

IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS

in the case of

JULIO GARCÍA ROMERO Y OTROS v. ECUADOR

**AMICUS CURIAE SUBMISSIONS BY
AGORA INTERNATIONAL HUMAN RIGHTS GROUP,
AMERICAN CIVIL LIBERTIES' UNION, CENTRO DE ESTUDIOS LEGALES Y SOCIALES,
DEJUSTICIA, EGYPTIAN INITIATIVE FOR PERSONAL RIGHTS,
HUNGARIAN CIVIL LIBERTIES' UNION, HUMAN RIGHTS LAW CENTRE,
HUMAN RIGHTS LAW NETWORK, IRISH COUNCIL FOR CIVIL LIBERTIES,
KENYA HUMAN RIGHTS COMMISSION, KONTRAS and LEGAL RESOURCES CENTRE**

11 February 2025

A. INTRODUCTION

1. These submissions are made by Agora International Human Rights Group, American Civil Liberties' Union, Centro de Estudios Legales y Sociales (Argentina),¹ Dejusticia (Colombia), Egyptian Initiative for Personal Rights, Human Rights Law Centre (Australia), Hungarian Civil Liberties' Union, Human Rights Law Network (India), Irish Council for Civil Liberties, Kenya Human Rights Commission, KontraS (Indonesia) and Legal Resources Centre (South Africa), NGOs that are members of the International Network of Civil Liberties' Organizations (INCLO),² and Rohini J. Haar, MD, MPH, Medical Advisor, Physicians for Human Rights, Assistant Adjunct Professor, Division of Epidemiology, School of Public Health Human Rights Center, University of California, Berkeley and Emergency Medicine Physician, Oakland CA (hereinafter, "the interveners"). The interveners appear as *amici curiae* in the case of *García Romero and others v. Ecuador*, concerning the use of chemical irritants ("tear gas") at a demonstration.
2. The submissions below are based on the report "Lethal in Disguise: How Crowd-Control Weapons Impact Health and Human Rights" published by INCLO and Physicians for Human Rights in 2023 (lethalindisguise.org), a follow-up to the

¹ The Centro de Estudios Legales y Sociales (CELS), INCLO's member based in Argentina, also submitted an amicus curiae for this case and it can be found on their website <https://www.cels.org.ar/>.

² Detailed information on the interveners can be found in the annex to the present submission.

previous version of the same report published in 2016 as well as other research conducted or reviewed by the authors including but not limited to:

- a. McEvoy M, Corney N, Haar RJ. Crowd Control Techniques: Perspectives on the Type and Use of Weapons by Police Around the World. In *Forensic and Legal Medicine* (pp. 815-830). CRC Press.
 - b. International Network of Civil Liberties Organizations and Physicians for Human Rights. "Lethal in Disguise: How Crowd-Control Weapons Impact Health and Human Rights." 2022. <https://lethalindisguise.org/>
 - c. Haar RJ, Iacopino V, Ranadive N, Weiser SD, Dandu M. Health impacts of chemical irritants used for crowd control: a systematic review of the injuries and deaths caused by tear gas and pepper spray. *BMC public health*. 2017 Dec;17:1-4.
 - d. Haar RJ, Iacopino V, Ranadive N, Dandu M, Weiser SD. Death, injury and disability from kinetic impact projectiles in crowd-control settings: a systematic review. *BMJ open*. 2017 Dec 1;7(12):e018154.
3. Following a brief description of the chemical irritants as crowd control weapons (section "B" below), these submissions will discuss their impact on human health (section "C" below) and the applicable international regulatory framework (section "D" below), as well as set out the obligations of States concerning the planning and conduct of police operations involving the use of KIPs (section "E" below)

B. CHEMICAL IRRITANTS AND THEIR ACTION MECHANISM

4. Chemical irritants include a variety of chemical compounds intended to produce sensory irritation and pain. Conventionally referred to as "tear gas" or "riot control agents," chemical irritants come in a variety of formulations, sizes, concentrations, and delivery mechanisms, depending on the manufacturer and the context for which they are intended. Historically categorised as non-lethal or less lethal, the general perception is that the weapon does not cause permanent injury or death but instead has mostly short-term effects such as transient lacrimation (flowing of tears), ocular irritation and pain, blepharospasm (eyelid spasm), dermal pain, respiratory distress, and transient psychological effects of disorientation and agitation.³ This perception is now being challenged, with more evidence of associated longer-term and even permanent injuries as well as deaths.
5. There are four chemical compounds that have been most frequently cited in purchase orders by law enforcement agencies, reports, and studies in the past three decades: chlorobenzalmalononitrile (agent CS), chloroacetophenone (agent CN),

³ MM Stark, "CS Spray," *Journal of Accident & Emergency Medicine* 15, no. 4 (July 1998): 288.

oleoresin capsicum (agent OC, known as pepper spray), and OC's synthetic form, PAVA. Of these four, the two most commonly used by law enforcement agencies in recent years for crowd control are agents CS and OC.

