

**Fundamedios' responses to the Questionnaire for civil society posed by the Rapporteur on peaceful assembly and association in the framework of the Call for Contributions for the development of tools to assist law enforcement agents to promote and protect human rights in the context of peaceful protests.**

*Fundamedios is an Ecuadorian civil society organization, which acts at the regional level in the defense, protection and monitoring of the rights to freedom of expression and press, access to public information, association and peaceful assembly. We have been working for 16 years issuing early warnings on violations of these rights, periodic and special reports and shadows before the Universal System and the Inter-American Human Rights System. We are part of regional and global networks such as Voces del Sur, IFEX, Red LEAL and IAPA.*

**1) What laws, regulations, protocols and mechanisms or strategies/practices related to the facilitation and policing of protests have you found to be effective in ensuring respect and protection of human rights by law enforcement before, during and after protests?**

Article 66 of the Constitution of Ecuador recognizes and guarantees in its Article 66 numeral 13 the right to associate, assemble and demonstrate freely and voluntarily; in turn, Article 158 states that the Armed Forces and the National Police are institutions for the protection of the rights, freedoms and guarantees of citizens; it also establishes that internal protection and the maintenance of public order are functions of the State and the responsibility of the National Police. Finally, it determines that the servants of the Armed Forces and the National Police shall be trained under the foundations of democracy and human rights, and shall respect the dignity and rights of the people without any discrimination and with unrestricted adherence to the legal system.

Article 159 of the same Constitution states that the Armed Forces and the National Police shall be obedient and not deliberative, and shall fulfill their mission with strict subjection to the civilian power and the Constitution, and that they shall be responsible for the orders they issue, this obedience to superior orders shall not exempt those who execute them from responsibility.

The same article 163 states that members of the police will have training based on human rights, specialized investigation, prevention, control and prevention of crime and use of deterrence and conciliation as alternatives to the use of force.

The Organic Law that regulates the legitimate use of force defines peaceful demonstration, meeting or social protest as collective processes or agglomerations of people that congregate, in a peaceful manner, exercising the constitutional rights of social protest, resistance, freedom of expression, freedom of assembly, freedom of association and freedom of participation. It also adds that the existence of one or more violent or provocative actors or the interruption of vehicular or pedestrian traffic does not compromise the peaceful nature of a demonstration, meeting or protest.

The State, through its public servants, will act under the presumption of legality as a manifestation of freedom of expression, a pillar of democracy, guaranteeing the use of public space, in accordance with international human rights standards.

Article 18 of the same Law establishes that police, military and prison security and surveillance officers shall provide security in meetings, demonstrations and peaceful social protests, in the event of possible acts intended to disrupt or disperse them, distinguishing between demonstrators or participants and violent agents. Article 23 states that dispersion as a mechanism for managing peaceful meetings, demonstrations or social protests is prohibited. This shall only be authorized by the competent authority, exceptionally, for the sole purpose of avoiding a serious threat or danger to the life or physical integrity of persons and when other less harmful measures to protect these rights are not possible.

Article 24 of this regulation states that participants may notify the National Police of the date, place and route of the meeting, demonstration or peaceful social protest, as appropriate, for the purpose of requesting protection and safeguarding the exercise of their own rights and those of third parties; It also establishes that the State, through the governing body in citizen security, by means of a ministerial agreement, shall establish clear and specific mechanisms that allow, in these contexts, the deployment of police officers to comply with the double objective of protecting rights and guaranteeing the right to social protest in peaceful conditions. This ministerial agreement has not been issued to date.

**Can you give examples of positive measures and practices by law enforcement authorities that have resulted in the protection of human rights by law enforcement, specifically in the context of spontaneous and/or mass protests?**

In the country, the last two large mobilizations of the indigenous movement and other social sectors in October 2019 and June 2022 have been affected by the excessive use of force by the National Police and the Armed Forces. One of these situations is the lack of allocation of resources to train members of these institutions. However, two good measures that the State has applied to marches and mobilizations that have been organized this year 2023 (that of 8M, International Women's Day and another mobilization of the indigenous movement, on March 28) has been to provide for the absence of police officers during the development of the same, which has allowed them to develop peacefully and without any injuries or wounds.

