- two representatives leaders of the student movement, from now on EST-HN1 and EST-HN2

d) Nicaragua:
- a member of the Nicaragua Forum, from now on FORO-NI1
- a member of the student movement, from now on EST-NI1
- a defender of criminalised students, from now on DEF-NI1

These interviews were done both in person and virtually, through a semi-structured interview, which contained four central questions: Who is criminalizing students in your country? What are they doing? Against whom are they doing it? (type of students) and How do they do it? The information collected was transferred to the matrix mentioned above.

Likewise, in order to gain a deeper understanding of each countries’ situation, the aim was to find out how the media have dealt with recent emblematic cases. This section, carried out in collaboration with the Latin American Association for Radio Education (ALER), sought to observe the extent to which mass media contributed to forming stereotypes, a phenomenon closely related to the processes of criminalisation of students and student movements. For this purpose, the coverage of a specific milestone in mass media was compared to the one given by some media considered as alternative. The survey was carried out digitally, both in terms of news as well as opinion. The analysis of media treatment was incorporated in the sections in each of the countries.

Finally, for the elaboration of the analysis, regional trends and recommendations, it was considered, in addition to the information gathered from interviews, documents, cases and situations already registered previously by CLADE, as well as regulations and frameworks reviewed in previous reports were considered.
A LOOK AT THE COUNTRIES
The main data obtained in the four selected countries will be presented below. In addition to the questions about who criminalizes students and the ways in which they do so, information obtained especially through the interviews, context data and a case study were added. This ends up giving concreteness and visibility to the effects of criminalization suffered by mobilized students. In the same way, a box is included on how the media in the country covers the student mobilizations, helping to understand the perceptions in the public image of the students who struggle.
The student movement in Chile has been one of the most relevant and mobilised actors in the country since the return to democracy: in 2001 with the backpacks movement, in 2006 with the penguins, and in 2011 with the student movement that demanded to end with profit in education. More recently, in 2019, the various organisations, both from universities and secondary schools, once again called for a major national mobilisation to demand non-sexist, free education as well as to end the logic of indebtedness in order to access higher education. These years were crucial to show that it is young people who have been the first to raise their voices and go out on the streets to express their discontent with situations of social injustice, behaviour that destroys public education and the right to protest.

At the same time, the State persists in offering to world opinion the image of Chile as an oasis of democracy, stable, secure and legitimizing the action of the forces of state repression, always dismissing demands and condemning forms of protest.

The development in Chile of the so-called Neo-liberal State came hand in hand with the generation of control devices that have been installing a desired social behaviour, and at the same time, a sanction of undesirable or transgressive behaviours with the hegemonic social order. The situation regarding student organisation is not very different. The regulation exercised by the state apparatus is achieved through the articulation of legal and administrative processes, which sanction or penalize those who participate in protests. This practice has resulted in the institutionalisation of violence, infringing the right to demonstrate and to be educated.

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As we will see below, this dynamic involves a very expressive multiplicity of actors, as stated in the interview: “Carabineros, special forces, the health system, courts, the public prosecutor’s office, gendarmerie, the public defender’s office, and judges, all structurally exercise criminalising actions, and on the other hand there is the school, the media, and parents who also criminalise through their institutions, there is a structural reality that guarantees the violation of the rights of young people and children in their exercise of social protest, and there are also cultural elements that strengthen this violation of rights and permanent criminalisation (...) it is a chain of entities that did not guarantee either the protection or the rights of young people and children, that is why it is systemic.”

31 DEF-CL1.
We should remember that President Sebastián Piñera marked the ideological path when he pointed out that education is “a consumer product". The Chilean population’s indebtedness in education is one of the highest in the world, in line with an education that has a high economic cost, is privatised and where the public one has been reduced to a minimum. Several of the descriptions provided point to a systematic destruction of the last spaces of public education.

Who is criminalizing students in your country?

From the material collected in the interviews for the case of Chile, it is clear that there is a large presence of state actors who participate in the processes of criminalisation of the student movement. In this line, we can distinguish the Executive Power (President, Ministry of Education, Interior Ministry), the Legislative one (Senate and Chamber of Deputies), the Judiciary (Judges, Public Prosecutor’s Office), the Police, Municipalities (as supporters of schools), and public schools (directors, administrators, teachers, parents and tutors). It is important to highlight the construction of a narrative that criminalizes students, involving not only the media but also the citizens themselves.

The state apparatus stigmatizes student demonstrations by installing a discourse that spreads throughout the social base, and by means of legal mechanisms, criminalizes the actions and protests of the organized student movement. With this dynamic, the rest of society has been able to influence students not to demonstrate. Beyond that, one can see the affirmation of a culture of punishment and not a search for non-violent conflict resolution. As stated in an interview, “we are in a civil phase of the dictatorship, the punitive culture is valued and reinforced. The sense of dignity is not installed in society, we are not aware of our dignity”.

In the case of Chile, the action of the Executive Power appeared in a very articulate manner to the Congress, especially in proposing regulations that seek to criminalize or aggravate penalties for student protests. These measures are accompanied by speeches that justify them, which seek to obtain social support.

As examples, we mention three pieces of legislation proposed during Sebastián Piñera’s two terms in office: the Bill of School Violence (2011), an important milestone that legitimates school’s enrolment cancellation as a sanction, the Bill to Strengthen the Protection of Public Order (2011) - better known as Hinzpeter’s Law - which modifies the control of carrying weapons, detentions, or takeovers of public passenger transport vehicles, and criminalisation of the occupations of high schools. This law was passed in 2011, a period of strong protests led by the student movement, when more than 11,000 students were expelled for mobilising, adding to this the constant violence and harassment of young people by the police. More recently, the Safe Classroom Law (2018), which is aimed at all state-subsidised establishments, has
strengthened the powers of school principals\textsuperscript{38} by obliging schools and high schools to incorporate into their internal regulations a fast track for expelling students due to acts of violence\textsuperscript{39}.

\textsuperscript{38} Law N 21.128. Safe Classroom. At: https://www.leychile.cl/Navegar?idNorma=1127100

\textsuperscript{39} Chile: Forum for the Right to Public Education protests against the “Safe Classroom” law project. At: https://redclade.org/noticias/chile-foro-por-el-derecho-a-la-educacion-publica-se-manifiesta-contra-proyecto-de-ley-aula-segura/

According to the Chilean Forum for the Right to Public Education, measures such as these are an attack both to the right to education, since in some cases they facilitate the suspension of educational trajectories, and to the pedagogical process itself, since they naturalize the resolution of conflicts through sanctions and not through educational processes\textsuperscript{40}.

\textsuperscript{40} Idem
Police reported the entry, repression, arrest and eviction of students from schools by the Special Forces (FFEE). Persecution and house arrest of students are reported. At the same time, their procedures include selective identity controls of secondary school students, erroneous classification of offences and illegal coercion.

From testimonies it can be seen that there has been an increase in the number of complaints about crimes of torture: “The new generation of students who burst in 2006 did not have the same mark of terror as previous generations who lived through the military dictatorship, but now they do, and a certain trivialisation is generated when comparing the current levels of repression on the student movement with the practices of the dictatorship. It was not until 2016 that the concept of torture was established in the law, and they were part of this process which was not 100% in line with how it was written (...) torture and criminalisation of the student movement is generated so that generations who did not live through the dictatorship have this imprint which paralyses and damages the social body as a whole.”

41 DEF-CL1
sense, some of the students who are imprisoned have been severely tortured, including sexual abuse, others report that they have been pepper sprayed and that the police has used “Taser” weapons to immobilise them with electric shocks.

The daily presence of Special Forces in the vicinity of universities and educational establishments, the language with which they refer to students, is also noted with concern: “The criminalization they exercise is in how they refer to us and in following orders they are given, and of which they don’t think, they just execute”\textsuperscript{42}.

The interviews also focused on the various forms of violence that take place within and in the dynamics of secondary schools. Principals reported persecution and betrayal of students organised and enforced through the application of the Safe Classroom Law. Once the law is invoked, the students involved are prohibited from entering the school and/or classroom, which in turn interferes with the preparation of the defence and facilitates the suspension and expulsion processes. Nor do they take charge of accompanying expelled students, thus violating their right to receive an education. By means of the faculties that they have in their charge, they are producing a disarticulation of the mobilizations, with practices such as anticipating holidays, and invalidating student demands.

Judicial complaints are also brought against students, these by both principals and by the school’s supporters. Physical violence by principals against students has even been observed in some high schools. Despite the fact that educational establishments have manuals on coexistence for serious actions (violence, fights, etc.), it is up to school directors to speed up expulsion procedures without considering due process of defence.

The \textbf{local governments (municipalities in Chile), in their capacity as supporters of public schools}, authorise the entry of the Special Forces into the schools under their administration (as has happened in the Instituto Nacional, Internado Nacional Barros Arana, Liceo N°1, Liceo Carmela Carvajal and Liceo N°7)\textsuperscript{43}. The incorporation of security cameras in the proximity of schools is being considered, in order to maintain strict control over the students. On the other hand, sectors of mothers, fathers and tutors\textsuperscript{44} denounce, persecute and appear in the press declaring against student mobilizations.

With respect to \textbf{the media and more broadly the public}, the role of the media is identified in the installation of “a narrative in the population with respect to the student mobilizations of fear, they criminalise their actions without explaining the background”, as will be treated in the box below. It is important to underline that this discourse seems to find strong support among citizens: “People, workers, inhabitants criminalize because they are sometimes affected by tear-gas, because demonstrations affect their work, repression affects them. However, they do not understand that we are fighting, but rather feel that this affects their work and clashes with their way of thinking, since they do not have a more politicized way of thinking, they reproduce what the press says”\textsuperscript{45}. Finally, the students

\textsuperscript{42} EST-CL2

\textsuperscript{43} Two students from Liceo 7 in Santiago were wounded with buckshot by police officers who entered the campus. At: \url{https://www.chvnoticias.cl/sucesos/alumnas-liceo-7-heridas-perdigones-carabineros_20191105/}

\textsuperscript{44} In the case of Chile, there is the figure of ‘parents’ to refer to the member of the educational community who contributes to the training and learning achievement of the student. These may be mothers, fathers, relatives or caretakers. At: \url{https://www.leychile.cl/Navegar?idNorma=1142884}

\textsuperscript{45} EST-CL2
went so far as to report beatings and insults from people they do not know in the demonstrations when they go out on the streets, treating them as criminals as well.

**Against whom are they doing it?**

According to analysed documents, testimonies and interviews from key Chilean informants, those who suffer most from these actions are urban and rural school students (with less information on the latter) in the first instance, and to a lesser extent, university students. In recent years, it has been the movement of secondary students who have led the protests against neo-liberal policies of the Chilean State in the area of education, and the criminalization laws have been directed towards public secondary and primary schools.

Secondary school students not only criticize the system, but also the organizational practices. They put into practice a new style of political action, both in the streets and at the schools: they rescue the assembly, promote the formation of leaderships, and they give privilege to the voices that do not concentrate power, but rather transmit the decisions of the assembly. These practices are more democratic. The political proposal of secondary schools is characterized by self-management, assembly, self-education and relevance given to the community, to spaces of solidarity among population. Along with this, one of its contributions and particularity is the cultural and social transformation, which builds a political proposal that seeks to dispute individualistic stereotypes in the streets and neighbourhoods⁴⁶.

The most criminalized students are student leaders, organized and mobilized youth, from working classes. However, we find greater persecution in those who demonstrate in a radical way in the streets or with their faces covered (hooded and masked). On the other hand, we find a constant siege of ‘emblematic schools’⁴⁷, since they are the high schools where historically there has been greatest organization.

Another criminalized profile, but to a lesser extent, are those who constantly go to marches, even though they do not have such an articulated organization, they present a level of awareness and presence in the streets. In this line, during the demonstrations in the streets convoked by the Confederation of Students’ Federations of Chile (CONFECH), identity controls and backpack checks are reported precisely to secondary students.

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⁴⁷ Nomenclature that refers to public educational establishments of academic excellence, which seek to provide a response to the segmentation of the Chilean educational system, allowing the entry of vulnerable students, to an education of quality. In: Selection in secondary education and access to elite universities by type of establishment in Chile Analysis of 2016 cohort: [https://centrostudios.mineduc.cl/wp-content/uploads/sites/100/2017/06/DocTrabajo8-MRivera.pdf](https://centrostudios.mineduc.cl/wp-content/uploads/sites/100/2017/06/DocTrabajo8-MRivera.pdf)
CASE STUDY

POLITICAL PERSECUTION AND CRIMINALIZATION: FIRST ONES EXPELLED BY SAFE CLASSROOM LAW

A protest held on April 3, 2019 by students of Enrique Molina Garmendia High School in Concepción — the most emblematic in the city — which included a blockade of one of the main transit routes, Victor Lamas Street, and became the perfect excuse for the application of Safe Classroom Law. This procedure ended with the expulsion of six students from the establishment, who were accused by the director of assaulting two professionals: a teacher and a social worker. The head of the Department of Municipal Education (DAEM) Concepción, said that “a group of students began to remove furniture from the classrooms and cause disorder, so that at one point the affected officials became involved to try to stop the disorder and were attacked as it is known. For this reason, he added, “the rules of internal coexistence within the high school were applied, after which it was decided to expel 6 of 18 students involved.”