6. Chemical irritants are utilised for crowd dispersal or for individual control or incapacitation by causing pain and sensory irritation. Commonly used lacrimator agents are synthetic organic halogen compounds that are potent triggers of the TRPA1 pain receptors present on the skin and mucous membranes (eyes, nose, mouth, respiratory tract) and cause pain, irritation, tearing, sensations of heat, cold, and itching (pruritis), and a host of involuntary reactions such as eyelid spasm (blepharospasm) and coughing. CS and CN have been found to be 10,000 times more potent than naturally found agonists of these receptors (such as mustard, garlic, very high temperatures and low pH compounds). CR is known to be twice as potent as Agent CS. Oleoresin capsicum (OC) and PAVA, the synthetic and more highly concentrated form of OC, produce similar effects compared to the lacrimator agents and are also common pathways of inflammation, resulting in more generalised sensations of inflammation and pain.
7. CS and other gases can be released into the air as fine particulate smoke, vapour or liquid spray (aerosol). They can also contaminate water and food. They are typically deployed in two ways: in the form of a spray or as a canister/grenade in crowd-control settings. However, mechanisms of delivery vary. These include pellets and pepper balls, used in targeting individuals, as well as water cannons, which, along with grenades and canisters, provide more indiscriminate means of crowd control. Pellets can be designed for a "pepper spray gun", which uses a compressed gas cartridge capable of firing 21 rounds. Per the manufacturers, the rounds travel at 320 feet per second, with an effective range of over 150 feet and release a 4–5-foot cloud of smoke when they explode.⁴ Newer forms include plastic balls filled with chemical irritants that act as a combination of plastic bullet and gas weapon. A particular issue with the majority of chemical irritant sprayers / foggers is that they have no dose control or cut-off trigger mechanism to control the amount dispersed.
8. The spray variant for CS, OS, and other gases is usually available in the form of an enclosed unit under pressure and is released as a fine spray by means of a propellant gas. These aerosolised forms of chemical irritants are typically released from 0.3 to 3 metres from the target, and the spray pattern can be variable depending on the design of the weapon, the pressure of the spray mechanism, and wind conditions. Powder forms of chemical irritants are contained in canisters or

⁴ SALT Supply Co., "s1 Pepper Spray Gun Starter Kit," accessible at: <https://www.saltsupply.com/collections/pepper-spray-gun/products/s1-pepper-spray-gun-starter-kit>.

grenades and typically are triggered to conduct a thermal explosion and disperse widely in the surrounding area.

9. Agent CS, the most commonly used chemical irritant, is not actually a gas but rather a powder at room temperature that is aerosolized by a triggered thermal explosion and disperses widely from a canister. A gas canister is estimated to have between 80 and 120 grams of CS, usually in concentrations between 0.1 and 10 per cent, but much higher concentrations are also commercially available.⁵ The concentration of CS, however, can be significantly increased by the firing of multiple canisters in the same location. This practice often occurs in crowd-control situations and further complicates the analysis of the toxicity of the chemical as actually used.
10. To accurately understand the effect of exposure to CS, a measurement of density or concentration (milligrams per cubic metre) for exposure time is necessary. Individuals exposed to high concentrations in closed spaces or for extended amounts of time, for instance, can suffer serious health consequences and even death. When used outside, a CS grenade or canister produces a cloud of chemicals, usually within 60 seconds, with the highest CS concentration of 2,000 to 5,000 mg/m³ detected at the centre of the cloud. Because of the nature of the weapon, it is difficult to measure these concentrations in practical situations of deployment or to have accurate estimates in retrospect.
11. Agent OC, most commonly found in spray form, is available in different concentrations from 1 to 10 per cent of capsaicinoids as oil in a solvent. Studies suggest that even very low (0.003 mg/m³) concentrations can lead to ocular irritation.⁶ Because of the complexities in measuring concentrations of agent OC, lethal dose levels are difficult to verify.
12. It is worth noting that OC and CS compositions may include toxic chemicals, such as alcohol, halogenated hydrocarbons, and propellants such as Freon that are not well-studied but could result in health harms.
13. At times, a forensic or pathology report with a toxicology report is requested to identify the presence of chemical irritants. However, all known riot control agents, by the nature of their use and purpose, have a short half life and degrade within hours of exposure to air or live tissue. There are no tests available to identify their presence or the presence of their metabolites, in the human body in live or deceased persons, nor in the environment at this time.

⁵ "Combined Systems Inc, "Company site, *CSI Inc. Supporting Military Forces and Law Enforcement Agencies World-Wide*, (24 April 2015), accessible at: <https://www.combinedsystems.com/products/?cid=13>.

