



# WHO CALLED THE SHOTS?

CHAIN OF COMMAND RESPONSIBILITY FOR KILLINGS AND INJURIES IN PROTESTS IN PERU

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THE PROTEST**

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First published in 2024

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK



*Cover photo:*

*Illustration by Romavall (Rosa María Valle)*

INDEX: AMR 46/8249/2024

JULY 2024

ORIGINAL LANGUAGE: SPANISH

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# 1. EXECUTIVE SUMMARY

Eighteen months after one of the gravest episodes of widespread human rights violations in Peru since the internal armed conflict the country experienced almost three decades ago, multiple questions remain about the actions of security forces during protests that took place throughout the country between December 2022 and March 2023. Fifty people and one policeman lost their lives, and more than a thousand were seriously injured during these protests. To date, no public official has been criminally charged in relation to these events. This report analyses the role that senior police and military commanders, as well as senior civilian officials, played during these tragedies and the responsibility they may have for the acts committed, some of which could be considered crimes under international law.

The current investigation represents the second chapter in an ongoing research effort that Amnesty International began in December 2022, when the state crackdown on protests began. In May 2023, the organization published a report that detailed the grave human rights violations committed during protests and deemed them widespread attacks by security forces including possible extrajudicial executions. The document also pointed to the marked racist bias of the repressive tactics of security forces. A little more than a year after that publication, **this report contains five main findings.**

## I. POLICE COMMANDERS GAVE ORDERS WITH LETHAL CONSEQUENCES

The first finding concludes that the operational planning during protests by the Peruvian National Police (PNP) had a direct influence on the grave human rights violations committed. Amnesty International analysed PNP plans and orders for operations at the national level, as well as some plans for regions where most of the deaths occurred. In all the plans reviewed, two aspects of the police response stood out. First, the plans specifically referred to protesters as “adversaries” and identified them as “criminals” linked to “terrorist” groups, even though these did not include any evidence that this was the case, and despite the fact that, to date, Amnesty International has not found any evidence to suggest that the people who were killed or injured in the protests had a criminal record. The plans also explicitly authorized the use of lethal force in response to protests, despite international standards making clear that the use of lethal ammunition is not appropriate to disperse crowds. Internal police documents cited as the basis for permitting such use of lethal force run counter to international law and even Peruvian law on the use of force. The plans allowed for groups of “fusileros” (riflemen), while also mentioning that operations would include “a group with lethal weapons under the command of an officer, who will be employed when the operational chief indicates.”

The chain of command during police operations in protests throughout the country was directly linked to the highest ranks of the PNP based in the capital, Lima. They had the possibility at any time to contact their subordinates in the field, including to order a change in tactics. The PNP’s commander general, the highest-ranking officer in the police, delegated coordination of the PNP’s protest response to the fourth highest-ranking member of the PNP, called the General Advisory Command (COMASGEN). This command, an individual position appointed to a general, was responsible for signing the general plans for the national emergency, as well as reviewing and signing the operational plans formulated for each region. For their part, the commanders at the regional level had the possibility of being informed in real time of the events that occurred on the ground, where police officers with the rank of colonel and major acted as commanders and operational chiefs in the streets together with police officers who could have been responsible for the unlawful use of lethal weapons such as rifles and handguns, as well as cases of illegitimate use of less lethal force, such as tear gas and pellets.

In the case of police operations in the towns of Andahuaylas and Chincheros in the Apurimac region, Amnesty International found that even though six people died due to unlawful use of lethal force on 11 and 12 December 2022, the general in charge of these operations subsequently testified that the operations had been carried out correctly, in accordance with laws and regulations. The internal disciplinary proceedings against this general were archived by the police inspectorate. Furthermore, to date, despite multiple requests for public information, Amnesty International is not aware of any police officers suspended for their possible involvement in grave human rights violations committed during the protests. Information available suggests that many of them remained in their posts or were even promoted following the protests.