These second to fourth grade students were the first to be expelled, at the end of the same month, in the heat of the recently approved Safe Classroom Law, thanks to the faculties that this law gives to the directors of the educational centers. Those involved accuse that due process was not carried out, in addition to the lack of evidence, certain and objective parameters regarding the application of said Law; while the notification to their tutors did not arrive in the time period indicated by the legislation, since they were

48 Primer caso de aplicación ley Aula Segura. En: https://sabes.cl/2019/04/12/primer-caso-de-aplicacion-de-ley-aula-segura-dejo-a-seis-alumnos-expulsados-de-liceo-en-concepcion/
Students point out that there was also political intervention by a senator from ultra-right-wing party Independent Democratic Union (UDI), who they accuse of having supported the expulsion by lending her lawyers to the school’s director in order to achieve the goal, a task that was thanked via Twitter by the Regional Ministerial Secretary (SEREMI) of Education. The students add that the establishment intends to criminalize the student leadership, while four of the six accused are members of the list that sought the re-election to the Student Center of such high school.

Only four of the six accused appealed the resolution to the Court of Appeals of Concepción, where it was determined on April 15 that the students could resume their classes, after being suspended since April 4, according to the procedures of the Law. Thus, on Tuesday, April 16, the students were reinstated to the school. However, some officials of the high school held a protest with their arms down, rejecting the Court’s ruling. Days later, on April 24, the municipality filed a complaint against the minor S. R, the only one allegedly accused of assaulting the social worker of the campus, and on April 29, the Court again made effective the expulsion of all the students involved, without distinction.

Only one of the four students continued to challenge the DAEM and Seremi Education’s actions to contest the process, while the rest could not afford to defend themselves legally against the charges presented against them. It is important to note that throughout this process, the DAEM did not inform the family of S. R. to which educational institution he would be referred, nor did it provide psychosocial support to the other three students who were relocated to another high school, of which both facts go against what the same Safe Classroom Law state.

S. R., was a leader of the Student Center of Enrique Molina High School in 2018, accuses that this law ‘comes to pave the way to implement more easily the NEP Law (New Public Education, enacted in 2017 by Michelle Bachelet) and a series of new educational policies that will come during these years, because the demunicipalization is a totally poor system that will cause many mobilizations in high schools. The Safe Classroom Law gives the rector the power to expel students without sufficient evidence’ He adds that this law has not been used to sanction other situations of ‘violence’ within educational establishments, such as bullying, sexual harassment, carrying weapons, among others, since it was implemented. Its application is carried out in response to mobilizations, so that ‘it seems more like a political persecution that seeks to criminalize the student movement with the aim of delegitimizing it.’

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49 Idem

50 First legal case of Safe Classroom reaches the Supreme Court. At: https://interferencia.cl/articulos/primer-caso-judicializado-de-aula-segura-llega-la-corte-suprema

51 First student expelled by Safe Classroom: “the secondary movement has not done enough to oppose”. At: https://interferencia.cl/articulos/primer-expulsado-por-aula-segura-el-movimiento-secundario-no-ha-hecho-lo-suficiente-por

52 Idem
MASS MEDIA

IN PROTESTS COVERAGE, ‘VIOLENCE, VANDALISM AND THE QUEST TO CONTROL ORDER IN THE AREA’

A look at hegemonic mass media and alternative media in Chile shows an absence of plurality of voices and questions the presence of students as valid interlocutors. Who speaks about their demands?

2019 mobilizations in Chile, prior to the great social explosion of October, can be explained by the accumulation of forces that were generated over years and that made evident the injustices of the entire neo-liberal capitalist system in the country.

While it is true that the marches and protests were not as massive as in 2006 and 2011, it triggered formulas of protest that had not been seen until before the social outburst of October 2019, when high school students decided to avoid paying the subway fare after its increase. It is not the object of this analysis to see what happened after this phenomenon, but to find the arguments to the stigmatization and criminalization of student protest. For the purposes of this study, the protests are concentrated from April to September this year, coincidentally before the social explosion in Chile, as a way to have the perspective that allows to weigh the facts that occurred between the months studied.

For the analysis of behaviour of hegemonic media in the Chilean case we took El Mercurio on line www.emol.com and www.soychile.cl and two alternative media, www.eldesconcierto.cl and www.cronicadigital.cl. Emol or El Mercurio On Line,
is the web portal of El Mercurio newspaper, the oldest one in Chile and in the Spanish speaking world. Founded in 1827 in Valparaiso, its editorial line is characterized by being conservative, prone to the political and economic interests of the right wing, owned by the Edwards family who maintain ownership of countless newspapers throughout the country and the www.soychile.cl brand.

Crónica Digital is a social and community communication media, founded in 2005, with an alternative view associated with human rights and is part of the National Assembly for Human Rights. While editorially, El Desconcierto is a media that defines itself as a group of professionals from the field of social sciences and publishing, which met in late 2011 with the aim of creating a digital media connected to the main transformative trends of society in the twenty-first century. Its main focuses are news about social rights and the environment; policy debates, education, gender and sexual diversity; issues of culture, transparency and indigenous peoples.

Generally, the media, such as Emol, seeks to associate violence and vandalism with the student demand. In addition they highlight their refusal to dialogue and the lack of a consistent proposal, relating, for example, a fire at a bus stop with the student demonstrations supposedly provoked by demonstrators. Although many judicial resolutions show that the detentions of the police officers are illegal, the monochord press does not seem to consider these reports, emphasizing the violent nature of the students.

With isolated incidents, the first student march of the year ends in the center of Santiago. At: https://www.emol.com/noticias/Nacional/2019/04/25/945862/Con-incidentes-aislados-termina-primer-marcha-estudiantil-del-ano-en-el-centro-de-Santiago.html

53 Official website Crónica Digital, at: www.cronicadigital.cl
54 Official website El Desconcierto, at: www.eldesconcierto.cl
The hegemonic media generally stop at the consequences of the marches, at riots that are generated once the peaceful mobilization ends. On the other hand, the alternative media focus on the demands of the protest. The consequence of this counterpoint is that in the face of the scarce impact that the alternative media have on the hegemonic ones, it is the latter that impose their agendas, which are then shared by television channels, reinforcing the opinion of the mass media.

In that context, the sensationalism of headlines, downloads and epigraphs, seeks to impact with a phrase that does not necessarily reflect the context and background of a student march. The adjectives of “vandals”, “hooded”, “violentists”, among others, are contextualized with the words students, protests and demonstrators, which they subtly deepen with photographs. The political class does not seem to take seriously what the educational world requires. In Chile, there is an annulment of students as valid subjects, as legitimate interlocutors of demands, a situation that is even more critical in secondary education.

In mid-April 2019, Chilean students announced the first march of the year. The different organizations, both from universities and high schools, called for a great national mobilization to demand a non-sexist, free education, to end the debt and avoid the loss of free education for many university students. In this sense, during 2018, there were protests asking for progress towards a non-sexist education, which in May of that year. This led to 32 universities being taken over or remaining in mobilization, after cases of sexual abuse and harassment were reported in higher education institutions in the country. In the meantime, the demand for free education and an end to debt as well as the end of market policies in education have been demands for at least ten years. This is reflected in El Desconcierto, through the opinion of the Chilean Student Federation (FECH), an issue that is not reported (or covered) in the mass media associated with the system.

The first student march in April 2019 received significant coverage in all the country’s media, as it was a nationwide protest that would continue over the next few weeks. However, the information was focused on the massive mobilizations in the capital Santiago where Emol highlights that after the demonstration 35 people were arrested and emphasizes the opinion of the Intendenta (political authority of the capital) Karla Rubilar. The text is accompanied by a photograph where red and black flags stand out, in a clear attempt to associate the student demand with political conglomerates that are related to these colours and coincide with leftist options. At the same time, it minimizes the role of students as valid interlocutors, with a certain paternalistic sense. “The march was authorized in the hope that it would be a peaceful mobilization,” and emphasizes that from very early on the disorders have begun. It was pointed out that “this is not defence of any idea, this is vandalism and delinquency”, said Karla Rubilar, through Emol.

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56 Síntesis que acompaña el titular en prensa gráfica.
58 Pérdida de gratuidad y la necesidad de reconstruir movimiento estudiantil para luchar. En: https://www.eldesconciercio.cl/2019/04/03/perdida-de-gratuidad-y-la-necesidad-de-reconstruir-movimiento-estudiantil-para-luchar/
The marches also took place in other important cities of the country such as Valparaíso, Temuco and Concepción\textsuperscript{61}, where El Mercurio chain highlighted the damage and economic appraisal after the student protest (emphasizing the consequences of the protests). The photograph shows students pulling out of a police vehicle and in the foreground, somewhat blurred, a person who would be a student with what appears to be a stone in his right hand. The demonstration takes place in front of the University of Concepción, where a student is injured, but it seems that for Emol it is not news, unless the contents of the statement of the University warn that “as an institution, we did not request that the Special Forces (FF.EE) of police enter the campus and we deeply regret what happened as a result.” However, the headline contradicts the statement of the University.

Meanwhile, the counter hegemonic media, using the example of Crónica Digital\textsuperscript{62}, start reporting from the official secondary students source, grouped in the National Coordination of Secondary Students (CONES) that announce a march and warn of the causes\textsuperscript{63}, besides contextualizing the rejection of the laws promoted by the Executive Power and which deepen school segregation\textsuperscript{64}. El Desconcierto does the same thing with the headline saying that Confec and secondary students confirm the first march of 2019\textsuperscript{65}.

The hegemonic media, mainly television, focused on the information about the actions of some groups of students and of infiltrators (it must be said that in Chile there have been cases of civilian police infiltrating demonstrations and committing abuses), in order to criminalize student protest. This narrative influences important sectors of society, as well as written and online media such as Emol and SoyChile from El Mercurio. A relationship is presented in which the institution in charge of public order, in this case the police, is shown as the victim of demonstrators\textsuperscript{66}. Even through videos, they show the moment when a policeman is attacked by demonstrators\textsuperscript{67}, seeking to associate the hood with people who commit crimes, information that penetrates collective opinion.

The alternative media, in addition to informing about the destruction that actually occurred, set their editorial line on the background of the demands\textsuperscript{68} and the repressive action of the police forces.\textsuperscript{69} They referred to the questions — almost prospectively — whether the students would be capable of generating a great social movement against the government of Sebastián Piñera, as occurred in his first administration in 2011, where during months the students marched against profit in higher education and which extended to all levels of education in the country.

\textsuperscript{61} University of Concepcion assessed the damages after Thursday’s march at $5 million. At: https://www.soychile.cl/Concepcion/Sociedad/2019/04/27/592770/Universidad-de-Concepcion-avaluo-en-5-millones-los-danos-tras-la-marcha-del-jueves.aspx
\textsuperscript{62} Official Website Crónica, at: www.cronicadigital.cl
\textsuperscript{63} Students announce march. At: https://www.cronicadigital.cl/2019/04/16/estudiantes-anuncian-marchas-de-protesta/
\textsuperscript{64} Loss of gratuity and the need to rebuild the student movement in order to fight. At: https://www.eldesconcierto.cl/2019/04/03/perdida-de-gratuidad-y-la-necesidad-de-reconstruir-movimiento-estudiantil-para-luchar/
\textsuperscript{65} CONFEC and high school students confirm first March of the year 2019. At: https://www.eldesconcierto.cl/2019/04/15/confec-y-estudiantes-secundarios-confirman-la-primer-marcha-del-ano-2019/
\textsuperscript{66} Government due to the assaulted policeman in student march: “They are cowards who attack in groups”. At: https://www.emol.com/noticias/Nacional/2019/04/25/945881/Gobierno-por-carabinero-agredido-en-marcha-estudiantil-Son-cobardes-que-atacan-en-grupo.html
\textsuperscript{67} Hooded people attack policeman after student march and Rubilar condemns vandalism. At: https://tv.emol.com/detail/20190425163653888/encapuchados-atacan-a-carabinero-tras-marcha-estudiantil-e-intendenta-rubilar-condena-vandalismo
\textsuperscript{68} Your future has debts. At: https://www.eldesconcierto.cl/2019/04/24/tu-futuro-tiene-deudas/
\textsuperscript{69} Repression of demonstrators in protests against Piñera’s government, at: https://www.cronicadigital.cl/2019/09/05/represion-a-manifestantes-en-protestas-contra-gobierno-de-pinera/
In the case of Chile, the action of the Executive appeared to be very articulate to the Congress. Especially in the proposal of regulations that seek to criminalize or aggravate sanctions for student protests. These measures are accompanied by speeches that justify them, seeking to obtain social support.