⁶ RC Gupta, *Handbook of Toxicology of Chemical Warfare Agents* (Academic Press, 2015).

C. CHEMICAL IRRITANTS' HUMAN HEALTH EFFECTS

14. The health effects of chemical irritants are highly dependent on the specific chemical of exposure, the dose (based on quantity and time), the conditions of exposure (heat, humidity), the deployment mechanism, the risk factors of the individual, and the access to egress and care.
15. Most exposures to chemical irritants result in temporary pain and discomfort lasting less than one hour. However, the lacrimator gases (CS, CR) are known overall to be more toxic than the capsaicin agents (OC and PAVA), particularly to the respiratory system, and both have the potential for more serious or longer-lasting injury at higher doses.
16. Dose exposure is dependent on numerous factors that together can lead to higher or lower concentrations of the chemicals to which individuals are exposed. The amount of chemical released per canister, the number of canisters released, the context (indoors, outdoors, wind conditions), and how long an individual is exposed can all change the dose exposure.
17. Chemical irritants primarily affect the skin and mucous membranes. When a person comes into contact with a chemical irritant it mixes with moisture on the skin, or in the eyes and respiratory and oral tracts, and activates the TRPA 1 and TRPV1 pain receptors located in the peripheral nervous system. Their use is most frequently linked to sudden onset and severe burning sensations and tearing in the eyes, pain on exposed skin, vomiting, coughing and restricted breathing
18. In the eyes, severe redness, intense pain and tearing will occur, resulting in blepharospasm (eyelid spasm characterized by frequently blinking) and sometimes, temporary blindness.
19. Within seconds, exposed skin will feel a painful burning sensation. Depending on the dose, redness may appear on the skin and in cases of allergy or hypersensitivity blistering lesions may occur.
20. As the chemical is breathed in, it will irritate the oropharyngeal and lung linings, causing pain, coughing and sensations of respiratory distress.
21. The most dangerous effects include laryngeal inflammation obstructing the upper airway, inflammation in the tracheobronchial tree inducing tracheobronchitis or bronchospasm of varying intensity that hinders normal breathing.

22. Many people also experience anxiety and panic reactions. This can be exacerbated with crowded conditions, limited areas for egress, and respiratory and eye pain (when people can not see or breathe, there is evidence they can become significantly more anxious).
23. In addition to the above, chemical irritant projectiles and grenades can cause significant trauma, when they strike a person directly or when they explode in close proximity to a person. Because launched cartridges are large and dense, when the cartridge itself strikes an individual, it can cause trauma ranging from bruising to facial and limb fractures to internal bleeding to brain injury and death.
24. A summary of health impacts by body system includes:
- a. **Eyes:** Irritation of the conjunctiva and cornea produces blurry vision, tearing, uncontrollable eyelid spasms, redness, and pain. Spasms can cause the lids to close tightly and produce temporary blindness. Direct impact may lead to corneal burns, abrasions, lacerations, and blindness.
 - b. **Respiratory System:** CIs cause inflammation of the airways and pain. Coughing, difficulty breathing, and excess production of sputum are common. Individuals with preexisting lung disease, such as asthma or chronic obstructive pulmonary disease, may be more sensitive to these agents, even at low concentrations. Exposure may precipitate attacks of respiratory distress resulting in hypoxia, respiratory arrest, and death. Exposure also increases susceptibility to acute respiratory infections, which is likely to include COVID-19.
 - c. **Skin:** CIs cause a burning sensation to the skin as well as redness, itching, or allergic reactions. Erythema (redness of the skin) usually begins several minutes after contact and can last for minutes or days after the injury. Blistering and burns may also occur. In addition, repeated exposure to some CS gases can result in hypersensitivity reactions, with allergic responses worsening with each exposure.
 - d. **Psychological:** The physical symptoms of CIs often result in disorientation and agitation, which can lead to a state of fear, anxiety, and panic. In some instances of prolonged and repeated exposure to CIs in protest settings, symptoms of post-traumatic stress disorder have been documented.
 - e. **Cardiovascular:** CIs can cause increases in heart rate and blood pressure. Preexisting heart conditions, in combination with those physiological responses and the low oxygen from the impact on the lungs, may result in heart attack and possibly death.
 - f. **Internal surfaces of the nose, throat, and gastrointestinal system:** Irritation of the nose produces a burning sensation, inflammation, runny

nose, and sneezing. In the mouth and gastrointestinal tract, exposure to CIs can cause pain, excessive salivation, nausea, and vomiting. Excessive coughing, vomiting, and the toxicity of the agent can cause blood vessels to rupture and persistent pain.