Despite multiple killings during protests in late 2022, in which members of the PNP had responded with unnecessary and excessive use of force, there is no public information to suggest that by January 2023 PNP commanders had promoted accountability processes for those possibly responsible for these acts. On the contrary, superiors ordered the same tactics to be repeated during the protests in Juliaca in the Puno region, where 18 people died and more than 100 were injured on 9 January, 2023, in a joint operation by the police and the army, marking the deadliest day of repression during protests. In Juliaca, the same commanders of the Special Operations Division (DIROPESP) were deployed, the unit that had overseen lethal operations in Andahuaylas. As had happened in December 2022, a month later in Juliaca, the police continued to be provided with AKM and FAL rifles, as well as Pietro Beretta and Sig Sauer handguns, to respond to mostly peaceful protests. The repeated lethal tactics over several weeks revealed the possible failure of police commanders to investigate and punish those suspected of committing the crimes, as well as to prohibit further human rights violations.

## II. MILITARY COMMANDERS PROMPTED SHOOTING AT DEFENSELESS PEOPLE

The second main finding of the report concerns the responsibility of commanders of the Peruvian armed forces regarding the operations in Ayacucho on December 15, 2022. The chain of command during these operations reached the head of the Joint Command of the Armed Forces (CCFFAA), who had the possibility of communicating at all times with the head of the Second Infantry Brigade of Ayacucho. Despite this, in Ayacucho, the army continued to use force indiscriminately for seven hours, until nightfall, even though victims were unarmed and included several children and bystanders. This is also despite the CCFFAA receiving a phone call at 17:47 from the human rights ombudsman demanding a ceasefire.

As part of the investigation for this report, Amnesty International obtained, through a freedom of information request, the records of ammunition spent, that show that soldiers fired at least 1,200 rounds (bullets) during the afternoon of December 15, 2022, in Ayacucho. In addition, these rifle bullets corresponded to the army units that were deployed at the critical points of the military actions at the Ayacucho airport and its surroundings, and the ammunition records show they were fired following “verbal orders.” The importance of orders within Peru’s armed forces is particularly relevant given the deeply hierarchical nature of the institution. According to a retired general with four decades of service in the army, interviewed by Amnesty International: “For a soldier to shoot, his chief must have given him the order. There is no way they do it without an order, unless they are being directly shot at, which was not the case during the protests.” Two elements suggest the armed forces clear intention to respond to protests with a framework that would allow the unlawful use of force: The evidence of ammunition used and the fact that the army’s plans, as in the case of the police, labeled demonstrators as “hostile groups,” enabling a combative response. The information available suggests that the head of the Second Infantry Brigade of Ayacucho, who in turn answered directly to the Eastern Operational Command that was below the Joint Command of the Armed Forces, are all commanders with elements meriting investigation for possible chain of command responsibility.

Despite the information that points to the commission of grave human rights violations by members of the armed forces in Ayacucho, according to the file of the Armed Forces Inspectorate reviewed by Amnesty International, only eight of 36 military personnel investigated by the Inspectorate were sanctioned for “minor misdemeanours” that led to between one and three days of confinement.

### III. FOR MONTHS, THE PRESIDENT HAD THE OPPORTUNITY TO STOP THE KILLINGS. SHE DID NOT.

The third main finding of the report concerns the possible responsibility of the president of the Republic, Dina Boluarte. Amnesty International conducted a detailed analysis of her government's actions and omissions since the day she took office on 7 December 2022. As commander-in-chief of the armed forces and the police, according to Peru's constitution, the president had in her mandate the possibility of guiding the actions of the ministers of Defense and Interior who, in turn, are responsible for the armed forces and the police respectively. Moreover, according to the Peruvian Criminal Code, and the jurisprudence of Peru's Supreme Court of Justice in its 2009 ruling against former President Alberto Fujimori for crimes against humanity during the internal armed conflict, president Dina Boluarte could be investigated as a possible indirect perpetrator of the grave human rights violations committed during protests.

This report offers a legal analysis based on these concepts to consider the president's possible individual criminal responsibility. In her interrogation before the Public Prosecutor's Office, the president stated, under oath, that "in no way does the presidency of the Republic make direct contact with the commanders of the armed forces or police." However, what occurred during the protests contradicts this statement entirely. From her first days as president, Dina Boluarte met personally on several occasions with the commanders of the PNP and the armed forces. Moreover, according to the information that Amnesty International accessed through freedom of information requests and reports from journalistic investigations, Boluarte took the intelligence reports of the PNP, specifically COMASGEN, which labeled protestors as "terrorists" as the basis for declaring a state of emergency at the national level and deploying the armed forces. The president made these decisions even though the national director of Intelligence, who coordinated all intelligence services at the national level, had met with her earlier to inform her that the protestors had no criminal ties and that he did not see the need for the deployment of the armed forces.