The alternative media HispanTV.com warns about harsh repression of police, along with a video that talks about the consumerization of education. It is interesting to note that for mass media there seems to be no student version of this. A microphone can be seen, precisely the one at hispantv.com, a contrast with the press conference points of official authorities, where there is not enough space to place them. On the other hand, this media is determined to use as a source those who protest in the streets.

70 Chilean students harshly repressed in the first march of 2019. At: https://www.hispantv.com/noticias/chile/426978/estudiantes-represion-marcha-educacion
Chile

PHOTOS

THE POLICE REPRESSES THE PROTESTERS BY USING TEAR GAS
PHOTO: MARTIN BERNETTI

CHILEAN MANIFESTANTS PROTEST BY WEARING “BLIND EYES”
PHOTO: EL TIEMPO / REUTERS

THE POLICE REPRESSES THE PROTESTERS
PHOTO: JORGE SILVA

MANIFESTANTS OCCUPY A SQUARE IN SANTIAGO
PHOTO: TOMAS MUNITA

THE POLICE SUBDUES A YOUNG MAN DURING A PROTEST
PHOTO: EPA

YOUNG PROTESTERS DURING A MANIFESTATION
PHOTO: RAFAEL EDWARDS

MANIFESTATION OF EDUCATIONAL COMMUNITIES IN SUPPORT OF STUDENTS AND AGAINST THE SAFE CLASSROOM ACT IN FRONT OF THE MUNICIPALITY OF SANTIAGO
PHOTO: CHILEAN FORUM FOR THE RIGHT TO PUBLIC EDUCATION - ARCHIVE

SECONDARY STUDENTS WERE THE FIRST ONES TO ORGANIZE THE MASSIVE PROTEST
PHOTO: EPA
CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN

A MASSIVE MARCH OCCUPIES THE STREETS IN CHILE
PHOTO: HUGO MORALES

THE POLICE REPRESSES THE PROTESTERS
PHOTO: EL PAIS - ARCHIVE

A PROTESTER IS DETAINED BY THE ANTI-RIOTS POLICE IN CHILE
PHOTO: PABLO SANHUEZA

CANDLES IN HONOR OF ABEL ACUÑA - MAIPÚ - NOVEMBER 2019
PHOTO: JORGE BARRIO RIQUELME

THE POLICE LAUNCHES WATER JETS OVER THE PROTESTERS IN SANTIAGO, CHILE, OCTOBER 21, 2019
PHOTO: IVAN ALVARADO

A PERSON HOLDS A POSTER DURING A PROTEST IN VALPARAISO, CHILE, OCTOBER 21, 2019
PHOTO: RODRIGO GARRIDO

MANIFESTANTS OCCUPY A SQUARE IN SANTIAGO
PHOTO: RODRIGO GARRIDO / REUTERS

YOUNG PROTESTERS DURING A MANIFESTATION
PHOTO: CHILEAN FORUM FOR THE RIGHT TO PUBLIC EDUCATION - ARCHIVE
The concern for the situation of people who defend human rights in Colombia has been repeatedly expressed by IACHR, which has stated that there is a lack of protection and security measures, as well as impunity for acts perpetrated against people who defend human rights: defenders, social and community leaders, students and journalists. It is worth noting, for example, the admission in 2016 of the case of a student killed in the context of a university demonstration and more recently, in November 2019, the death of another student as a result of the excessive use of force by the Mobile Anti-Riot Squad (ESMAD) of the National Police in the context of a protest. IACHR has also reaffirmed the importance of its work for the consolidation of the rule of law and the transition to peace in Colombia, and has lamented that the situation of violence continues to increase steadily since the implementation of the last Peace Agreement.

Within the country’s most recent context, it is worth noting the signing of the Final Agreement for the End of the Conflict and the Construction of a Stable and Lasting Peace (2016) and the complex subsequent process for the implementation of commitments made therein. These commitments also include the situation of human rights defenders, in terms of guaranteeing their rights, preventing risk and strategies to ensure their safety and comprehensive protection.

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71 Which include murders, threats, harassment, attacks.
72 In 2016, IACHR admits the case of Jhonny Silva, a student from University of Valle, who was killed by members of the Police Mobile Anti-Riot Squad (Esmad) in 2005 during a university demonstration. https://www.oas.org/es/cidh/decisiones/2016/COAD1108-08ES.pdf
73 In the context of the citizen mobilization “cacerolazo” that took place on November 23, 2019 in the city of Bogotá, young Dylan Cruz was hit in the head by one of the artifacts that died on November 25: http://www.oas.org/es/cidh/prensa/comunicados/2019/313.asp
CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS
IN LATIN AMERICA AND THE CARIBBEAN
In a recent visit to the country, it highlighted the “high levels of murders, as well as serious threats, stigmatization and acts of criminalization”, in addition to the lack of a “unified system that accounts for the consolidated figures regarding the number of human rights defenders murdered”75. IACHR has also received information and expressed its concern about the “stigmatization in the media of student protests, in which students are labeled as “vandals”, “guerrilleros” or “terrorists “76.

Figures presented by civil society organizations during a hearing held before IACHR77, indicate that between 2010 and the first half of 2019, at least 3,434 threats against human rights defenders were registered, followed by a significant decrease in 2016. Then, between 2018 and 2019 there was a 53 percent increase in threats, from August 2018 to June 2019 at least 632 threats were recorded. In 2019, OHCHR documented 108 killings of human rights defenders, including 15 women and two members of the LGBTI population.78

Among the positive aspects is the approval, at Bogotá district level, the “Protocol of Action for Social Mobilizations in Bogotá: For the Right to Mobilization and Peaceful Protest,”79 aimed at regulating the actions of the security forces and the protection of the rights of the people who participate in mobilizations. In its last report in 2019, OHCHR had already warned about the lack of protocols accusing of ill-treatment and torture, recommending the revision of the ESMAD’s action protocols.80

From the information gathered in interviews with the matrix used, we can highlight that, in the political and economic sphere, public policies have prioritized economic interests and fostered privatization processes that have had a strong impact on the educational sphere. In recent decades, the country’s educational system has suffered an advance in privatization and at the same time the precariousness of the public sphere, especially with regard to the financing of public universities. This situation has led the student movement to be one of the most critical and mobilized, together with the peasant and indigenous movements, and has been strongly intimidated by the State and other actors.

The country presents a challenging scenario in terms of public higher education (professional, technical and technological), which has been aggravated in recent governments with the decline in funding. This in turn generates a crisis that impacts the sustainability of university campuses, operation and administrative management of educational institutions, as well as the areas of research, teaching and university extension.

In this context, and in view of the difficulties presented by Law 30 of 1992 with respect to such key issues as the financing of public higher education, the country’s students formed the National Student Broad Table in 2011. It gained a wide level of legitimacy with various social sectors

75 https://www.oas.org/es/cidh/prensa/comunicados/2019/008.asp
76 https://www.oas.org/es/cidh/prensa/comunicados/2019/008.asp
in the country, as well as a place to dialogue with the government of Juan Manuel Santos. At the end of 2011, the process of dialogue and protests closed with the withdrawal of the bill that sought to “correct” some aspects of the law. But that, in exchange for resolving the structural problem, incorporated other issues that were detrimental to the educational situation.

On August 7, 2018, President Ivan Duque of the Democratic Center party, which represents the most radical right-wing position, begins his term in office. From the beginning, he announces his opposition to the Peace Agreements and the investment of 8.9 million USD for public security, against 9.8 million USD for the Ministry of Education and declared insufficient by the student movement, which puts all social sectors of the country on alert.

Struggle agenda of the student movement in Colombia

The university student movement is mainly building its demands related to the budget for public universities. This gathers young people critical of the educational and political system in general that exists in Colombia. Due to this, they face situations of criminalization, which mostly affects urban students in public universities.

On the other hand, the analysis of interviews highlights the demand for peace, claiming their right to be educated in a context that promotes good learning and not in the midst of war, as some students claim “peace never came”. In addition to the above, there is the presence of an educational model that does not promote critical knowledge, but rather,
Colombia
tries to hegemonize behaviour, knowledge, and discourses, with the school being just another control instrument, and not a space for the construction of knowledge, encounter, and reconstruction of the social network.

This is why the struggles for education in the country are mainly focused on strengthening financing. Thus, “throughout the past year, the context of struggle for the right to education was characterized by thousands of mobilizations throughout the country, convoked by student organizations of higher education and teachers, as well as the processes of advocacy in the Republic’s Congress and the opening of spaces for training on the right to education and its financing. This process culminated in the signing of an agreement between the government and the university student and teacher organizations, in which the government committed itself to provide about $1.2 million USD more for Public Higher Education over the next four years”.

Specifically, the most expressed demands refer to: guaranteeing and increasing resources that allow the State to provide free public education; to dignify the teaching work, with fair salaries and working hours; educational centres as territories of peace and social justice, exempt from all types of violence; implementation of post-conflict reparation processes established in the Peace Agreements; full respect for the right to freedom of expression and education, physical integrity of students, teachers and other actors of the educational community, as well as their right to association and social protest.

Who criminalizes students in your country?

In this context, according to the investigations carried out and the comments of some of the interviewees, the state plays an important role in the criminalization of individuals, groups, and organizations, in which it is also possible to identify economic and political interests of the dominant classes, as well as the role of the media, most of which respond to interests of elites in power. At the same time, the participation of paramilitaries, who also are involved in criminalization processes, stands out. The following are the main points highlighted:

What do they do? / Against whom do they do it?

In general, it was noted that the elaboration of an official narrative and concrete actions that go beyond the situations of criminalization, to generate a wrong narrative and misconceptions regarding a human right, such as the right to protest (indivisible from other fundamental human rights as has already been pointed out), to install

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the exercise of this right as a social problem of “public disorder”, “excesses”, “vandlism”.

It has been observed that representatives of high positions of power in the State (for example, from the presidential level or from ministerial authorities), adopt behaviours of labelling those who oppose the prevailing political educational system. These practices, such as calling demonstrators “vandals” through the media, constitute a significant link in generating processes of criminalization of both the protest and the demonstrators and social leaders.

The interviews related cases of harassment, threats, kidnapping, execution, and infiltration, among others, by the police and intelligence apparatus. The creation of the Mobile Anti-Riot Squad (ESMAD) as a specific police unit specialized in “riots”, which has been operating since 1999 and which most of the time does not respect action protocols, repressing demonstrations, harassing and threatening student and teacher leaders.

In the studied cases and according to the information gathered, we could deduce that it constitutes an important part of the criminalization processes since it carries out, from the labelling of subjects (with the case of the “vandal cartels”), acts of violence, arbitrary detentions of demonstrators, and even acts that imply the initiation of legal processes against students. ESMAD is permanently accused of not respecting the protocols in the use of “containment” weapons. In that sense, the case of a student (Dilan Cruz) who was killed by the impact of a tear gas device on his head has been pointed out among the most recent cases.

The approval of laws enabling the control of legitimate demonstrations by social movements and organizations is noted. In this sense, we can mention the National Code of Police and Coexistence (2016) which contains stipulations aimed at limiting the right to protest, assembly and public demonstrations. In effect, it establishes that any person may meet and demonstrate in a public place with the purpose of exposing ideas and collective interests of a cultural, political, economic, religious, social, or any other legitimate purpose, but that for such purposes written notice must be given, presented to the first administrative authority of the place or by e-mail, signed by at least three persons. In turn, it is established that any meeting and demonstration that causes alterations to coexistence may be dissolved, but without defining the criteria for doing so, which could be granting an unlimited power to dissolve meetings and demonstrations.

As far as the judicial power is concerned, according to the expressions of the people interviewed, there is a misuse of criminal law. Leaders and organized young people have to face with false accusations (the well-known cases of false judicial positives), trials without due guarantees leading to situations of imprisonment or exile, and the violation of fundamental human rights such as the presumption of innocence and due legal process.