- g. **Physical Trauma:** Direct impact by the canisters and grenades carrying chemical irritants can cause significant blunt trauma and death. Injuries to the head and neck are most common, causing loss of vision, bruises, abrasions, and lacerations. When canisters and grenades are fired at close range, bone fractures and serious internal injuries are possible.
- 25. Many of the reviewed studies identified additional factors that may potentiate injuries, such as environmental conditions (heat, humidity, and wind conditions), prolonged exposure, and exposure in enclosed spaces. Utilising the weapons in confined spaces and in areas where people could not easily escape was noted to potentially increase the exposure to the irritant either in quantity or over time.⁷ Direct targeting of the face and eyes by spray has been noted to cause trauma and toxicity to the cornea and conjunctiva of the eye.
- 26. In addition to documenting injuries, the review identified other factors that may affect injury severity. Inherent qualities of the chemical agents may play some role in injuries. Chemical irritants, especially those deployed in gas forms, are inherently indiscriminate and can impact not only the intended targets but also other demonstrators, bystanders, neighbourhood businesses and residences, and law enforcement officers themselves. Several of the reviewed studies demonstrated that accidental exposure is common and sometimes difficult to avoid.
- 27. Because of the indiscriminate nature of chemical irritants, limiting the exposure to individuals or small groups is difficult. 1. Certain groups are particularly susceptible to the effects of chemical irritants, including older people, children, people who are pregnant, or people with respiratory problems such as asthma or chronic obstructive pulmonary disease. Airway obstruction or inflammation in vulnerable people could lead to cardiorespiratory arrest and death. According to the American Academy of Pediatrics, “children are uniquely vulnerable to physiological effects of chemical agents. A child's smaller size, more frequent number of breaths per minute and limited cardiovascular stress response compared to adults magnifies the harm of agents such as tear gas.”
- 28. Care for those affected by chemical irritants should include decontamination, to prevent the penetration of more toxic substances into the body once exposure has ended, in order to avoid further damage. To do this, objects that have been

⁷ AMB Zekri et al., “Acute Mass Burns Caused by O-Chlorobenzylidene Malononitrile (CS) Tear Gas,” *Burns* 21, no. 8 (1995): 586–89, doi:10.1016/0305-4179(95)00063-H.

impregnated by the toxin and are in contact with the skin or mucous membranes should be removed, such as contaminated clothing and contact lenses.

29. For many irritants, early decontamination can avoid the most severe injuries. Thus, the availability of water, soap, fresh air, or other treatments is an important factor to consider. Of note, different agents have different treatment considerations: fresh air is effective for all, but water can cause a transient exacerbation of symptoms for CS, CR and CN with eventual improvement, while soap is usually necessary for oil-based compounds such as OC and PAVA.
30. The health effects described in this report may be exacerbated by factors that serve to impede access to medical care. These include restricted access to medical transport, forbidding or restricting medical assistance at protests, direct attacks on medical professionals and street medics, and the chilling effect of detaining those injured by CCWs at medical facilities, which leads people not to seek necessary medical attention. These barriers to access to timely medical care have played a significant role in increasing the risk of serious injury, permanent disability, or death from CCWs.

D. REGULATORY FRAMEWORK

31. The use of CCW engages the application of multiple provisions of international and regional human rights treaties. This includes right to life, prohibition of torture, cruel, inhuman or degrading treatment, freedom of assembly under both positive (regulate the use of force, enable peaceful demonstrations), negative (not use force unless absolutely necessary, not to disperse demonstrations) and procedural (investigate death or injuries caused) obligations (e.g., Articles 6, 7 and 21 of the ICCPR). When there are allegations of violations of the relevant legal provisions, effective remedies must be provided (e.g., Article 2(3) of the ICCPR). Prohibition of discrimination applies at all times (e.g., Article 2(1) of the ICCPR).
32. In 2020 the Human Rights Committee adopted General Comment no. 37 on right to peaceful assembly under Article 21 of the ICCPR (CCPR/C/GC/37, 17 September 2020) which guarantees the freedom of assembly. The findings concerning planning and conduct of police operations at assemblies set out below in Section “E” are based on the General Comment no. 37. Specifically with regard to tear gas, the General Comment underscores its indiscriminate effects and prohibits its use in confined spaces (para. 87).