Fundamedios, with the support of UNESCO and with the prior agreement of the authorities of the Ministry of the Interior and police commanders, provided workshops and training to 776 members of the National Police. The workshops were held in person and in person and reached all zonal commands of the National Police, with this geographic distribution:

ZONE 1: Esmeraldas, Carchi, Imbabura, Sucumbíos

ZONE 2: Napo and Orellana

ZONE 3: Cotopaxi, Chimborazo, Tungurahua, Pastaza

ZONE 4: Manabí, Santo Domingo

ZONE 5: Guayas (Without Guayaquil, Durán and Samborondón), Santa

Elena

ZONE 6: Azuay, Morona Santiago, Cañar

ZONE 7: El Oro, Loja, Zamora Chinchipe

ZONE 8: Guayaquil, Duran, Samborondón

ZONE 9: Quito

The content of the workshops focused on the protection of human rights and freedom of expression with special emphasis on contexts of mobilizations and protests and had the following agenda:

1. Sustainable Development Goal No. 16: Peace, Justice and Strong Institutions
  - Goals pursued by this objective
  - Why is it important for Ecuador?
2. Human Rights
  - Declaration of Human Rights
  - International Human Rights Instruments
  - What are the obligations of States in relation to the violation of rights against women journalists?
    - How does international law protect human rights in Ecuador?
    - Obligations and responsibilities of those responsible for public order with regard to human rights, Ecuadorian context
3. Freedom of Expression and Public Order
  - Journalism, democracy and freedom of expression
  - Safety of journalists
  - Journalists covering conflicts, disturbances and demonstrations
  - Security Forces: Ensuring that journalists can access the information they need
  - Operational safety procedures for dealing with the media
  - Coverage of judicial proceedings by the media.
  - Fostering the relationship between law enforcement and journalists.
4. Safety of journalists covering protests: preserving press freedom in times of unrest
  - Newspaper coverage of protests in recent years
  - National and international law, treaties and applicable laws.
  - Responses of police and other security forces to the press during protests
  - Behavior of protesters and other stakeholders towards the press
  - Gender and diversity factors in the safety of journalists during protests.
  - Good practices
5. International legal standards on freedom of expression, access to information and safety of journalists
  - International legal framework for freedom of expression
  - Legitimate restrictions on the exercise of freedom of expression
  - The right of access to information: A fundamental element of the democratic system.
  - Attacks on freedom of expression and the role of the judiciary
  - Freedom of expression on the Internet

## 6. Access to Public Information

-Why is it a right?

-International principles and standards on access to public information

-Definitions: Supremacy of the Public Interest, Gratuitousness, Non-regression of information, Maximum Publicity;

-Obligated parties;

-Exceptions Regime: Confidential Information, Reserved Information.

### **2) What are the gaps and which of the protocols and guidance for law enforcement and mechanisms related to facilitation and policing of protests did you find restrictive, undermining the protection of human rights, or encouraging or facilitating abusive practices against human rights by law enforcement authorities in the context of protests? How should they be improved?**

In spite of having a law that regulates the legitimate use of force, the Executive has not yet developed the Regulations of the Law that would allow it to be operationalized, for this reason there are still gaps in terms of investigation and accountability processes for police agents.

In turn, the Constitution of the Republic establishes in Article 165 that the President of the Republic may suspend or limit the exercise of freedom of association and assembly when declaring a State of Emergency, and in this context may order the use of the Armed Forces and the National Police and call to active service all or part of the reserve, as well as the personnel of other institutions. This, due to the different formation of the Armed Forces, whose objective is to "overthrow the enemy" as stated in international human rights standards, has been highly dangerous for the development of protests in cases of serious social commotion, violating the rights of the demonstrators.

In the March 8, 2022 march, hundreds of women who took to the streets to protest against the lack of state response to the multiple forms of violence they experience, were affected by the use of tear gas and pepper spray, as well as beatings against the demonstrators.

In June 2022, in response to the mobilizations that took place during the national strike called by several women, workers and indigenous organizations, the result of police repression was 9 dead and 318 injured. Fundamedios registered 164 aggressions against the press and media during the National Strike, 22 of which were carried out by the State.