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83 Mobile anti-riot squads. At: https://www.policia.gov.co/especializados/antidisturbios
86 Mobile anti-riot squads. At: https://www.policia.gov.co/especializados/antidisturbios
88 False positives presented by IACHR. At: Casos de Falsos positivos presentados por la CIDH
Cases have been identified in which Paramilitary groups⁸⁹ make statements, with clear death threats to students and student leaders. Among the most well known cases is that of the illegal armed group known as the “Black Eagles,” a group that has been pointing to various civil society organizations and human rights defenders, including students, as military targets. A copy of one of these threats (pamphlet dated September 17, 2018) was given to the IACHR during its visit to the country in November 2018.⁹⁰

⁸⁹ Threats from the Black Eagles to students are reported. At: https://www.elespectador.com/noticias/nacional/antioquia/denuncian-amenazas-de-las-aguilas-negras-estudiantes-de-la-universidad-de-antioquia-articulo-861793

CASE STUDY

THE “VANDAL CARTEL”: STORY OF A CRIMINALIZED STUDENT

In the context, the case of a university student is presented, accused without grounds and publicly exposed by state actors as responsible for acts of riot and vandalism in the context of a demonstration, and the violations that this implied for his rights.

In 2013 the National Agrarian Strike occurs, the country is paralysed by demands, protests and massive mobilizations of the sector, accompanied by a large number of university students. In the context of the mobilizations carried out in Bogotá, a young man of 18, a student of Philosophy at the Universidad Pedagógica, left to march with his friends, arriving with a few others in the centre of the city, in the context of the confrontations with ESMAD. In response to the President’s request, who had stated that in order to “identify and capture these people” a “vandals’ cartel” would be formed, the National Police compiled images of 48 people, which were massively disseminated through posters placed in collective transportation stations (TransMilenio), police stations, judicial offices, as well as broadcast through open television, and numerous internet pages, among which was that of this young man. The poster, titled “Help us identify them”, also offered a reward of five million pesos to anyone who provided information about these people supposedly responsible for serious disturbances.

On the day of the march, the student had recorded some parts of the demonstrations with his cell phone, which allowed him to have evidence of not having participated in the riots (throwing stones, scratching walls) and to counteract a series of false evidences that accompanied his criminalization91. These events led to actions of support and protection by some of the university’s professors, as well as support in regard to the impacts generated by the display of his image on the poster (he could not appear in class, required lodging because his family expelled him from the house, among others). Among the actions carried out, and counting on legal support, they elaborated a dossier with mainly media evidence about the assembly and the process of criminalization that the student lived.

91 Such as emails from people who did not identify themselves with an ID number, and who claimed to be the student’s companions, pointing to him as one of the people responsible for the disturbances.
This led to a series of legal actions. Thus, he appeared and presented a Right of Petition before the Prosecutor General’s Office, in order to exercise his right to defence, to know the reasons for the exposure of his image publicly, and to know if there were any criminal proceedings or investigation against him. In response, the Prosecutor’s Office confirms that there were no records of criminal proceedings in progress against the student. The presentation of an action for protection before the Superior Court of Bogotá, which was denied because it considered that the purpose sought with the poster was legitimate\(^92\), stating that he should appeal to the Prosecutor’s Office and the National Police to prove his innocence. In view of this, an action for protection was presented before Municipal Court 72 with Control Functions of Guarantees of the city of Bogotá, where the acting judge pointed out the violation of the right to a good name and that “the publication of these posters, with indications of responsibilities, with the offer of rewards, without, it seems and according to

\(^92\) The Supreme Court of Justice confirmed this determination by decision of October 17, 2013.
what the prosecutor’s office has said, without material evidence, also violates this fundamental right to the presumption of innocence”. Consequently, he ordered that the posters should be removed from all sites and places and that the persons who ordered the publication of the posters should also be investigated.

Specifically, the legal paths sought to stop the violation of their rights to personal integrity, honour, good name, presumption of innocence, due process, human dignity, family and tranquillity.

Besides this, it was considered that these violations had also affected his family causing great harm, for this reason the President of the Republic Juan Manuel Santos and the Director of the Metropolitan Police of Bogotá are requested to ask for a public pardon to the young man since he had been condemned as a vandal. To this day there is no process of reparation for the young student or his family.

It should be noted that this situation and form of criminalization continues to be repeated to this day, as in the demonstrations during the last strike in Colombia93. Two days before the National Strike in November 2019, at least 36 raids were carried out against alternative media, artists’ associations, non-governmental organizations and student residences in Bogotá, Cali and Medellín. These were carried out on the instructions of the Prosecutor General’s Office and a large number of them were later declared illegal by the justice system.94

93 Students appear on posters accused of vandalism. At: https://www.eltiempo.com/colombia/otor-ciudades/estudiantes-de-manizales-rechazan-aparecen-en-cartel-de-buscados-por-vandalismo-438798
Next, we share an overview of the media in its approach to the issue of student mobilization, as well as the arguments developed towards the construction of a negative view on this social protest.

For this survey on the treatment of media narratives, informative and opinion pieces published during October 10 and 15, 2018 were chosen, taking as the hegemonic medium online version of the newspaper El Tiempo (ET) and, on the other hand, La Silla Vacía (SV) independent online media, notes published in the context of the marches that took place during the month of October 2018.

In general, La Silla Vacía, although publishes fewer notes on the subject, offers more in-depth information that allows an understanding of the phenomenon in the political, social and economic context; it also includes information on the nature and origin of the actors in the social and political arena. Thus, for example, those who access these informative articles have more clarity regarding those who call for mobilization and that it is not a homogeneous actor ("The Students" as highlighted in ET news) but rather a confluence between two sectors: Colombian Association of Student Representatives in Higher Education (ACREES), which brings together 300 Student Representatives from 60 universities; and the National Union of Students in Higher Education (UNES), born in 2018 and which brings together students from public and private higher education.

Each of these organizations has its own set of petitions, as described in the article published on October 10, which explains the origin of each organization, the political groups that accompany them and the organizational structure; it makes a tour of the way in which each organization participates and leads the march, as well as its demands; finally, it analyses the points of agreement and disagreement among the student organizations. It offers a national context, that is, the articles do not focus on the march as a local event, narrated from what happens in the regions or main cities of the country, but rather have a national perspective that allows the political relevance of the event to be understood.

El Tiempo (ET) focuses more on the diffusion of informative and opinion pieces, but of the act of mobilization in its different moments and spaces. Its references, in their majority (10 out of 12), allude to detailed facts of the mobilizations in the country's capital (Bogotá), which shows a great level of centrality (capital) if one considers that, according to one of the students interviewed, the marches were registered in 8 important cities of the country; only in 2 of them is there an allusion to facts related to the marches in the departments of El Valle, Cauca, Nariño and Meta. In the case of La Silla Vacía, three of the references refer to the event in its national character and one of them specifies the city of Medellín.

The few voices that are heard from the government's position refer to issues related to the damage
done with the marches to Transmilenio\textsuperscript{97} (public transportation) in the Colombian capital, but not to structural issues of the demands. In El Tiempo, for example, only one of the articles analysed\textsuperscript{98}, talks about the importance of education, but in La Silla Vacía the experts and students interviewed do refer to important educational issues.

It is important to point out that both media in their languages present the issue of the marches as a matter of confrontation between two sides, feeding polarization, by using the word “force” and “pulse”, and giving meaning to the march, as a constant tension of power between the student movements and the new government.

In the treatment given to the sources and the speeches of the actors involved in the notes published by La Silla Vacía, it is made clear that the marches are a right, that they do not generate fear. On the contrary, the publications of El Tiempo, allude to themes such as “vandalism”. They give greater force in their narrative patterns to the difficulties that the march generates in the displacement of the inhabitants, mainly of the city of Bogotá. In a note published on October 10, the title of the news item reads “Ojo!..."
Continúa movilización de estudiantes”

The expression Ojo! denotes caution in the face of the possible presence of situations that generate insecurity or danger. Therefore, it is noted that the media is more concerned about the “vandalism” of the marches than about the social and political purpose they may have. The corpus of the news is a constant alarm to the difficulties of transportation and its consequences due to the march.

One element that contributes to the intention of the media narratives is the use of formats, both online and multimedia formats. La Silla Vacía, for example, uses news, opinion columns, photography and podcasts. Thus, for example, on October 10th, it gives a headline and publishes textually a statement about the support of rural educators to student marches. El Tiempo uses video, Twitter feeds from public entities, parliamentarians, other media and university referents.

We note that, in a subtle way, El Tiempo, despite showing a certain openness to giving a voice to those who protest (students, teachers), manages to generate a stigma of the marches, constantly linking them to “vandalism and the generation of chaos” in the country’s main city. The tendency is repeated by the mass media (especially television) in the current circumstances of mobilizations generated by the national strike.

It has been noted that representatives of high positions of power in the State adopt labelling behaviour towards those who oppose the prevailing political education system. The interviews reported cases of harassment, threats, kidnapping, execution, infiltration, among others, by the police and intelligence apparatus.

99 Student strike in Bogota. At: https://www.eltiempo.com/bogota/paro-de-estudiantes-en-bogota-dificultara-la-movilidad-279252
100 Student strike in Bogota. At: https://www.eltiempo.com/bogota/paro-de-estudiantes-en-bogota-dificultara-la-movilidad-279252
Criminalization and Violation of Students’ Human Rights in Latin America and the Caribbean

Clashes between protesters and the police on November 8, 2018 in Bogotá. Photo: John Vizcaíno

University students perform a symphonic concert in Colombia regarding the milestone of student protests. Photo: Carlos David Chanché Calvache

The police represses the protesters in Colombia. Photo: CNN - Archive

The police represses the protesters in Colombia. Photo: CNN - Archive

Groups of human rights and citizens have been requesting the dismantling of the Mobile Anti-Disturbances Squadron (ESMAD, in Spanish) after questionings regarding its excesses. Photo: The League Against Silence

Riots in Huila. Photo: Extra Huila - Archive

Repression from the Mobile Anti-Disturbances Squadron against peasants and students in Ubaté, Cundinamarca. Photo: El País - Colprensa

Police repression at a student march in Bogotá. Photo: Julián Andrés Caicedo

Protesters in Colombia. Photo: Carlos Ortega

Police repression at a student march in Bogotá. Photo: Ivan Valencia
CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN

THOUSANDS OF COLOMBIANS WENT OUT AND MARCHED ON NOVEMBER 23, 2019. PHOTO: LUIS ROBAYO

REASONS FOR THE STRIKE ON NOVEMBER 21 PHOTO: ARQUIVO DIARIOELPOPULAR

NATIONAL UNION OF STUDENTS IN HIGHER EDUCATION (UNEES, IN SPANISH) - COLOMBIA PHOTO: CONEXIONMAS - ARCHIVE

ONE YEAR AFTER THE 2018 STUDENT STRIKE, STUDENTS RETURNED TO TAKE OVER THE STREETS PHOTO: ESTEBAN VEGA

COLOMBIA, 2018 PHOTO: MAURICIO DUEÑAS CASTAÑEDA

PROTESTERS GATHER AT THE PLACE WHERE DYLAN CRUZ WAS INJURED. EFE. PHOTO: AAP

STUDENT STRIKE IN COLOMBIA. PHOTO: LA OPINIÓN - ARCHIVE

POLICE OFFICER AND STUDENT PHOTO: JULIÁN ANDRÉS GALÁN CAICEDO

STRIKE IN COLOMBIA. PHOTO: MAURICIO DUEÑAS CASTAÑEDA

NATIONAL STUDENT COALITION FOR THE RIGHT TO EDUCATION. PHOTO: DESINFORMÉMONOS

PROTESTERS GATHER AT THE PLACE WHERE DYLAN CRUZ WAS INJURED. EFE. PHOTO: AAP

STUDENT STRIKE IN COLOMBIA. PHOTO: LA OPINIÓN - ARCHIVE

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STRIKE IN COLOMBIA. PHOTO: MAURICIO DUEÑAS CASTAÑEDA

NATIONAL STUDENT COALITION FOR THE RIGHT TO EDUCATION. PHOTO: DESINFORMÉMONOS
Honduras

In the last decade, Honduras has witnessed with concern the increase in cases of violence, murder, criminalization and persecution of students mobilized in the country to fight for their rights, such as public transportation, free student tickets, reforms and a larger budget for education. According to data from the National Observatory of Violence, from January 2010 to May 2018, 1,522 students at all levels of education in Honduras have been killed in the context of protests, strikes, and violence by armed groups.

The United Nations High Commissioner for Human Rights has stated that Honduras remains the most dangerous country in the region for human rights defenders. In a recent report, the agency highlighted its concern particularly for the insecurity to which activists in the country are exposed, and recognized the role of university students in the struggle for human rights. Their calls, through peaceful means, for better conditions in higher education and for greater student participation, have been responded to with penalties, violence, and arbitrary imprisonment. Finally, the organization highlights the issue of impunity as something to be overcome urgently.