The president not only maintained constant communication with ministers and police and military commanders in the days where several people were injured or killed during protests, but also decided to promote officials who had played key roles during these operations. On 21 December, six days after the death of 10 people by bullets fired by the army during protests in Ayacucho on 15 December 2022, events that would later be classified as possible extrajudicial executions by Amnesty International, the president decided to promote Luis Alberto Otárola Peñaranda, until then the minister of Defense, as president of the Council of Ministers. It is worth mentioning that president Dina Boluarte was seated next to this official, at that time still minister of Defense, in an official ceremony on December 15, a few hours before the first death occurred in Ayacucho. At that time, the army had already been deployed in Ayacucho and there could have been an opportunity to ask the minister of Defense any questions about the unfolding operation. Although it is difficult to know what was discussed at the ceremony, the fact is that hours later security forces deployed lethal force until nightfall. The president not only promoted Alberto Otárola to the position of president of the Council of Ministers, but also promoted to the rank of commander general of the PNP the official who had signed all the PNP plans that led the operations during the protests when there were already 50 people dead and more than a thousand wounded, in many cases caused by projectiles from weapons carried by the PNP.

Far from holding law enforcement to account, the president adopted a public discourse that praised the actions of the police and military and stigmatized protestors as "violent" and "terrorists." The president maintains a stigmatizing discourse until the time of writing, undermining the dignity of victims, many who come from marginalized contexts and regions with a majority of Indigenous and *campesino* populations. Amnesty International obtained a copy of the minutes of the meetings of the Council of Ministers (presidential cabinet) between 12 December 2022 and 1 February 2023, and found that, during 29 meetings led by the president, at no time did she take the opportunity to condemn acts of violence committed by the police and armed forces. On just one occasion during these meetings, the president mentioned the deaths and injuries during the protests, and on two other occasions she asked for information on the actions of the security forces, without demanding punishment for their possible illegal acts. The rest of the time, the meetings of the Council of Ministers overwhelmingly prioritized the declaration of multiple states of emergency, curfews, and restrictions on the right to peaceful assembly. Although Amnesty International identified these two occasions where the president requested information on the actions of the police and military during the protests and, during a Council of Ministers, recalled the need to only use less-lethal force, these few verbal indications seem to have been insufficient due to the absence of other actions or measures to curb the excessive use of force.

Amnesty International submitted repeated freedom of information requests to the presidential office to obtain any written communications or guidelines that the president had sent to the ministers of Defence and Interior in relation to the protests. According to the information received, in the entire period of the protests the president's office appears to have only sent two letters to the Ministry of the Interior and the Ministry of Defense, both on 19 December. As for written instructions from the president addressed to the armed forces, the official information available accounts for a WhatsApp message sent on December 18 from the president's cell phone to the minister of Defense asking to avoid deaths in the protests, three days after the army's operation in Ayacucho. This message was insufficient to stop killings in Ayacucho or in the following weeks. It would have been essential to give clear orders regarding the mode of operating and stop the widespread use of lethal force. If only this text message exists and no other written evidence, this could mean that there is no real proof that the president intervened in a timely and efficient manner to prevent the tragic deaths in Ayacucho. Similarly, more than a year after the publication of Amnesty International's previous investigation that called on the president to take measures to address the marked racist bias on the part of security forces during protests, the organization has not obtained any information on measures from the Presidency to implement this recommendation.

#### **IV. MINISTERS DID NOT HOLD POLICE AND MILITARY TO ACCOUNT**

The fourth main finding of the report concerns the responsibility of government ministers, including the president of the Council of Ministers, the minister of Defence, and the minister of the Interior. It is worth noting that the Constitution of Peru stipulates that "all ministers are jointly and severally responsible for criminal acts or violations of the Constitution or laws incurred by the President of the Republic or that are agreed upon in Council, even if they hold their vote, unless they resign immediately." Amnesty International analysed the leading role of Alberto Otárola, who served first as minister of Defence and later as president of the Council of Ministers, at all times taking a prominent public role and calling the police and armed forces "heroes" even though their daily operations resulted in multiple deaths and injuries in various parts of the country. For their part, the three different Interior ministers who held that post during the time of the protests, all former PNP commander generals, appear to have failed to hold to account the actions of PNP generals, especially given that the Interior Ministry's Office of Internal Affairs is the entity in charge of conducting disciplinary investigations against the PNP's top ranking generals.