The lack of allocation of resources to train the police and armed forces in human rights has been one of the main critical issues in the protection of the rights of the people and organizations that mobilize.

**What further guidance, protocols and measures should be put in place to enhance the protection of human rights by law enforcement while facilitating protests, including spontaneous and/or mass protests?**

The Regulations of the Organic Law that regulates the legitimate use of force should be developed; sustained training should be provided to police officers on human rights so that actions are aimed at protecting demonstrators during a peaceful protest, but not at their repression, violation and even death.

The power of the Armed Forces to act during a social demonstration, protected by the State of Emergency, should be eliminated.

**3) What are the main obstacles for law enforcement authorities in your country to facilitate and monitor protests in accordance with international human rights law and standards?**

The main obstacle is the lack of sustained human rights training for the National Police and the Armed Forces, so that they are trained in international standards regulating the use of force during demonstrations.

Also, the lack of secondary regulations that allow the Law regulating the legitimate use of force to be operationalized, as well as protection protocols in specific cases -for example, protocols for the protection of journalists in cases of demonstrations- are other obstacles to the lack of guarantees by police officers during demonstrations.

We at Fundamedios believe that one of the obstacles to promoting freedom of expression is often the tension and sometimes confrontation between security forces and journalists. Security agents are not always familiar with the right to freedom of expression and information, nor with how to interact with journalists in a way that respects freedom of the press.

In addition, they are often ill-equipped to prevent criminally or politically motivated attacks on journalists by violent groups. Also, security forces lack the tools to establish a good flow of communication with the media, making it difficult to build sustainable professional relationships between the two groups. Building these relationships helps to keep the population informed of possible criminal activities, and is essential in election periods or in times of national emergency, such as natural disasters or health crises.

**Which of the measures taken by law enforcement authorities have you found to be effective in overcoming these challenges?**

The different Secretaries of Communication, as well as the Ministers of the Interior, have been willing to meet with organizations such as Fundamedios, showing their support.

to the training plans aimed at the Police in order to solve the absences and weaknesses that the National Police may have in terms of Human Rights and freedom of expression.

#### **What other measures should the authorities take?**

Allocate resources to the preparation and training of Police Forces in these specific issues. The article of the Constitution that allows the Armed Forces to participate in demonstrations when a state of exception is declared, i.e. in serious cases of social commotion, should also be modified.

#### **4) In the context of protests in crisis situations, what specific strategies and practices carried out by law enforcement authorities before, during and after protests did you find successful in ensuring respect for and protection of human rights during protests in such contexts (such as during public health or security-related crises, and/or during states of emergency)?**

After the social mobilizations and the numerous documented cases of police violence, including aggressions against the press and the lack of appropriate guarantees for journalistic work, the Ministry of Interior and police commanders opened the possibility of working with Fundamedios with the support of UNESCO, the Communication Council and the support of the Ministry of Interior, the General Command of Police and coordination with the Human Rights Directorate of the National Police in a training program that included the implementation of nine workshops, 1 on-site and 8 virtual, on human rights, freedom of expression and safety of journalists for members of the security forces with the aim of strengthening knowledge on concepts and international standards on the defense, guarantee and promotion of freedom of expression and press, access to information and protection of journalists.

A total of 776 members of the National Police participated in the workshops, which were held between November 2022 and March 2023 and were organized with the support of the United Nations Educational, Scientific and Cultural Organization, UNESCO.

Subsequently, in the framework of the marches of March 8, 2023, the Minister of the Interior ordered that there would be no police presence in the development of these demonstrations nationwide. This same practice was used in the March 28 mobilization, which was led by indigenous organizations. In both mobilizations no rights violations were recorded during their development.

#### **What should be improved and how? What further guidance, protocols and other measures should be developed and what main elements should they include to avoid any unlawful restrictions and to promote and protect human rights in facilitating protests in crisis situations?**

Continuous training for members of the police force should be improved, as well as sensitization processes in the area of human rights, which would make it possible to know the limits of the police force.

that exist with respect to the excessive use of force, especially in the case of journalists, children and adolescents, women and people with disabilities.