Since 2009, after the coup d’état against President Manuel Zelaya, the student movement has been mobilizing against the various governments that have emerged from that event and against the policies of privatization, democratic restriction and participation within universities. In particular, the mobilizations of 2015 had international repercussions.

The process of privatization of Honduran public education is expressed fundamentally in the growing provision of pre-basic education by private foundations, the emergence of low-cost private schools, the collection of fees from families with children in public schools, and the private provision resulting from the insufficiency of public schools at the secondary level. On the other hand, the student movement denounces the phenomenon of the incursion into the educational field by companies through what is called corporate social responsibility, the growing participation of NGOs and for-profit organizations subcontracted by cooperation agencies, and the implementation of accountability policies102.

In front of this privatizing process, both high school and university students have taken a leading role in resisting these measures. The universities, as symbols of expression and critical thought, have assumed the role of facing, criticizing and expressing their opinion in the face of the socio-political crisis. Public universities in Honduras have led the denunciation of repression and criminalization of social and student movements.103


103 Criminalization of protest and attacks against university students in Honduras February 2019 http://derechosuniversitarios.org/index.php/2019/07/03/criminalizacion-de-la-protesta-y-ataques-contra-universitarios-en-honduras/
Who criminalizes students in your country?

Given the context of political crisis that the country is experiencing, those interviewed agree that the main actor responsible for the criminalization of student protest is the Honduran State itself. Conservative sectors of society identified with the National Party currently in the administration of the State and with a parliamentary majority in Congress are also mentioned. This party has many economic interests in education and in other areas such as mining, where social leaders who oppose these investments and projects are also criminalized. The government defends the policies of privatization, and of no democratic participation of all the educational actors, preventing the formation of free and critical thought.

The main promoter and instigator of the criminalization policy is the Honduran State, through its different institutions: government, unicameral congress, courts of justice and university authorities, which articulate mechanisms and legal devices to configure a scenario where the student movement, and its protagonists are placed in front of the public opinion as a sector that attempts against the stability and order of the system.

Similarly, sectors of civil society such as businesspeople, the media, and paramilitary groups (death squads) were identified as promoters of criminalization.

What do they do?

Since 2009 the different governments have developed a systematic policy of criminalization towards the student movement, the main mechanisms implemented by the different administrations include:

The development of an official narrative that tends to separate and divide the movement between model students, who maintain a peaceful attitude and respect for institutional channels to process the demands of the sector, and students who overflow those institutional channels and put at risk the security and “normal” development of educational institutions. The latter are classified as “lazy”, vandals” and “terrorists”.

Similarly, legal initiatives are being promoted that tend to increase penalties for conduct related to social protest, such as obstruction of public roads, use of hoods, and the criminalization of sedition and terrorism in the occupation of public buildings. This action is clearly reflected in the latest modifications to criminal law, which today cannot enter into force due to the questioning of social organizations and human rights organizations such as IACHR and the United Nations High Commissioner for Human Rights.

The police has been the main repressive actor against student and social mobilizations that has prevented the right to social protest. Police action has been supported by the central government, even increasing the monetary resources to the police budget and strengthening the militarization of Honduran society. The main forms of attack, pointed out by those interviewed, have been infiltration of the student movement, following leaders, identifying addresses, relatives, behaviour, routes of displacement, taking pictures, permanent surveillance, and sending messages and death threats. These persecution and intimidation practices generate fear, demobilization, and in some cases forced exile.

Today, of 128 deputies in Congress, 67 respond to the official policy of the government and the National Party. Their actions have been concentrated on modifying the penal code in those articles that allow the classification of social protest as terrorism. Article 590, approved in September 2017, states: “Terrorist associations are those constituted either permanently or
temporarily by two or more persons to commit a crime for one of the following purposes: - Seriously subverting the constitutional order; - Provoking a state of terror in the population or part of it. – Also considered terrorist associations are those that, even if their purpose is lawful, carry out in whole or in part the conducts referred to in the previous paragraph.”

The same article provides for maximum penalties of up to 20 years of effective imprisonment.

On the other hand, the main university authorities have presented complaints, carried out expulsions, restricted food scholarships, academic excellence and ethnic origin to students identified when they participate in the mobilizations. There have also been practices of informing on the part of authorities and professors linked mainly to the National Party. Likewise, threats were registered as a mechanism of disarticulation of the student movement, offering scholarships and work to condition the behaviour of students.

Regarding the Public Prosecutor’s Office in its role of directing the investigations and providing evidence in response to accusations of crimes committed by students in the context of mobilization and protests, interviewees agree on a series of irregularities that violate the right to due process and equality in front of the law, committed by prosecutors linked to death squads, with the aim of terrorizing students and witnesses. From 2014 to 2017, 152 prosecutorial requests were initiated, in 2016 and 2017, 25 arrest warrants were issued against students, and in the same period 60 expulsions were reported.

The press and mass media are also important actors in the processes of criminalization, distorting reality, labelling protesting students as vandals and vagrants. The background content of the students’ demands is made invisible and is only concentrated on the violent acts that take place in the mobilizations. Both the government and the media highlight a model of a docile, uncritical, and passive student as a model of a good student who respects university laws and norms (see Table II below).

As for the businessmen, they have positioned themselves in relation to the student protests, demanding respect for private property, a call for order and social peace, and for the government to apply all the sanctions against those mobilized student sectors because they are deteriorating the country’s image and obstructing the arrival of foreign investment.

Finally, death squads made up of ex-policemen and military personnel from the 80’s, which have been reactivated in the current situation, focus their actions on student leaders. The reactivation of these paramilitary groups and their links with the Public Prosecutor’s Office has been denounced in the context of the assassination of two high school student leaders and one university student in September 2018. According to the University Institute of Democracy, Peace and Security, 1183 homicides of students were registered between January 2010 and March 2016. Disaggregating this data, it is evident that 160 of the murdered were students in higher education, 624 in secondary school, 124 in elementary school, and 275 victims were identified as students without determining their level of education.

Since 2009 until 2019, when a key moment of visibility of the movement and the consequent repression is identified, 1,500 students have been

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106 Honduran businessmen demand for serious damages to the economy; in La Prensa; June 2019; https://www.laprensa.hn/honduras/1291429-410/empresarios-graves-da%C3%B1os-econom%C3%ADa-protestas-maestros-medicos
murdered. In none of these cases has truth and justice been established, consecrating high levels of impunity.  

Against whom do they do it?

The student movement in recent years has concentrated its action on the opposition and rejection of the policies of privatization of education, and since the 2017 elections it has been the social actor that has promoted the demand for “Fuera JOH!” (Juan Orlando Hernández). Therefore, it is not surprising that the student movement in general, both in the university and in high school, is now the focus of a systematic campaign of criminalization, social disrepute and repression. Other sectors of young people who have also been victims of these criminalizing practices are those who are involved in environmental and natural resource protection demands, in alliance with indigenous communities. There are also young people who represent gender diversity, the movement that demands a halt to femicide, which in Honduras has registered 300 cases up to October 2018. Students today are organized in associations, in front of which there is a practice of co-optation by authorities, who offer favours and show themselves as people “close to” and aware of student demands.

107  Death squads are reactivated in Honduras; in Hispantv; September 2018; https://www.hispantv.com/noticias/honduras/387292/protesta-asesinato-estudiantes-atric
In the Honduran context, the judicial case against three members of the University Student Movement (MEU) stands out, accused and sentenced for usurpation in the context of the occupation of the University, having also been subject to administrative sanctions such as expulsion from the institution.

The prosecution of the three students began on July 15, 2015, immediately after the Public Prosecutor’s Office presented an injunction. Two days later, on July 17, a criminal judge took the respective statements of the accused and on August 5 of that same year the initial hearing was held, issuing a writ of indictment with alternative measures to prison, without the effect of an appeal presented by the defence.

The preliminary hearing took place on March 31, 2016, and on May 4 of that year the Sentencing Court issued the order to open an oral and public trial. The trial took place between May 24 and 27, 2017. There they were found guilty and on August 7 of that year they were given individualized sentences.
UNAH Authority presented criminal complaints under the accusation of “usurpation” and the first three students, who later became 24 in total, were arrested and prosecuted. After the complaint presentation, the three students were also expelled. At the time, they were all members of the University Student Movement (MEU), sentenced to three years in prison, after the Public Ministry accused them of usurpation for the occupation of UNAH’s facilities at the beginning of July 2015, where they demanded respect for the right to protest and defend public education.

The defence attorney, representing the Association for Democracy and Human Rights (ASOPODEHU and currently the tutor of one of the affected persons, explained that almost two years after the sentence was handed down, the Fourth Chamber of the Court of Judgment of Tegucigalpa has not transcribed the corresponding minutes, which are only kept in audio. For this reason, they are not allowed to present the appeal in the Supreme Court of Justice. She further argued that this is an atypical action by the Sentencing Court that violates the due process to which students are entitled. On August 7, 2017, the students were convicted by the Fourth Chamber of the Court of Sentences, as stated in the act of individualization of the sentence, inserted in page 410 of the file.

One of those affected, who works as a journalist but was a journalism student in 2015, worked closely with the student struggle. On many occasions, he was repressed by police army members, who, violating university autonomy and with the consent of the authorities, entered the university to attack students

The alternative press spoke to one of the students about the problem at the Supreme Court of Justice, and he said that this is not the first time that their access to justice has been obstructed and this attitude of the judges is just another of the persecution actions taken by the authorities against the students. “It is to intimidate the student population.”

He then indicated that the lack of access to justice has been affecting them since July 2015 when the criminal process began. He and the other two students involved in that trial had already been victims of persecution since 2014.

Although he is aware of the government’s escalation against the social movements, the affected does not explain why the Honduran justice system, which he considers distorted, does not allow them to use the last legal resource. He asserted that the situation is part of a state policy aimed at hitting the social movements and that intimidation transcends criminalization and reaches to death.

He added that college and high school students have been killed, including tutors. He adds that within the university, girls are beaten, assaulted and raped. In addition, students who are criminalized are charged with crimes that carry penalties of more than six years to ensure they will be in jail.

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109 Idem.
The following is an analysis of the coverage by Honduran newspapers of student mobilizations against the privatization of the administration of education and health services.

In mid-2019, high school and university students join the actions in defence of health and education, threatened by Legislative Decrees number 56-2015 containing the Framework Law on Social Protection and PCM-026-2018, regarding the creation of the Special Commission for the Transformation of the National Health System. In the last decade, the process of privatization of basic services such as electricity, drinking water and public roads was intensified, the latter through the installation of toll booths, which oblige payment for their transit. This process is intended to be extended to educational and health system through the approval of laws and decrees. The administration of health and education would therefore pass into private hands.

The student community developed demonstrations in schools, marches and protests in several cities around the country. This provoked sustained repression by state security agents: military and police. The disproportionate use of force brought repression, criminalization and murder. One of the most visible crimes was that of Eblin Noé Corea, a student at the Doroteo Varela Mejía Multipurpose Institute, in the municipality of Yarumela - La Paz.

110 Eblin Noel: the voice turned off by military bullets; on Radio Progreso; June 2019: https://wp.radioprogresohn.net/eblin-noel-la-voz-apagada-por-las-balas-militares/
The student community’s demand to reject the process of privatization, is framed in the national actions that brought together various sectors of Honduran society: unions, grassroots or territorial social organizations, doctors, teachers and citizens in general. Despite the fact that the actions were in coordination with the Platform in Defence of Health and Education, the media’s narrative against students was more aggressive, motivating criminalization and justifying violent actions by state agents.

Corporate media, belonging to the groups of economic and political power in Honduras: La Prensa, El Heraldo, Radio HRN, Radio America, HCH television and Corporación Televicentro, with more than 3 national channels, make visible the protests and actions of the students as illegal and violent, justifying the disproportionate use of force by the police and military in their journalistic coverage. For this exploratory analysis, we selected two of these media: La Prensa and El Heraldo, which belong to the OPSA Group (same publishing house), although with different geographical coverage, one with a greater presence in the central zone and the other in the north.

In the corporate media coverage, student actions in defence of education and health were depicted as outside the law, despite the fact that the Republic’s Constitution guarantees the right to organize (Article 76) and protest. The State, in turn, ignored its obligation to guarantee the right to freedom of expression and opinion.
The students recognize the threat of the privatization of public education by decree. So they appeal to the law to know its scope and the implications for one million elementary and high school students. With this process, the student organizations of secondary schools and public universities are organizing with the Platform in defence of health and education, by initiating actions to reject privatization of health: occupations, walks and sit-ins. However, these occupations are repressed by police and military agents.