#### **V. DESPITE PROGRESS, THE PROSECUTOR'S OFFICE HAS NOT THOROUGHLY INVESTIGATED THE CHAIN OF COMMAND**

Finally, the fifth finding of this report accounts for the partial and slow progress of the investigations carried out by the Public Prosecutor's Office into the grave human rights violations committed during the protests. To date, no police, military or public official has been criminally charged for the acts committed during the protests. This is even though the special team in charge of investigations into police and military has included 312 police and military personnel in its investigation files and multiple proceedings and interrogations have been carried out. However, the information available suggests that none of the highest commanders of the PNP have been formally considered as suspects, meriting formal criminal investigations by the Public Prosecutor's Office. In the case of the armed forces, despite the recent identification of army commanders as suspects in the investigation, several steps remain to advance in investigations. For their part, the prosecutors in charge of the investigation against the president and ministers appear to have carried out superficial interrogations of these officials. Several months ago, this investigation into senior civilian officials presented a constitutional complaint against the president and ministers that is stalled before Congress, which, for its part, has not taken the measures within its mandate to allow for criminal accusations to advance against the president and her ministers.

The report's findings are based on 110 interviews conducted in two phases: 79 interviews conducted in the field between January and March 2023, with 52 cases documented by Amnesty International, including 20 possible extrajudicial executions. In the second half of 2023 and the first half of 2024, a further 25 interviews were conducted, including several with high, middle and low-ranking active and former members of the military, active police officers of different ranks, and several high-ranking former public officials, including ministers, and lawyers. The report is also based on a series of official meetings with authorities including the President, Minister of Defense, Ministry of the Interior, Peruvian National Police, Joint Command of the Armed Forces, and several meetings with prosecutors who work in the Public Prosecutor's Office. Amnesty International also submitted more than 56 freedom of information requests and appealed 12 of these.



Furthermore, the organization carried out extensive verification of visual and audiovisual evidence (videos, photographs, maps, satellite images).

The body of evidence presented in this report reveals a series of actions and omissions from the highest levels of the Peruvian State that appear to have had lethal consequences over a prolonged period and that could have been avoided. International human rights law contains clear criteria for assessing the responsibility of superiors in the chain of command, including those in the highest positions of hierarchical institutions, and who knew or should have known that grave human rights violations were being committed or were about to be committed. Similarly, the report presents multiple examples of a possible omission on the part of police and military commanders and senior civilian officials to prevent or punish any repetition of repressive tactics. Far from condemning the illegitimate acts committed by security forces, which grew in magnitude every day and could be configured as crimes under international law, superiors in the chain of command endorsed the actions committed during operations in protests. As such, it is more urgent than ever that authorities tasked with ensuring justice for victims prioritize the analysis of the chain of command in its entirety.

In light of the above, Amnesty International urges Peruvian authorities to redouble their efforts to guarantee the rights to truth, justice, reparation and guarantees of non-repetition for the hundreds of victims of grave human rights violations committed during the protests. Any effort to account for these events must urgently analyse the role of the chain of command in its entirety, and not omit the top ranks, including the former commander generals of the PNP, the former head of the PNP General Advisory Command, and the former director of Special Operations of the PNP, in addition to the former head of the Joint Command of the Armed Forces. These in addition to the president as commander-in-chief of the armed forces and police, as well as government ministers. Only by taking these steps may it be possible to begin healing the deep pain of hundreds of families and put in place lasting measures that guarantee the non-repetition of such crimes.

# 2. INTRODUCTION: THE REAL STATE OF EMERGENCY WAS A HUMAN RIGHTS EMERGENCY

When on December 11, 2022, 15-year-old David Atequipe Quispe told his mother that he was going to see what was happening in a field near the house where they lived, high in the Andes mountain range in southern Peru, he never imagined it would be the last time he would see her. The teenager had heard about a demonstration that was taking place at what had once been the Andahuaylas airport, and he wanted to see what it was about. Peruvian National Police (PNP) ended up repressing the protest against the destitution of former president Pedro Castillo, using unnecessary and excessive force. It was not the only protest, nor was it the last to be repressed with an illegitimate use of lethal and less lethal force.