33. Also in 2020 the *United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement* was published as the result of a two-year process of research, drafting and consultation led by the Office of the United Nations High Commissioner for Human Rights. The Guidance, which also serves as the basis for the requirements for planning and conduct of policing operations set out below, recalls that, because of the indiscriminate nature of chemical agents, they may cause stampede when used against a crowd, especially a confined one (para. 7.3.2).
34. The UN Guidance also recalls that the use of chemical irritants can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear ducts and eyes, spasms, chest pains, dermatitis or allergies. In large doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary oedema and internal bleeding. Repeated or prolonged exposure to chemical irritants should be avoided. Any person who has been exposed to any chemical irritant should be decontaminated as soon as possible (para. 7.3.5).
35. Finally, UN Guidance specifies three cases of manifestly unlawful use of tear gases: firing at an individual, even less at head or face; use in confined spaces; and use of irritants that contain hazardous levels of active agents, including combustion products (paras. 7.3.6–7.3.8).
36. The European Court of Human Rights has decided a number of cases concerning the use of tear gas. It endorsed the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the use of pepper spray, including clear instructions to the police on when an irritant can be used, prohibition to use it in confined spaces, training of the police officers who use irritants, access to medical aid, and a reporting mechanism (*Ali Güneş v. Turkey*, no. 9829/07, 10 April 2012, para. 40). In *Petruş Iacob c. Roumanie* the European Court found a violation of the the prohibition of inhuman treatment guaranteed by Article 3 of the European Convention on Human Rights because the police used a chemical irritant against a person who could only be charged with a regulatory offence, but not with a criminal one, even if he was disobeying the police, but not anyhow endangering the policemen (n° 13524/05, 4 décembre 2012, paras. 36-37).
37. In *Abdullah Yaşa v. Turkey* (no. 44827/08, 16 July 2013, para. 43) the European Court added that police operations – including the launching of tear-gas grenades – should not only be authorised but should also be sufficiently delimited by domestic law, under a system of adequate and effective safeguards against arbitrary action, abuse of force and avoidable accidents. The Court accepted that the police could have used CCWs against demonstrators that were concealing their faces and

throwing stones at the police, but found a violation of Article 3 because the police lacked any regulations on the use of tear gas and the grenade in issue was fired not high-angle in the air, but flat at the applicant (paras. 48-49).

38. These advances in standard setting on crowd-control weapons contribute to dispelling the erroneous presumption that CCWs are non-lethal which lead to several consequences: (1) that law enforcement and security personnel are not always trained in the proper use of such weapons; (2) that they are subject to fewer controls and regulations; (3) that they resort quickly to their use without trying other de-escalation techniques first or exhausting all other means before using CCWs; and (4) that the cases of injury and death from their use are then not properly investigated.
39. The capacity of CCWs to achieve the goal of safe crowd dispersal is limited. The infliction of pain and incapacitation occasioned by CCWs is unlikely to result in the safe dispersal of protesters. On the contrary, the use of CCWs for crowd dispersal is often counterproductive, as they can cause confusion and panic, resulting in additional injuries as well as an escalation of violence. CCWs are many times intentionally misused as weapons for political repression rather than for legitimate crowd-control purposes.
40. The injuries inflicted by CCWs are as widespread as they are devastating. The use of kinetic impact projectiles (KIPs), chemical irritants, water cannons, disorientation devices, acoustic weapons, and batons, among others, has produced a diverse array of negative health impacts which extend beyond physical ones. Beyond individual injuries, the full toll of CCWs must include the psychological trauma they produce, the permanent disability they cause, the social cost of CCWs paid by targeted communities, and, significantly, the disproportionate impact CCWs have on certain vulnerable groups. The continued use and growing potency of CCWs is particularly concerning. The potential use of inherently indiscriminate impact weapons that are new, including multi-projectile KIPs, stun grenades with shrapnel, and Venom, are cause for even more significant concern.

E. STATES' OBLIGATIONS CONCERNING THE POLICING OF ASSEMBLIES

41. In this section, based on the rules of international human rights law, as set out above, we outline the steps States should take with respect to pre-deployment, deployment, and post-deployment of CCWs in order to minimise the risk created by these weapons for occasions when they are deployed. They follow from the

obligations to protect health and limit injuries, and ensure the full exercise of free expression and assembly.

a. Core principles related to the use of CCWs

42. The use of CCWs in protests should be an absolute last resort when dealing with genuine and imminent threats to safety. CCWs should only be used after all other means have been exhausted. The mere fact that an assembly may be considered unlawful under domestic law does not justify dispersing the assembly or the use of CCWs.
43. Where there are people in the context of protests who either engage in or incite others to engage in acts of violence which require police intervention, the explicit goal of any intervention should be to de-escalate the situation and, where needed, focus on targeted interventions that do not infringe upon the rights of peaceful protesters.
44. If CCWs are deployed in the context of protests, their use should always be based on the principles of legality, precaution, necessity, proportionality, non-discrimination, and accountability. The use of CCWs must be tested against the genuine threat faced and the legitimate aim pursued. Where any of these principles cannot be satisfied, CCWs should not be deployed.
45. States must investigate any injuries or deaths related to the use of CCWs to ensure accountability and to better train and educate law enforcement officials on the lethal and harmful effects of CCWs.

b. Pre-deployment of CCWs: Design and trade

46. CCWs and/or policing equipment that can be used as a CCW, intended for use in the context of protests, must be designed and produced to ensure that they meet legitimate law enforcement objectives and comply with international law and standards. This duty applies to states and their agents as well as to companies that manufacture weapons for law enforcement as recognised in the UN Guiding Principles on Business and Human Rights.

c. Pre-deployment of CCWs: Testing and legal review

47. Testing of new and existing CCWs should not rest solely in the hands of manufacturers. States should ensure that CCWs are subject to rigorous independent testing prior to making procurement decisions. Testing, evaluation and approval should include a multidisciplinary approach that, in addition to law enforcement, includes technical specialists, academics, policymakers, health professionals, and civil society and consultation with communities that might be most impacted by the deployment of these weapons.