The media in Honduras stigmatize the students. They denounce, and qualify them as “vandals, aggressive and violent”, justifying to the public opinion the behaviour of public security forces in front of a disproportionate use of force, affirming that the students generated this violence.

In the print media analysed, the State is represented by police and military officers who carry out violent evictions, by the Public Prosecutor’s Office which accuses students for their actions, and by the courts which initiate accusatory proceedings against students accused of violence. On the other hand, there is civil society (not students) represented by social organizations that bring together the struggle in defence of health and education, as well as human rights that denounce violations present in the protests that defend public education, led by high school and university students.

In the sample analysed we corroborate that headlines are full of words like: chaos, confrontations, violence and disturbances, in all cases making students responsible, underlining the effects of the mobilizations and justifying the disproportionate use of force by the security forces. We showed the following headlines: “Chaos and vehicular traffic on boulevard Suyapa due to occupations of UNAH”, “High school students confront the police” and “Hooded people throw stones at vehicles”.

The photographs accompanying the news show students wearing hoods, burning tires, holding stones and confronting police, which reinforces the idea of portraits of violent youth.

The journalistic coverage of the above-mentioned media constructs an image of violent students, who call for chaos, in front of the representatives of the order, police and military, forced by the circumstances (media justification) to disperse mobilizations using gas and even firearms, without contextualizing the origin of the demands, the violation of rights or the protection due to the State.

Another central idea is that the students are shown to be incapable of having their own demands within the framework of the vindication of rights. They are depicted by the media as subjects manipulated by the political opposition that in the last two years has demanded the exit of President Juan Orlando Hernández due to his links with drug trafficking and corruption.

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112 “High school students confront the police in Tegucigalpa”; in La Prensa; June 2019
113 “Young man of 17 dies after being shot during protests in Yarumela, La Paz”; in the Heraldo; June 2019
114 Use of military bullets confirmed in demonstrations against JOH; on Radio progreso; July 2019
115 "Chaos and vehicular traffic in Suyapa Boulevard due to shots at UNAH" El Heraldo, October 2019; https://www.elheraldo.hn/pais/1326698-466/caos-y-tr%CE%BFica-vehicular-en-el-bulevar-suyapa-par-tomas-en-la
Honduras

PHOTOS

Repression in Honduras
Photo: Tania Caballero

Students in Honduras during a demonstration
Photo: Reporteros de Investigación - Archive

Students in Tegucigalpa
Photo: Orlando Sierra

Student
Photo: Orlando Sierra

Medical Students
Photo: Archivo La Prensa

Repression during demonstration
Photo: Rafael Ochoa
Universities, as symbols of expression and critical thought, assume the role of confronting, criticising and expressing their opinion in relation to the socio-political crisis. Public universities in Honduras have led the way in denouncing repression and criminalisation of social and student movements.
The strong repression of social protest in Nicaragua gained wide international repercussions, particularly since the crisis of April 2018 where students, particularly university students, were at the centre of it. These demonstrations came from a growing process of social discontent, closing spaces for participation and an institutional crisis.

The university student movement began protests on April 18, 2018, at the main gate of Central American University (UCA), demanding that the government take action to extinguish a fire in the Indio Maíz natural reserve (the second largest reserve in Nicaragua, located in the extreme south-east). However, the government responded by sending shock groups formed by young members of the Sandinista Youth (JS) party, who arrived to dissolve the demonstration violently. The aggression against UCA university students increased the protests in other universities as well. However, - and in a parallel way - the government approved a reform to social security that reduced 5% of the pension to retired women and men, which also generated greater protests throughout the country.

These student protests in favour of the retirees were responded to by attacks by paramilitaries, allied armed clash groups, accompanied by the national police, which by the beginning of May of the same year had caused the death of at least 46 people. Among them was 15-year-old Alvaro Conrado, who had decided to help by bringing water to students at Managua University, receiving the impact of a bullet at his neck level. The negligence and refusal to receive him in an assistance centre, caused his death.

CRIMINALISATION AND VIOLATION OF STUDENTS’ HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN
As a result of these deaths, a massive popular uprising originated, and after a key intervention of the Catholic Church, it was met by the government with a national dialogue in May 2018, finally turning out to be unsuccessful. One of the reasons for this is the participation of government representatives in the armed protests with the so-called “Operation Clean-up”, in which there are differences in the number of people killed. On the one hand, the Inter-American Commission on Human Rights reports 325 people who lost their lives, but the official figures recognize 195. It should be noted that there were later several failed attempts at dialogue, where students took a leading role.

Given the negative response by the State, several human rights organizations have expressed their concern with the situation in the country. The report “Human rights violations and abuses in the context of the protests in Nicaragua”, by the United Nations High Commissioner for Human Rights, highlighted that in this context, acts of torture and ill treatment of detained demonstrators have been recurrent, freedom of expression has been restricted through actions ranging from the closure of independent media and retention of their property and equipment, to the imprisonment of national journalists for months. The exercise of the right to peaceful assembly has been impeded, and freedom of association has also suffered a deterioration during this period of crisis. Nine civil society organizations, including prominent human rights organizations, were deprived of their legal personality after being accused of supporting “terrorist actions” during the 2018 protests. Likewise, human rights defenders and community leaders, indigenous and Afro-descendants who took critical positions towards the government have not ceased to experience harassment, stigmatization and threats.

The IACHR Report counts 327 people dead, more than 2,000 injured, 62,000 refugees, the great majority of whom were persecuted and who left the country. There are still 96121 political prisoners in the prisons, out of nearly 700, including many students. In this scenario one notes with concern the implementation of processes of selective criminalization of the student movement in general, with cases of illegal detentions, kidnappings, physical aggression, torture, cruel, inhuman and degrading treatment. In the case of the country’s public universities, the protest that began in April has made visible various problems associated with university autonomy, the legitimacy of university authorities, financing, academic freedom, student organization, and even questioning and reflecting on what type of university is required for the development and future of the country. In the interviews, the attempt to turn the university into “(...) a space that avoids promoting discussion of ideas, debate of public policies and only supports the positions of the current government party which is the Sandinista Front (...) in the auditoriums the policies of the government or its version of the social, political and economic situations that are affecting the country are promoted (...)” (EST-NI1)

As recalled in the Alternative Civil Society Report on Education in Nicaragua, on the occasion of the country’s review in the United Nations Universal Periodic Review, the constitutional rights and freedoms transgressed to students leave them in a state of flagrant violation of human rights, transgressing the fundamental freedoms and rights established in Nicaragua’s political constitution.

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119 Sowing terror. At: https://www.amnesty.org/download/Documents/AMR4392112018ESPANOL.PDF


122 Education and Human Development Forum of the Nicaragua Initiative. Joint Report Presented by the NGO coalition’s and Civil Society Youth Collectives, for the third cycle of review of the State of Nicaragua under the Universal Periodic Review (UPR) mechanism.
Who criminalizes students in your country?

According to the documents analysed, testimonies, and interviews from Nicaragua, the main promoters of criminalization come from the state apparatus, as a large gear of its powers and public institutions that dialogue according to what the government promotes. In addition is the participation of third parties from civil society such as paramilitaries.

From the Executive Power, not only the President, but also the Vice President of Nicaragua, who is also his wife, have played an important role in the way some Ministries, the Health Ministry, the Public and the Interior, have proceeded, due to the lack of protocols for the procedures of elaboration of files, for subsequent judicial processes, in front of measures of repression, siege, torture, persecution suffered by the students. All of this is in the hands of the Judicial Power, whose Supreme Court disqualifies them from the right to legitimate defence. All this effectively shows how the powers of the State of Nicaragua are intertwined in such a way that all action and even intention that goes in opposition is labelled, repressed, generating mechanisms of criminalization towards the students.

Below, the main topics mentioned by the interviewees are systematized.

From the National Assembly, laws of the penal code have been modified to establish a legal classification of “terrorism” that would make students fit in this modification. The Law against Money Laundering, Financing of Terrorism and Proliferation of Weapons of Mass Destruction, approved in July 2018, was the subject of various criticisms and concerns, including those of OHCHR, which considered that it “presents a very broad definition of terrorism” and that it could be “used
against people who participate in protests”\(^\text{123}\). One cannot have meetings at the university, in a house, much less hold a political meeting in the streets. As has been said, nine human rights organizations were stripped of their legal status, banned from entering and carrying out their functions, and had their bank accounts, houses, vehicles, and all means of communication confiscated.

**National Police** and “anti-riot” forces have generated persecution of students who are critical and openly opposed to the government. On several occasions, they have stopped urban buses, requisitioning young people who have some reference to having participated in actions that go against the ruling party. It was declared a crime to hold a blue-and-white balloon in acts of protest, so the national police are walking around the capital, blowing them up as one of their tasks. The persecution has been such that they have taken students to prison, they have marked on their arms the 4 letters of the Sandinista government, elaborated doubtful files, with which later they are brought to trial. In the same way, they have entered hospitals, forcing the students and/or their families to sign a document that states that they will not initiate a process of denunciation against the State. It should be noted that, from the intelligence agencies, those who declare themselves to be in opposition to the government, including members of the student movement, have been persecuted, watched, and intimidated.

As for the role of the **ministries**, it is mentioned that they are controlled by the governing party, taking a decisive part in this process. From the Ministry of Health, the Institute of Forensic Medicine has given ambiguous or rightly far-reaching results that are known to be the cause of death of some victims. In some cases, public hospitals have forced the relatives of the deceased to sign documents with a cause of death that does not correspond to the genuine ones.

From **public universities** and the National University Council CNU, (rectors and deans of public universities), promoted and legitimized the expulsion of more than 80 students from their universities, during the context of the anti-government protests of 2018. They abandoned their students, validated the repression, the expulsion in a definitive, arbitrary way, without evidence, where this was not taken to disciplinary commissions corresponding to the institutional code of ethics, but was a direct resolution of CNU. This council established the resolution of classifying them as “coup-makers”, “terrorists”, “vandals” for having participated in protests, they avoid promoting discussion and debate on public policies, to such an extent that within the university, places are promoted where videos are presented that support and show the government’s version of what happened. For the defence of investigative works, monographic works or projects, guidelines have been established that do not go against government policy. There are students who are not given grades, whose academic records have been erased, who are not allowed to work, because their names circulate around institutions preventing them from accessing work. Currently, some students do not have the right to take public university entrance exams.

As the report *Education in Nicaragua*\(^\text{124}\) states, in the context of the crisis, the partiality of the academic authorities of public universities became evident, as they agreed to the violence with which students were repressed and killed.

\(^{123}\) Nicaragua: The terrible loss of life must be stopped immediately. At [http://www.oacnudh.org/nicaragua-la-espantosa-perdida-de-vidas-debe-detenerse-inmediatamente/](http://www.oacnudh.org/nicaragua-la-espantosa-perdida-de-vidas-debe-detenerse-inmediatamente/)

\(^{124}\) Foro de Educación y Desarrollo Humano de la Iniciativa por Nicaragua. Informe Conjunto Presentado por la coalición de ONGs y Colectivos Juveniles de Sociedad Civil, para el tercer ciclo de revisión al Estado de Nicaragua, ante el mecanismo del Examen Periódico Universal (EPU).
In the case of the country’s public universities, the protest that began in April has brought to light various problems associated with university autonomy, the legitimacy of university authorities, funding, academic freedom, student organisation and even questioning and reflecting on what type of university the country’s development and future requires.

The rectors of public universities did not raise their voices in favour of the student movement; on the contrary, they justified the institutional violence of the State. There were cases of expulsion from universities for participating in the protests and demonstrations, without the right to defence, in addition to dynamics of rewarding or punishing teachers and students for political-partisan interests. In this way, academic freedom, freedom of thought and freedom of speech are seriously threatened.

As for the student movements, there is the Centro Universitario de la Universidad Nacional CUUN and the Unión Nacional de Estudiantes de Nicaragua UNEN, the only movements approved by the National Assembly, and they have a legal framework supported by the autonomy law. Both declare themselves openly sympathetic to the ruling party. Both have limited access to their spaces for critical students, so that students who openly oppose the government cannot take part in electoral processes. In front of violation of students’ rights, which resulted in deaths and assassinations, these movements that were supposed to defend the rights of students remained silent and thus different movements began to emerge, which are currently being criminalized within the universities and have had to work in a clandestine manner. Persecution, harassment, and siege have been generated against those who are not organized in UNEN, giving information to intelligence agencies, national police, the Public Prosecutor’s Office, and the judicial power.