**5) Are you aware of any law enforcement protocols and have you observed any positive steps taken by law enforcement authorities to prevent and protect protesters and activists from sexual and gender-based violence in the context of protests? How can they be improved?**

In Ecuador there is an Organic Law for the Eradication of Violence against Women, which includes training and sensitization of police forces on gender issues. However, the State has not allocated resources for the implementation of these provisions.

**6) What measures should law enforcement authorities take to prevent unlawful arrests and detentions in the context of protests; as well as to ensure that the human rights of persons lawfully detained in the context of protests are respected in accordance with international standards, including protection from torture and ill-treatment or sexual and gender-based violence?**

The National Police and the Armed Forces should be sensitized and trained on human rights issues, so that they are trained on the international standards that regulate the use of force during demonstrations, with a special focus on gender.

**Please share any positive examples of law enforcement measures and practices to protect protesters and activists from arbitrary arrest and detention, and to protect the human rights of persons lawfully detained in the context of protest.**

In addition to the workshops already mentioned, Fundamedios, with the support of Unesco, is initiating a new plan of workshops with the National Police on freedom of human rights and freedom of expression, which this time will be focused and will be carried out by the National Unit for the Maintenance of Public Order in different cities of the country, in addition to forums for debate and discussion on the issues of security and protection of journalists.

**7) What policing strategies and practices undertaken by law enforcement authorities before, during and after the protests did you observe/experience that were effective in successfully de-escalating potential and actual tension/violence in the context of the protests?**

A good practice was the calls for dialogue with the demonstrators during the June 2022 protests, which allowed the cessation of tension and violence, and allowed the creation of dialogue tables with these actors and the State.

**What is the role of civil society, protest organizers and communities in helping to de-escalate tension/violence in the context of protests?**

Civil society organizations have done an important job of compiling and systematizing information regarding the multiple violations that were generated by state agents, as well as speeches by public authorities aimed at exacerbating the context of tension and violence during the protests.

In that line, Fundamedios recorded during the strike of 2019, 116 violations against the press, of which 35 were committed by police officers; in turn during the strike of June 2022, Fundamedios recorded 164 aggressions against the press, of which 22 were committed by police officers. These figures recorded by Fundamedios, demonstrated the need for training in human rights and freedom of expression to police officers, from which the workshops were generated with the support of UNESCO and the endorsement of the Ministry of Interior.

In addition, based on the information gathered, civil society organizations prepare reports to submit to national and international bodies to highlight the multiple violations that have occurred.

Finally, civil society played an important role in promoting dialogue by proposing mechanisms for dialogue and reaching agreements, as well as accompanying and caring for the protesters in the development of these spaces for dialogue.

**8) What other measures have you encountered/experienced that have been taken by law enforcement authorities to prevent and minimize harm to protesters, journalists and other actors involved in monitoring and/or reporting on protests, and bystanders in the context of protests; especially:**

However, the predisposition and openness on the part of the National Police and the Ministry of the Interior to receive training and sensitization on human rights is important to advance in the implementation of preventive measures, as this allows the police forces to understand the limits regarding the use of force and human rights violations.

**9) What strategies, tools and techniques applied by law enforcement authorities have you observed/experienced to be successful (and which of these have been harmful and should absolutely be avoided) in facilitating the exercise of the right to freedom of peaceful assembly and protecting the rights of groups particularly at risk in the context of protests, including: i) children and youth; j) women and girls; k) LGBTI persons; l) persons with disabilities; m) indigenous peoples; n) minority groups; o) migrants; p) refugees and asylum seekers.**



The national police has received training in human rights, with special emphasis on freedom of expression and safety of journalists; however, it still has a pending debt regarding children and adolescents, women, LGBTIQ+ people, people with disabilities, indigenous peoples, minority groups, migrants, refugees and asylum seekers.

**10) What strategies, policies or protocols and measures should be put in place to ensure the accountability of law enforcement officials alleged to have committed human rights violations in the context of the protests?**

The Regulations of the Organic Law regulating the legitimate use of force should be developed, as the Law contains the process of investigation and accountability for police officers in cases of excessive use of force or lethal use of force.

**What needs to be done to ensure that law enforcement oversight bodies are effective in responding to complaints about human rights violations by law enforcement in the context of protests?**

To have transparent, effective and prompt mechanisms for investigations and accountability in cases of human rights violations and excessive use of force.

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