48. Testing of CCWs should consider legality, level of target accuracy and precision, risk of lethality, risk of severe injury or disability, level of pain inflicted, lifespan, reliability (i.e., minimal risk of malfunction), human factors that may affect their intended use, and any other relevant factors.
49. A legal review should be conducted prior to procurement of a CCW. This review should be conducted to determine whether the procurement and use of a CCW would, in some or all circumstances, be prohibited by any rule of international or domestic law, in particular, human rights law.

d. Regulations, training and planning

50. Regulations, procedures, and/or protocols on the use of CCWs should be developed for law enforcement based on applicable domestic, regional and international laws. Human rights treaty obligations and international standards should be observed and operationalized in the protocols. These protocols should also reflect the findings from independent testing. Law enforcement should never rely solely on manufacturers' instructions when defining protocols on acceptable use.
51. Regulations, procedures, and/or protocols on the use of CCWs should be publicly accessible and include details of (1) when and how weapons may be used; (2) training requirements; (3) the risks associated with the use of these weapons, both individually and in crowd-control situations, including specific reference to vulnerable populations; and (4) accountability measures.
52. Law enforcement should be trained in the human rights-compliant use of CCWs. In addition to teaching the technical aspects of the weapon and its use, training should be contextual, including addressing the specific aspects and challenges of managing protests.
53. Training should be continuous and ongoing and should include simulations and exercises that review past cases to identify inappropriate or unlawful weapon use and consider alternative approaches. It must include information about the medical and health effects and risks of using particular CCWs, and precautions that should be taken in using particular weapons.
54. Training of projectile weapons should mirror that of formal firearms training, with emphasis placed on the recognition of unsafe firing conditions. Training should include the determination of safe firing distances, given the importance of distance in attenuating the effects of impact projectiles. Law enforcement officials who have not received the appropriate training (as described above) should not be permitted to carry or use CCWs.

55. Pre-deployment planning should always consider contextual factors, including the nature of the area where the protest is occurring, whether the protest is static or mobile, the weather conditions, access to exits, and the size and demographics of the crowd, among other factors.
56. Pre-deployment planning should also have clearly designated command roles and authorities. Authorization should come from a senior-level officer on the scene, who is able to assess the conditions where CCWs may be used and is responsible for the manner and scope of their deployment.

e. Use of force and deployment of CCWs

57. The use of any kind of force, including CCWs, must always comply with the principles of necessity, proportionality, legality, precaution, non-discrimination, and accountability.
58. In exceptional circumstances and where there is an imminent and actual threat, law enforcement officials may only use the minimum force necessary to address the threat and, if possible, should take all reasonable measures to engage in de-escalation techniques.
59. Law enforcement officials should be aware that even the display of CCWs may escalate tensions and increase the potential for violent conflict during protests. Where force is proportionate and is necessary to achieve a legitimate law enforcement objective, all possible precautionary steps must be taken to avoid, or at least minimise, the risk of injury or death.
60. When a decision is made to use force in response to acts of violence, law enforcement officials should not treat crowds as a single violent entity because of the actions of some individuals. Law enforcement officials must make every effort to identify and isolate violent individuals without unnecessarily interfering with the rights of other protesters. If it is decided that CCWs are an appropriate means of stopping individual acts of violence, the final decision to use CCWs must account for the likely proximity of third parties and bystanders.
61. Law enforcement officials should avoid the use of CCWs towards those who are particularly vulnerable to the harmful consequences of the use of force in general and to the effects of specific CCWs, including children, pregnant persons, older persons, persons with disabilities, and persons with mental health conditions and impairments.