Freedom of student organization is seriously affected. The same student movements that originally arose as an articulation that looked after the interests and rights of the students in a sovereign and representative way, are today co-opted and restricted.

As for the procedures of judges and the Supreme Court, they receive cases that come with the vice of non-due process. Everything that has happened has resulted in university students being imprisoned, facing legal processes without minimum guarantees of rights, such as defence, oral and public trials. Instead, they were behind closed doors, with the same national police and/or government sympathizers being witnesses, who were known leaders at the departmental or national level, along with the presentation of false and unsustainable constructed evidence. Several of these students later left and are currently free as a result of an “imposed self-amnesty” granted by the government, which states that they were “pardoned” for crimes they had not committed. The Public Prosecutor’s Office accuses students of even being illegally detained.

As for the media, there are 11 television channels, 6 of which are owned by the presidential family (Ortega Murillo), they do not
provide information that questions the policies of the State, reproducing the concepts of “coup leaders”, “terrorists”, “traitors of the fatherland”, showing the students as dangerous terrorists. The Vice President appears in daily broadcasts, disqualifying students and permanently criminalizing them in a discourse constructed through a series of epithets; “bugs”, “termites”, “bacteria”, “mushrooms”, “vandals” and “coup plotters”.

In the case of part of civil society, the presence of armed paramilitaries at the entrance to universities is reported. They search those who enter, restrict the entry of students involved in the revolt and illegally detain them, holding them for a few days before releasing them to the authorities, beating them and torturing them psychologically.

Against whom do they do it?

Against all students who declare themselves in opposition to the government, including UNEN dropouts. In fact, the latter were the ones who suffered the greatest revenge, because they were classified as ‘traitors’.

The testimonies of the key informants date that the main people affected are students from public universities, and there would be a greater repression against the students belonging to the indigenous community of Monimbó.

CASE STUDY

STUDENT GROUP: FROM DEMONSTRATIONS TO PRISON

As noted, social protests on April 18, 2018 were catalysed by the university student movement against a pension plan reform that shows years of civil society unrest, even calling for the President’s removal from power. A few days later, the Nicaraguan Center for Human Rights confirmed the death of about twenty people, many being students. Despite the media siege, repression, and persecution by the police forces, students not only continued to demonstrate, but the demonstrations increased.

Thus, on August 25 of the same year, in the city of León, seven university students (among them a young transgender woman) from the student movement “19 April” were marching in opposition to the government. They were intercepted and arbitrarily detained, generating a great commotion in the media, due to the series of illegal procedures and situations of vulnerability that they not only lived through for months, but continue to suffer harassment.

“(…) We are initially captured by the paramilitaries. The motorcycles were placed in front of the street (…) and the police immediately followed. The police managed to get us out of the vehicle we were in, but those who intercepted us initially were paramilitaries. After that, we were transferred to the
The complexity of the case lies in the fact that these seven student leaders were presented as the perpetrators of the fire at the University Club of the National University (CUUN), accused of charges such as robbery, threats, murder, and carrying weapons, and depicted in the official media and by the authorities as terrorists. The consequence was the imprisonment of the seven accused, transferring a student – who until then had been active in the National LGTBI Table of Nicaragua and who identifies herself as a trans woman – with her male companions to the detention centre. They were beaten, threatened, intimidated and humiliated, without access to due process. Some were released 7 months later in April 2019 under house arrest. Others were released in June 2019 along with 130 #Political Prisoners: The Struggles of Victoria Obando. At: https://niu.com.ni/presospoliticos-las-luchas-de-victoria-obando/
more than 50 other people, after the Amnesty Law was passed, which sought to absolve all those detained since the April 2018 events, under the pretext of contributing to guaranteeing peace. However, this law generated controversy. The Committee for the Liberation of Political Prisoners rejected this measure, in the first instance, because it was not requested or demanded by the victims, who were “absolved” of crimes they did not commit, pointing out that if they would participate in demonstrations, they would be detained again. In a second instance, all crimes and abuses by the police forces were left unpunished (since, under this regulation, all administrative and criminal proceedings are closed). Therefore, they are “a mockery of the people of Nicaragua”131. It should be noted that this case does not end with the freedom of these seven students, since as of today there is still harassment and threats from government authorities and police forces132.

131 Amnesty Law in Nicaragua: why many prisoners released after the new regulations of Daniel Ortega’s government who oppose it. At: https://www.bbc.com/mundo/noticias-america-latina-48589868
132 Summary of CENIDH president’s speech in parallel event to the 43rd session of the UN. At https://www.cenidh.org/noticias/1194/

MASS MEDIA

“APRIL HEROES” VERSUS “TERRORISTS, COUP PLOTTERS, RIGHT-WING ALLIES”

In Nicaragua, there is a great polarization of the media. For this report, we have selected the newspaper La Prensa, the only written media of national circulation, of a conservative and business nature, Radio Camoapa, with a community focus and considered an alternative media of great national reach. It was also considered important to add Radio La Primerísima, currently identified with a pro-government profile.

The student protests in Nicaragua are relieved, in April 2018. From the beginning of the student protests, the newspaper La Prensa gave ample coverage to different scenarios, pointing out the serious human rights violations committed by the Sandinista government when repressing the civic uprising, first by the youth and then by a massive number of the Nicaraguan population. Radio Camoapa gave ample coverage to the events, calling the students who began the protests against the government of Daniel Ortega almost “heroes” and disqualifying another youth sector, the Sandinista Youth. Both media built the ideal of how to see these young Nicaraguans, who demonstrated in the streets against the government, rejecting violence, demanding public freedoms.

Radio La Primerísima, in turn, disqualified the young demonstrators, whom it called “terrorists, coup plotters,” allies of the right wing and of US imperialism. It even referred to these young people as criminals paid by the right wing to try to overthrow the government of Daniel Ortega and members of the Sandinista Youth as the new heroes defending the revolution, who even went so far as to popularize a song in which members of the Sandinista Youth appear with President Ortega: “Daniel se queda,” by Azucena Mariachi133. In the analysis carried out by La Prensa134 young people are identified as self-convoked university students, with a treatment that identifies them

131 Daniel stays. At https://www.youtube.com/watch?v=rdshycM468c
as defenders of citizens’ rights when resisting at the barricades\textsuperscript{135}. And on the other hand, those who are part of the Sandinista Youth as mobs, aggressors.\textsuperscript{136} The emphasis on the conflict between young opponents and members of the Sandinista Youth remains on the news agenda.\textsuperscript{137} On April 19, 2018, young people were described as heroes of democracy when the confrontation with the police was reported\textsuperscript{138}. On the same day, Vice President Rosario Murillo disqualifies them as small groups for initiating protests while they are being manipulated\textsuperscript{139}.

Meanwhile, on radio \textit{La Primerísima}\textsuperscript{140} while the Vice President disqualifies the protests, the media shows her as someone who calls for preserving peace\textsuperscript{141}. The government’s declarations that the student movement must be considered “vandals”, violent groups that attacked the police and citizens,\textsuperscript{142} and caused damage in several places, accusing them of being criminals, are reinforced.\textsuperscript{143} “Destroying the INSS delegation in the city of Sandino\textsuperscript{144}.”

\footnotesize{\begin{itemize}
  \item \textsuperscript{135} Paramilitary mobs attack villagers guarding barricades in Leon. At https://www.laprensa.com.ni/2018/06/13/departamentales/2435128-
turbas-paramilitares-atacan-poblabores-que-resguardan-barricadas-en-
leon
  \item \textsuperscript{136} Aggressions to the protests against social security reforms. At https://www.laprensa.com.ni/2018/04/18/politica/240622-
evivo-protestas-contra-reformas-al-
inss
  \item \textsuperscript{137} Young people are rebelling in the departments https://www.
laprensa.com.ni/2018/04/20/departamentales/2406797-jovenes-se-
rebelan-en-los-departamentos
  \item \textsuperscript{138} “This is how the confrontation between students from UNA
and the riot police was experienced”. https://www.laprensa.com.
ni/2018/04/19/imagenes/2406403-en-imagenes-así-se-vivió-el-
enfrentamiento-entre-estudiantes-de-la-una-y-antimotines
  \item \textsuperscript{139} “Rosario Murillo describes as legitimate defense the aggression
politica/2406376-rosario-murillo-describe-como-legítima-defensa-la-
actuacion-de-sus-partidarios
  \item \textsuperscript{140} National coverage, frequencies: 91.7 fm, 105.3 fm and 680 am
http://www.radiolaprenderisima.com/
  \item \textsuperscript{141} Rosario urges to preserve peace http://www.radiolaprenderisima.com/noticias/general/241240/rosario-insta-a-preservar-la-paz/
  \item \textsuperscript{142} Vandals create chaos in front of agricultural university http://www.
radiolaprenderisima.com/noticias/general/241308/vandalos-
sembran-caos-frente-a-universidad-agraria/
  \item \textsuperscript{143} Drug addicts receive money to create chaos in Managua
http://www.radiolaprenderisima.com/noticias/general/241419/
drogadictos-reciben-dinero-para-sembrar-caos-en-managua/
  \item \textsuperscript{144} Damages in INSS delegation in Sandino city. http://www.
radiolaprenderisima.com/noticias/general/241383/destrozos-en-
delegacion-del-inss-en-ciudad-sandino/
\end{itemize}
Nicaragua

PHOTOS

ÁLVARO MANUEL CONRADO DÁVILA, 15 YEARS OLD, WAS A FOURTH-YEAR SECONDARY STUDENT WHO WAS KILLED BY A BULLET IMPACT
PHOTO: LA PRENSA GRÁFICA - ARCHIVE

PROTEST EN LAS CALLES
PHOTO: OSCAR NAVARRETE

PROTESTS THROUGHOUT NICARAGUA
PHOTO: ORLANDO VALENZUELA

PARAMILITARY REPRESION
PHOTO: MARVIN RECINOS

ORTEGA POLICE REPRESS PROTESTERS IN METROCENTRO, DURING THE NATIONAL SIT-IN PROTEST ON MARCH 30, 2019 - LA PRENSA
PHOTO: OSCAR NAVARRETE

STUDENT PROTEST
PHOTO: INTI OCON
Criminalisation and violation of students’ human rights in Latin America and the Caribbean

Onto the highway to Masaya, a group of young manifestants wrote down the list of the first deceased people in the protests. Photo: Confidential file.

Upon the march to Masaya, a group of young manifestants wrote down the list of the first deceased people in the protests. Photo: Confidential file.

Thou shalt not murder

Photo: AFP

Student during a manifestation in Nicaragua

Photo: Seuno Noticias

Manifestants raise Nicaraguan flags

Photo: ElTubaDigiTal

Thomas More Universitas

Photo: R Fonseca

Agustin Mendoza’s funeral

Photo: Oswaldo Rivas - Reuters
REGIONAL TRENDS
The identification of the multiplicity of actors that contribute to the processes of criminalisation, the ways in which they do so, the main impacts that this phenomenon entails and the victims to whom it relapses, reveals clear regional trends and patterns. This calls for urgent and coordinated action between the State, civil society, the educational community, the media and human rights organisations.
After looking at each of the countries and based on the matrix initially developed, it was possible to find some common lines, with greater or lesser emphasis on each context. This points to important elements to take into account when thinking about the situation at a Latin American and Caribbean level. The search for answers to the question of the actors involved in the processes that end up criminalizing students, particularly those linked to organized student movements, ended up reaffirming, as a whole, a multiplicity of actors that interact, with a relevant participation of the State, with peculiarities in each context.

Identified in the actions of the Executive Power, in particular the Presidency and various ministries, it is identified:

- Creating control and security organisms with specific attributions and faculties oriented to repression.
- Proposing bills that hinder or inhibit social protests.
- Generating and consolidating narratives that encourage criminalization.
- Increasing the budget for the police and greater powers to break up and suppress protests.
- Increasing militarization (mainly the presence of the army) in schools and universities (violating the university autonomy).

Reported in the Parliaments:

- Approving new laws that make it difficult to hold demonstrations and social protests, or imposing prior notification requirements or others.
- Modifying existing norms in the sense of attributing a criminal or administrative reproach to conduct related to social protest (such as obstructing public roads, affecting circulation or traffic, using hoods, occupying or taking over educational centres, or any other conduct characteristic of a social protest).
- Modifying the penal code to configure typical protest actions as crimes. In Honduras and Nicaragua, it is done under the figure of terrorism and in Chile and Colombia as vandalism.

