



4 November 2019

STATEMENT

CHILE: SERIOUS HUMAN RIGHTS VIOLATIONS IN RESPONSE TO MASS PROTESTS

We, the undersigned organisations, express our condemnation of the excessive use of force which is alleged to have been deployed by State security forces in Chile in response to the mass protests taking place, and the declaration of a state of emergency. We recognise that Chile is a democracy and welcome all steps that have been taken by all relevant actors to ensure that the rule of law continues to function, through the operation of courts of law and the measures being taken by the National Institute for Human Rights (Instituto Nacional de Derechos Humanos, in protection of the legal rights of protestors. We call on the Chilean government and authorities to protect the rights of peaceful protestors, including their right to a full legal defence and access to lawyers, and to ensure proportionate and lawful responses to the continuing demonstrations under international law.

Protests

Protests began in October 2019 following an announcement by the government that it would increase the price of public transport. Subsequently, the protests focused on rising inequality and living costs. On 18 October 2019, the government declared a state of emergency following increased violence. A march of at least a million people in Santiago took place on 26 October 2019. The protests are continuing, and they have been marked regrettably by episodic violence and looting.

Reports of Violence

The Instituto Nacional de Derechos Humanos of Chile has documented that over 3,700 people have been detained, thousands have been shot and beaten and 5 people killed. Amnesty International reports receiving hundreds of complaints about serious human rights violations that range from excessive use of force, to torture, illegal raids and arbitrary detention. The Instituto Nacional de Derechos Humanos of

Chile has filed nearly 140 cases for the excessive use of force against protesters which include allegations of beatings, physical and verbal abuse, forced undressing and wounding with pellets. There are multiple reports on social media which give credibility to allegations of serious human rights violations by State security forces, including the widespread use of pellet rounds. The most recent reports, including those from the Defensoría Jurídica Universidad de Chile, suggest that the use of force continues to be disproportionate and alarming in its deployment by the Carabineros against protestors.

Access to Lawyers

There are serious reports, including from the Defensoría Jurídica Universidad de Chile, that individuals have been, and continue to be arbitrarily deprived of access to legal advice and representation in police stations. There are further reports of mistreatment amongst vulnerable groups, including children.

International Law

Chile is a party to both the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (American Convention), both of which guarantee all the relevant human rights alleged to have been violated, including rights to life, liberty and security of person, freedom from arbitrary detention and the right of peaceful assembly.

Article 5 of the American Convention, in particular, requires Chile as a State Party to ensure that every person has the right to have his/her physical, mental, and moral integrity respected.

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials ('the Basic Principles') require that law enforcement officials, in carrying out their duty to maintain public order and safety, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They must exercise restraint in the use of force and firearms, and where such use is unavoidable to maintain peace, they must use only "the minimum extent necessary", acting in proportion to the seriousness of the offence. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles. Whilst the use of so-called non-lethal weapons to control and disperse unlawful assemblies may be permitted, it must be used in accordance with international norms and standards. Instead, there have been multiple and credible reports that the force used by State security agents was excessive, disproportionate, unnecessary and directly endangered the lives and safety of protestors.

We recognise that the courts are functioning through this period of upheaval in Chile and welcome all steps taken to ensure that the rule of law continues to function in a meaningful way to ensure that the human rights of protestors, and Chilean civil society, are protected. We urge the Chilean authorities to take urgent steps to protect the fundamental rights of peaceful protest and freedom of assembly, which

are cornerstones of a democratic society, and to ensure that attempts to ensure public order comply fully with international law. Furthermore, all actions that have led to injury or death, must be subjected to independent, impartial and transparent investigation so that violations can be identified and remedied.

Investigating Teams

The ICCPR and the American Convention require the State to investigate cases of violations of these rights. Further, the Basic Principles require governments to ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law. We welcome the arrival of the UN team to investigate these alleged grave human rights violations and urge the Chilean authorities to fully cooperate with their investigations, and those of the National Institute of Human Rights (Instituto Nacional de Derechos Humanos) in their pursuit of accountability through the courts for such alleged violations.

Recommendations

The undersigned organisations and individuals urge the Government of Chile to:

1. Take all proportionate and lawful measures to guarantee the safety of the protestors and to ensure the rights to freedom of assembly and expression are protected in a meaningful, safe and proportionate manner;
2. Reinstate measures immediately to ensure that all protestors, or persons caught up in the protests, who are detained by the police are not deprived of their legal right to representation, and access to lawyers, within police systems through the system of registration;
3. Engage in effective and inclusive dialogue conducted with all actors involved in good faith, as called for by the Inter-American Commission on Human Rights and the UN Office of the High Commissioner
4. Refrain from antagonistic and polarising language and condemn all attacks against protestors, be they carried out by the police, military or other arm of the State or by other actors, including members of the public; and,
5. Investigate promptly, effectively, thoroughly and independently all alleged human rights violations against the protestors, with the aim of identifying state and non-state actors responsible for violations and ensuring that they are held accountable in proceedings that respect international fair trial standards.

UNDERSIGNED ORGANISATIONS

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