David Atequipe Quispe became the first person killed in the context of protests that took place in Peru between December 2022 and March 2023 – a period that became one of the gravest episodes of widespread human rights violations in the country since the internal armed conflict almost three decades ago.

The first official response to the protests that were taking place throughout the country after former president Castillo's arrest included declarations of states of emergency, first in the regions of Apurímac, Ica and Arequipa and then, on December 14, a nationwide state of emergency through Supreme Decree 143-2022.<sup>1</sup>

The decree included restrictions on the right to freedom of assembly, curfews, and the deployment of police and armed forces. Although international law allows governments to restrict certain rights during states of emergency, any measures implemented must respect the principle of proportionality and certain non-derogable rights, such as the right to life, cannot be violated.

This was not what happened in Peru.

What followed the state of emergency were three months of grave human rights violations documented by multiple international organizations and bodies, including the Inter-American Commission on Human Rights (IACHR), which visited the country in December 2022 and January 2023. The authorities turned a blind eye to complaints and recommendations. The killings continued, despite extensive evidence that the actions of security forces were illegitimate, excessive, disproportionate and, in many cases, unnecessary. In addition, the use of lethal force by the police and military displayed a racist bias with a large part of the killings from lethal force occurring in regions with a majority Indigenous and peasant population.

The unlawful use of force by the police and military during three months of protests left at least 50 people dead and more than 1,000 injured, many with injuries so severe that they have remain seriously traumatized or prevented from continuing with their family responsibilities.

Among those who lost their lives were many young people who, like David, were simply walking down the street, or coming home from work. This happened to Christopher Michael Ramos Aime, 15, who died when

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1. Presidency of the Council of Ministers, *Supreme Decree No. 143-2022-PCM declaring a State of Emergency at the national level*, December 14, 2022, available at: <https://www.gob.pe/institucion/pcm/normas-legales/3737374-143-2022-pcm>

an army soldier shot him with a bullet in Ayacucho on December 15, 2022. Similarly, the medical student Marco Antonio Samillán Sanga, 30, who was shot dead by the PNP while helping people injured during protests in the city of Juliaca on January 9, 2023.

For others, the injuries they sustained were so severe that they changed their lives forever. Maritza Tomaylla Maucaylle, 31, lost her pregnancy in December 2022 when she was hit by a bullet fired by police indiscriminately at the Cerro Huayhuaca hill, in Andahuaylas. A few minutes earlier, Maritza had stopped to sit on the hill to rest on her walk home from the kindergarten where she worked.

The young boy B.Q.A, aged 11, neither thought he would face such a tragedy. He was shot in the left ankle while with the rest of his family in an area near the airport in Juliaca, Puno region looking for a birthday cake for his father on January 9, 2023. That date would become the deadliest day of the social protests, with 18 killings and dozens injured. To this day, B.Q.A has not fully recovered. Among the injured were also several journalists, who were constantly attacked by police forces and the army.

Information available suggests that none of the military or police commanders in charge of the strategy and operations during protests were sanctioned. All remained in their posts during the period of the social crisis or were even promoted.

In May 2023, Amnesty International published a report called *Lethal Racism: Extrajudicial Executions and Unlawful Use of Force by Security Forces in Peru*.<sup>2</sup> The investigation detailed the grave human rights violations committed during the period of social protests between December 2022 and March 2023. Amnesty International documented 25 killings (including six children) who died during the protests. Of the 25 cases, 20 presented the elements that would indicate an extrajudicial execution, either because of the type of ammunition used, the location of injuries on the body, the victims' apparent defencelessness at the time of death and the way the incidents occurred as observed in videos and images and reported by witnesses, among others. In addition, Amnesty International documented 24 other cases of people injured by bullets, metal pellets or tear gas bombs during police and military operations.

That report focused on three of the eight departments (commonly called "regions") of Peru where deaths occurred in the context of the protests: Apurímac, where six people were killed in three days in December 2022 (in the towns of Andahuaylas and Chincheros); Ayacucho, where 10 people were killed from bullets fired in a single day, and Puno, (specifically the city of Juliaca) where 18 people were killed, also in a single day. In addition, the organization referred to the death of one person during the protests that took place in Lima in January 2023.