The role of the Courts of Justice and Prosecutors’ Offices is also noted with concern, forming a wide range of measures and actions that also show the misuse of criminal law:

- Undue legal and judicial processes or without the fundamental guarantees, resulting with conviction and prison sentence in some.
- Opening proceedings against students under different criminal figures without foundation and without the relevant evidence or under false evidence.
- Violation of the presumption of innocence and the right to defence.
- False charges or accusations to mobilized students.
- Obstacles to advocacy for access to justice and adequate reparation for affected student rights.
- Impunity of actors responsible for human rights violations of students, not carrying out the processes of investigation, prosecution and punishment with due diligence, and / or reaching resolutions of acquittal.
Police abuses were noted:

- Excessive use of force and failure to respect international standards protocols on the use of weapons and other elements of containment.
- Use of tear gas, pepper spray or taser weapons.
- Illegal detention, physical and psychological aggression.
- Delation to intelligence organs.
- Planting evidence or use of false evidence.
- Evictions from educational facilities.
- Harassment and threats.
- Persecution and Imprisonment of Students.
- Infiltrations and setups.
- Installation of security cameras around schools.
- Selective identity controls and check of backpacks in places close to the accesses of educational facilities and marches.
- Erroneous classification of faults and unlawful constraints.
- Murders.

Still at the state level, the role of Public University Authorities and School Principals was likewise extremely relevant, pointing also to serious violations of academic freedoms and autonomy.

- Submission of complaints and denouncements.
• Application of sanctions, suspension and expulsion.
• Restriction of food and academic scholarships.
• Limitations on the right of admission to public universities.
• Prohibition of meetings in universities (Nicaragua).
• Attacks on academic freedom, banning jobs that enact against the government.
• Student property requisitions.
• Presence of military and/or police forces in the school/university environment and increase of private security.

Extreme violence and cases of killings — attributed, in some cases, to paramilitary groups and death squads — have also been noted with concern:

• Killings during demonstrations or after taking part in protests.
• Kidnapping and torture.
• Harassment, stalking, siege and threats.
• Identification of homes and relatives.
• Public dissemination of photographs and personal data.

It is important to note that a look at the national contexts showed that the actions are accompanied by practices and narratives that support the formation of their legitimacy by public opinion. It is common for governments to refer to two types of students: the “model” student, who “has demands, but claims them through institutional channels”, and the student who “does not follow the rules”, who is “dangerous to the system”. The citizens themselves often appropriate this concept and reproduce hostile actions and even physical aggressions against demonstrators, as reported in Chile, where there were also actions of persecution and denouncement by mothers, fathers and tutors.

From the entrepreneur sectors, practices that reinforce the negative vision of students who participate in protests were reported; jobs or benefits are offered to “model students”, who do not participate in the protests and protect private property. Because the country’s image is affected, it is a concern for this sector to maintain a stable economy. From this comes pressure on the government to “maintain order”.

Nevertheless, the important role played by some media, journalists, and communicators in the coverage and monitoring of demonstrations and protests to gather and inform citizens about student demands, on one hand, strongly contributes to the negative construction in the public imagination of these same student rights defenders. In the case of the mass media, this was observed in Chile, Colombia and Honduras:

• Negative narrative about student protesters, reinforcing the stereotype of a dangerous person. In the case of Nicaragua, Colombia and to a lesser extent Honduras, there is a greater emphasis on students from public universities. In the case of Chile, this emphasis is on the secondary movement.
• Absence of student sources as opposed to official government sources.
• Emphasis on the inconvenience caused by the protests and not on the causes of the claims and/or the consequences of criminalization.

In these cases, a counterpoint made by the alternative or community media analysed was fundamental, which had as its main characteristic a more attentive listening to student demands,
allowing the understanding of the phenomenon in the political, social and economic context; also including information on the nature and origin of the actors of the social and political scenario.

The case of Nicaragua has specificities in relation to the coverage of student protests. There the differences were not so much between the mass and community media, but rather between the official and unofficial media, reflecting the serious polarization in which the country finds itself. The pro-government media disqualified young demonstrators, whom they called “terrorists, coup plotters, allies of the right and of imperialism”.

With regard to the people on whom criminalization falls (victims), in the forefront are organized students with critical views of the political, economic and social context, and who reject current public policies and the governments that impose them, as well as undemocratic administration of the educational sphere.

In particular, criminalization reaches student movements in the area of public higher education (university) or secondary education in the case of Chile, which rejects and resists the destruction of the sense of public education.

Likewise, other young actors are identified: those who are also framed in environmental and natural resource protection demands, in alliance with indigenous populations, as well as those who represent gender diversity, or who demand an end to feminicide. We would like to highlight the existence of situations of differentiated criminalization, such as the case of poor students from urban areas, or those belonging to rural, indigenous, or Afro-descendant communities.

As victims of these processes there are also other people from the educational, family or relational environment of the students, witnesses, as well as references from the communication or press environment that cover the demonstrations to denounce violations.

The results indicate impacts at social and collective level, on the community as a whole. They imply restrictions on public debate, on the plurality of opinions in a society, deepening polarization and weakening solidarity links. They also install a paradigm that is contrary to peaceful resolution of conflicts and impose the prevalence of security and public order issues over the whole set of human rights.
CONSEQUENCES

The research showed that criminalization processes not only reveal specific forms of social control, but also generate serious consequences and impacts, affecting students as direct victims on one hand, and on the other, in a related way, the entire educational community and society as a whole.

With special emphasis, those that affect the students are pointed out below:

- Severe restrictions on their right to be educated in secondary and higher education institutions, preventing or creating obstacles to the reincorporation of students, in some cases, as noted above, have even been permanent.

- Being subjected to irregular procedures and prosecutions or without respecting the principle of legality or the indispensable judicial guarantees.

- Uses of physical violence, leading in some cases to torture, sexual abuse, and even death.

- Affecting the rights of: dignity, honour and good name, undermining the public image of those students who have decided to demonstrate against government actions.

- Subsequent difficulties in integrating into the working world.

- Impacts on the health and physical, psychological and emotional integrity (effects on their private and family life).

- Risks associated with having to organize or articulate clandestinely to avoid persecution.

- Being affected economically, when having to face the cost of legal advice, presentation of appeals, defence processes, change of address, even situations of exile.

The findings indicate impacts at social and collective levels, on the community as a whole, by implying restrictions on public debate, plurality of opinions in a society, deepening polarization, weakening the links of solidarity, weakening the socio-cultural structure, impacts on social inequalities by inhibiting processes of promotion and defence of human rights, installation of a paradigm contrary to the peaceful resolution of conflicts and imposition of the prevalence of security and public order issues over any human rights.

The above-mentioned, which arises from the research carried out in the four countries, clearly implies a violation of the human rights of the students, as well as the disrespect of a set of fundamental rights and freedoms.

RECOMMENDATIONS
We urgently call for an end to the criminalisation and repression of student actors, putting into action the recommendations made, overcoming any form of violation of their human rights, and giving full recognition to their task as defenders of the right to education.
On the basis of the information and analysis carried out, recalling that peaceful protest and denunciation activities are legitimate because they must be protected, and that human rights defenders constitute essential pillars for the strengthening and consolidation of democracy and the rule of law, due to the work they carry out for full compliance with fundamental rights (IACHR, 2019), highlighting the specificity that the phenomenon of criminalization in the educational sphere involves, the following recommendations are made.

GENERAL RECOMMENDATIONS:

• Importance of deepening the analysis of the context, visibility, understanding, reporting and systematization of situations of criminalization, from a human rights and gender perspective, pointing towards adopting measures that contribute to overcome them from all spheres of society and various levels: community, municipal, regional, national and international.

• Coordinate efforts and measures from all spheres of society to advance to a greater recognition and consolidation of the right to social protest as a fundamental human right and as a mechanism of defence and advocacy for the right to education, with the role of students as human rights defenders and essential for the strengthening of a democratic society and the rule of law.

• According to the above, address the importance of the full exercise of the right to participation. In this framework, strengthen higher levels of student participation in the debate and decision-making processes on public policies as a substantial element for consolidating the right to education and the plurality of the debate on issues of public interest.

• Carry out campaigns to combat the construction and expression of hate narratives or stigmatizing statements, which in many cases accompany the processes of criminalization and contribute to increase the risk and generate higher levels of intolerance, discrimination, hostility, repudiation and/or violence against students and other actors in the educational community who defend human rights. In the same sense, and in order to strengthen a human rights approach, implement educational, training, awareness-raising and dissemination activities aimed at representatives of all spheres of government, civil society and the media.

INTERNATIONAL HUMAN RIGHTS AND EDUCATION ORGANISMS

• It is essential that the international movement acting for the right to education, in conjunction and coordination with human rights protection systems, States, international cooperation and civil society organizations, be given the importance of this phenomenon and make progress in a specific approach, diagnosis and adoption of appropriate responses in defence of students.

• For human rights organizations acting in defence of human rights defenders, we recommend that they carry out a greater follow-up and visibility of the particularities in the case of the struggle for the human right to education, formulating relevant recommendations and above all making visible the guarantees of students.
STATE LEVEL: LEGISLATIVE, EXECUTIVE, ADMINISTRATIVE, JUDICIAL

In general terms, give relevance and application at the national level to the contents and recommendations formulated in the latest IACHR reports on the subject, in particular the most recently published one: Protest and Human Rights. Standards on the rights involved in social protest and the obligations that should guide the state response.\textsuperscript{146}

- Opening channels of direct dialogue with student movements and collectives, as well as implementing mechanisms for student participation in all spheres of educational public policy design and decision-making, from local to international.

- To undertake efforts for a public policy of recognition, prevention and comprehensive protection of people who defend the right to education, their right to social protest and other rights, recognize their fundamental role in defending this right that responds to differential approaches such as gender, ethnic and LGBTI.

- Refrain from adopting normative frameworks formulated in opposition to the standards of rights, which are criminally ambiguous or diffuse, that are oriented to limit the spaces of participation and protest and repeal the existing ones.

- Take appropriate measures to exclude the presence of armed forces agents or military police on educational facilities, as well as their participation in student protest contexts.

- To implement measures of prevention and protection of persons defending the right to education, particularly students, such as the development of protocols of action based on international instruments that refer to the subject and the development of measures that counteract the improper use of criminal law, as well as the fight against speeches and statements against students by representatives of the state.

- Fight against impunity and the manipulation of punitive and repressive power, investigating irregular, abusive and arbitrary actions by the police, as well as those activities of intelligence services and/or agents that are carried out illegally and illegitimately against students in protest contexts.

- Implement a specific system of registration and systematization of all cases involving criminalization and violations of student rights, with complete, accurate, disaggregated and accessible information.

- The judiciary, the Public Prosecutor’s Office, the public prosecutors’ offices and all those working in the field of justice must guarantee the full exercise of the right of access to justice, the correct application of legal frameworks, refraining from criminalizing legitimate activities, and ensuring that investigations and legal proceedings are carried out with full respect for due process.

EDUCATIONAL COMMUNITIES

- To be fully aware of the relevance of the phenomenon and of its approach in the educational field in order to advance in mechanisms and strategies that contribute to the promotion and safeguarding of all the rights involved in the criminalization processes, such as: action and investigation protocols for situations that arise, prohibiting

\textsuperscript{146} IACHR. IDH/RELE/INF.22/19. \url{http://www.oas.org/es/cidh/expresion/publicaciones/ProtestayDerechosHumanos.pdf}
measures that affect the right to education or that entail retaliatory responses, overcoming conflicts through dialogue and mediation processes, avoiding as much as possible the entry of police or military forces into educational spaces, greater democratization of the educational space, non-stigmatization of students, among others.

- In order to deepen the subject, to implement the dissemination and treatment in the educational field of the investigations, reports and recommendations issued by the human rights organisms and which advance towards a definition of the criminalization processes and clarify the rights and guarantees that must be protected in this type of situations.

**CIVIL SOCIETY ORGANIZATIONS**

- Strengthen the capacities of civil society organizations, observatories, social and student movements, to identify and denounce in the national and international justice and human rights systems violations of student rights and abuses in the context of social protests, and in the struggle for the right to education in general. This also implies to advance in the design and implementation of tools (such as the creation of statistics and databases) that contribute to a better follow-up and monitoring of the phenomenon, strengthening adequate protection mechanisms and influencing public policies.

**MASS MEDIA**

Expand the plurality of actors heard in the coverage of the protests and give visibility to the real demands of the mobilizing actors.

Assume a role in line with the human rights and fundamental freedoms involved in the issue, refraining from promoting or instituting stigmatizing speeches, statements and narratives of students and student protest, as well as justifying to public opinion the behaviour of public security forces and the disproportionate use of force and criminalization.

As noted above, we reaffirm the importance of greater articulation between social movements and alternative journalism to generate counter-narratives that highlight positive values in the work of defenders in promoting human rights and the crucial role they play in strengthening democracy and the rule of law\textsuperscript{147}.

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