62. CCWs should not be used without first clear verbally warning protesters and giving them adequate and appropriate opportunity to comply with a lawful order to exit and/or find safe shelter.

f. Chemical irritants specifically

63. Chemical irritants, when deployed using canisters or grenades, are inherently indiscriminate by nature, cause severe pain and injuries and frequently escalate tensions. Therefore, extreme caution must be used before and during deployment that considers the presence of bystanders and the existence of areas of egress and airflow to minimise any risk of overexposure due to the serious risk of injury.
64. Chemical irritants that should be expressly prohibited in the context of protests due to the risk of death and serious injury include:
- Launchers that fire multiple chemical irritant canisters, such as the Venom system.
 - “Barrier-penetrating,” “barrier- blind,” “barricade,” tear gas rounds, or any round designed to defeat physical barriers or that are excessively dense or considered “military grade”.
 - Chemical irritants with components that are determined to be hazardous or in quantities, proportions, concentrations, or admixtures that may be considered toxic.
 - Chemical irritants that have passed their expiration date or are otherwise in disrepair.
65. Specific methods and patterns of chemical irritant deployment are associated with an elevated risk of serious injury or death. Use of chemical irritants in the following circumstances constitutes reckless and dangerous use of these weapons and must be prohibited:
- In confined spaces or in spaces where a crowd cannot safely disperse (including sports stadiums, prisons, and other high-density enclosed spaces with limited egress capacity) - this significantly increases the risk of death or serious injury from crowd crush and stampedes.
 - Firing chemical irritant canisters or throwing grenades directly at individuals or groups, particularly when they strike the head or sensitive body parts, as they can result in blunt trauma, burns and severe or permanent disability and death.
 - Exposing children, older persons or other vulnerable groups to chemical irritants indiscriminately.
 - In situations of purely passive resistance. (In accordance with the principle of necessity, once a person is already under the control of a law enforcement official, no use of a chemical irritant will be lawful.)

- Repeated or prolonged exposure for demonstrators or for residents who may be exposed in their homes, workplaces, and communities.
- After exposure, restraining a suspect by placing them in the prone position (i.e., where the person is lying flat with the chest down and back up). If an individual suffering from the effects of a chemical irritant is restrained, his or her breathing must be monitored constantly. Any unexpected or long-lasting effects should be referred for medical assessment and treatment.

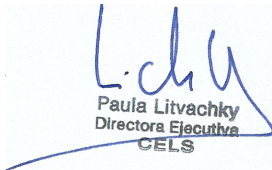
F. CONCLUSION

66. The interveners conclude that under international human rights law, because of risks to human health and in view of the right to life, prohibition of torture and freedom of assembly being engaged, the use of any chemical agents at demonstrations must be attended by guarantees ranging from pre-deployment transparent planning to investigations where the use of such weapons resulted in injuries.

Respectfully submitted,



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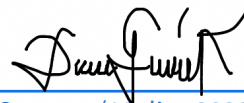


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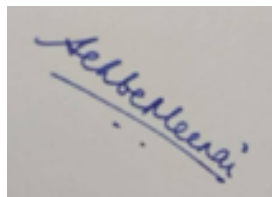


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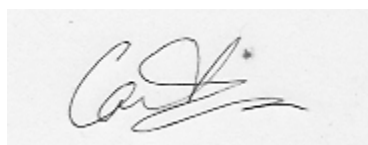
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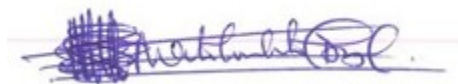
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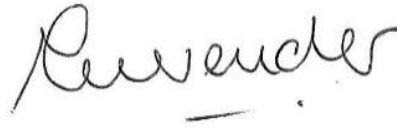
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ANNEX: Information on the interveners

Agora International Human Rights Group

Agora is an association of more than 100 lawyers and other legal professionals working on landmark human rights cases domestically and internationally. Agora permanent legal teams working in Moscow, Saint Petersburg, Sochi, Kazan, Nizhniy Novgorod, Stavropol, Yekaterinburg, Chelyabinsk, Lipetsk, Chita, and other cities in Russia and abroad. A response unit that handles incidents involving human rights violations operates across the entire European part of Russia. Agora is currently representing applicants in several hundred applications brought before the European Court of Human Rights (ECHR). They also provide support to political immigrants, persons who have been forced to leave Russia due to persecution by the authorities and asylum seekers. Agora is also active across post-Soviet States where the negative impact of Russian authorities on the human rights situation is strongly felt.

American Civil Liberties Union (ACLU)

The American Civil Liberties Union (ACLU) is a nonprofit organization founded in 1920 to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States. With more than 4 million members, activists, and supporters, the ACLU is a nationwide organization that fights in courts, legislatures, international fora, and communities in all 50 states, Puerto Rico, and Washington, D.C., to safeguard everyone's rights in the United States.

Centro de Estudios Legales y Sociales (CELS)

CELS is an Argentine organization that works to protect and expand the effective exercise of human rights, justice and social inclusion at a national and international level. It was founded in 1979 as an urgent response to the enforced disappearances and other atrocities being committed during the country's last dictatorship. After the return to civilian rule in 1983, while preserving its flagship work on transitional justice, CELS transitioned to an expanded agenda addressing violations under democracy and the structural causes of inequality and human rights violations on matters of citizen security, economic, social and cultural rights (ESCR), judicial reform, prisons and criminal justice, mental health, migrants' rights, freedom of expression, civilian control of the Armed Forces and, more recently, decent habitat and labor outsourcing.