Although Amnesty International's latest report, as well as this one, focus on the regions that concentrated most of the protests and killings, it is important to recall the magnitude of this crisis, which included widespread human rights violations in various parts of the country with the same pattern of response by Peruvian security forces.

Amnesty International does not deny that some people who participated in the protests may have committed destructive and confrontational acts. At the time of its initial report, Amnesty International's Evidence Lab verified dozens of videos, and Amnesty International's researchers saw images of people throwing rocks at police or, on one occasion, improvised projectiles. In addition, several government buildings, such as police stations or courthouses, were set on fire during the protests. However, to date, the organization has not obtained any information about the commission of criminal acts by those killed or injured during the protests, although this would not have justified the excessive response by the police forces.

Since the beginning of the social crisis in Peru, Amnesty International, in line with its mandate, has focused on documenting human rights violations committed by authorities, particularly against the right to life, and those violations that, for its part, the Peruvian state has mostly ignored. Analysing what the authorities did, allowed, tolerated, or omitted corresponds to the scope of the responsibility of the chain of command, which may imply the individual criminal responsibility of public officials.

Failures to take sufficient measures to prevent human rights violations and hold those who committed them accountable created an environment in which abuses multiplied.

This report analyses the possible responsibility of the police and military authorities at the head of the chain of command in their institutions. In addition, it examines the potential command responsibility of President Dina Boluarte and her ministers, who are responsible for overseeing the police and military and ultimately hold the highest positions in Peru's government. At all times, Amnesty International provides this evidence as relevant

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2. Amnesty International, *Lethal Racism: Extrajudicial Executions and Unlawful Use of Force by Peru's Security Forces*, Table of Contents: AMR 46/6761/2023, 25 May 2023, <https://www.amnesty.org/es/documents/amr46/6761/2023/es/> (hereinafter "Lethal Racism")

information for any investigation, recalling that the determination of responsibilities is in the hands of the prosecutorial and judicial authorities of Peru.

The rest of the report is dedicated to an in-depth legal analysis, based on the evidence obtained on the functioning of police and military operations, the actions that may have allowed crimes under international law to be committed, including extrajudicial executions, and the lack of action on the part of the police, military, and senior civilian officials that to this day has left hundreds of families throughout the country with a pain that is far from healing.

# 3. METHODOLOGY

This report is based on 110 interviews conducted in two phases. The first took place in early 2023, when Amnesty International conducted 79 interviews in the localities where state repression occurred. At this stage, the organization also documented 52 cases, including 20 possible extrajudicial executions.

The second phase took place during the second half of 2023 and the first half of 2024, when Amnesty International researchers conducted another 25 interviews, most of them face-to-face in various areas of Peru, and some remotely. Among them, several interviews were conducted with active and former members of the military from high, middle, and low ranks, five active police officers of different ranks, several former public servants and ministers, as well as lawyers, all of whom asked that their names be omitted for security reasons. The report is also based on a series of official meetings with authorities (the president, former minister of Defense, Ministry of the Interior, Peruvian National Police, Joint Command of the Armed Forces, and several meetings with prosecutors working in the Public Prosecutor's Office).

Amnesty International also filed more than 56 freedom of information requests, under Peru's Transparency Law, as well as more than 12 appeals when several of these requests were denied, in addition to following the course of these appeals before the Transparency Tribunal and re-entering new requests when the responses received were partial.

The organization also analysed extensive documentary evidence—medical and forensic reports, military, police, and court documents, criminal records, official reports, minutes of official meetings, and internal communications—as well as analysing public and media coverage of the issues in question. Amnesty International's Evidence Lab also carried out extensive verification of audiovisual material including videos, photographs, maps and satellite images.

In the case of interviews with people who requested to remain anonymous for security reasons, particularly active police and military officers, as well as former officials who held senior positions in ministries over the past decade, Amnesty International does not provide the place or date of the interviews, or details of their geographical affiliation. In the case of former ministers, the specific years during which they held their position are not provided, nor is the gender of the person, to avoid revealing their identity, which would go against the consent of the person interviewed. The facts in this report are updated as of 1 July, 2024.