Dejusticia

Dejusticia is a leading human rights NGO in Colombia. It believes that empowered communities imbued in a culture of inclusiveness, and stronger, more rights-focused institutions can ignite virtuous cycles of community engagement, policy reform, and accountability. Dejusticia works to strengthen the rule of law and the voice of the Global

South, empower vulnerable and marginalized communities, and combat inequality with a human rights focus.

Egyptian Initiative for Personal Rights (EIPR)

The Egyptian Initiative for Personal Rights has been working since 2002 to strengthen and protect basic rights and freedoms in Egypt, through research, advocacy and supporting litigation in the fields of civil liberties, economic and social rights, and criminal justice.

Hungarian Civil Liberties Union (HCLU)

The HCLU is a law reform and watchdog public interest NGO in Hungary, working independently of political parties, the state or any of its institutions. Since its foundation in 1994, the HCLU has been working towards everybody being informed about their fundamental human rights and being empowered to enforce them against undue interference by those in positions of public power. In the areas of political freedoms, privacy rights and equality, HCLU monitors legislation, pursues strategic litigation (200 cases annually), provides free legal aid (in more than 4500 cases per year), provides training and launches awareness raising media campaigns in order to mobilise the public. HCLU initiates the implementation and amendment of legislation, and seeks to change enforcement practice in law. HCLU also cooperates with many domestic and foreign human rights organisations and institutions, and does advocacy and outreach.

Human Rights Law Centre (HRLC)

The HRLC protects and promotes human rights in Australia and in Australian activities overseas, by using an integrated strategic combination of legal action, advocacy, research and capacity building.

Human Rights Law Network (HRLN)

HRLN is a collective of lawyers and social activists dedicated to the use of the legal system to advance human rights, struggle against violations, and ensure access to justice for all in India. HRLN has evolved into a nationwide network of more than 200 lawyers, paralegals, and social activists spread across 26 states working on access to justice for marginalised individuals and communities. In collaboration with communities, NGOs and the judiciary HRLN provides pro-bono legal services to those without access to the justice system, conducts litigation in the public interest, engages in advocacy, runs help-lines, conducts legal awareness programs, sensitizes the judiciary, investigates violations, participates in campaigns, and proposes solutions to some of India's foremost social problems.

Kenya Human Rights Commission (KHRC)

The KHRC is a premier and flagship non-governmental human rights and governance institution in Africa that was founded in 1992 with a mission to foster human rights,

democratic values, human dignity and social justice. They deal with human rights and social justice issues and situations at all levels in the society. The KHRC's interventions are executed under four interdependent strategic objectives and thematic programs: Civil and Political Rights; Economic and Social Rights; Equality and Non-Discrimination and Institutional Development and Sustainability. The KHRC is recognized for its long history, tenacity, consistency, expertise, and passion in providing technical and political leadership around the pertinent human rights and governance programs at all levels.

KontraS

KontraS (the Commission for the Disappearances and the Victims of Violence), which was born on 20 March 1998, is a task force formed by a number of civil society organisations and community leaders of Indonesia. This task force was originally named KIP-HAM, which was formed in 1996. As a commission that works to monitor human rights issues, KIP-HAM received many complaints and input from the public, both victims and communities who dared to express their aspirations about the human rights problems that occurred in their area.

Legal Resources Centre (LRC)

The Legal Resources Centre is an independent, client-based, non-profit public interest law clinic which uses law as an instrument of justice. It was established in 1979 and is South Africa's largest public interest, human rights law clinic. In addition to its national office, LRC has four regional offices, in Cape Town, Durban, Grahamstown and Johannesburg. In its earlier years, the LRC challenged the legal mechanisms used by the apartheid government to oppress millions of South Africans. Since 1994, the LRC has focused on making the South African Constitution a living document and ensuring that the rights and responsibilities enshrined therein are respected, promoted, protected and fulfilled using a range of strategies including impact litigation, law reform and networking. The LRC provides legal services for the vulnerable and marginalised, including the poor, homeless, and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or by reason of social, economic, and historical circumstances.

Dr. Rohini J. Haar

Dr. Rohini Haar is an emergency medicine physician and faculty in the Division of Epidemiology at the School of Public Health. She also serves as research fellow and lecturer at the Human Rights Center at UC Berkeley and medical advisor at Physicians for Human Rights. Dr. Haar's research interests include studying the health impacts of torture, violations of free speech and assembly, and conflict. She leads studies on the impact of violence against health in humanitarian settings, the health impacts of crowd control weapons and the social, economic and health consequences of climate-related crises in California.