Finally, Amnesty International recognizes the efforts of the victims and their families who bear the brunt of the burden and sacrifice to find the truth about these heinous crimes. This report is presented publicly in the context of Nelson Mandela International Day, 18 July 2024, with the hope that it will remain as a recognition of the spirit of the date, which emphasises the dignity of all people, regardless of their racial origin, in addition to shared humanity. It should not be forgotten that most of those killed during the protests came from marginalized contexts and were subjected to state violence that had a marked racial bias. This report pays tribute to the memory of these people and calls on the Peruvian State to revindicate their dignity.

# 4. INTERNATIONAL HUMAN RIGHTS LAW ESTABLISHES CLEAR RESPONSIBILITIES FOR AUTHORITIES DURING PROTESTS

## 4.1 STATES OF EMERGENCY, THE RIGHT TO PEACEFUL ASSEMBLY AND THE USE OF FORCE

The International Covenant on Civil and Political Rights enshrines the right to peaceful assembly in article 21.<sup>3</sup> For its part, the American Convention on Human Rights protects the right to assembly in Article 15.<sup>4</sup> According to the Inter-American Court of Human Rights, this article protects “the right to protest or to demonstrate discontent with a State action or decision.”<sup>5</sup> According to General Comment 37 of the Human Rights Committee, “if States derogate from the Covenant [International Covenant on Civil and Political Rights] in response, for instance, to mass demonstrations that include acts of violence, they must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all measures derogating from their obligations under the Covenant are strictly required by the exigencies of the situation and comply with the conditions of Article 4.”<sup>6</sup> The latter also requires States to respect the principle of non-discrimination during states of emergency, and establishes that a number of rights, including the right to life, are non-derogable even during states of emergency.<sup>7</sup>

For its part, according to a set of United Nations Special Rapporteurs in 2022: “States should not use public emergencies as a pretext to infringe on the right to freedom of peaceful assembly or to repress civil society activists (...) The peaceful nature of an assembly must be presumed; isolated violent acts do not make an assembly as a whole violent or illegal.”<sup>8</sup>

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3. International Covenant on Civil and Political Rights (adopted on 16 December 1966), article 21: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

4. American Convention on Human Rights (November 1969), Article 15: “The right to peaceful assembly, without arms, is recognized. The exercise of such a right may be subject only to such restrictions as are provided for by law, which are necessary in a democratic society, in the interests of national security, public safety or order, or to protect public health or morals or the rights or freedoms of others.”

5. Inter-American Court of Human Rights (IACHR Court), *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Judgment of November 2018, para. 171.

6. United Nations, *Human Rights Committee, General Comment 37* (2020), CCPR/C/GC/37, para. 96.

7. International Covenant on Civil and Political Rights, Article 4.

8. “Public emergencies must not be used as a pretext by States to infringe the right to freedom of peaceful assembly or to repress civil society activists. Blanket bans on assemblies almost always constitute a disproportionate restriction of this right and should be avoided.” Joint

This is relevant due to statements by Peruvian authorities at all levels who claimed protestors were responsible for the killings and injuries during protests, despite strong evidence that the security forces allegedly committed serious human rights violations, as detailed in this report.

For its part, the Human Rights Committee stipulates that international law “requires States parties to organize all State organs and governance structures through which public authority is exercised in a manner consistent with the need to respect and ensure the right to life... [including] procedures designed to ensure that law-enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life.”<sup>9</sup> Furthermore, the Committee expressly recognizes that “firearms are not an appropriate tool for the policing of assemblies.”<sup>10</sup> On this point, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>11</sup> are the reference standard for the use of force by law enforcement. These principles are specific in limiting the use of lethal force, for example, Principle 9, referring to the use of firearms and the life-threatening situations in which they may be used, a guideline that was not followed by the Peruvian authorities, which will be explained in detail below. For his part, the United Nations Rapporteur on Extrajudicial, Summary or Arbitrary Executions considered that the legitimate use of force presupposes that “lethal force may not be used intentionally merely to protect law and order or to serve other similar interests (for example, it may not be used only to disperse protests, (...) or to safeguard other interests such as property)”.<sup>12</sup>

Security forces in Peru not only used lethal force, but also resorted to excessive use of less-lethal weapons, both resulting in multiple killings and serious injuries.<sup>13</sup> According to international human rights standards, weapons with less lethal ammunition, such as shotguns loaded with kinetic impact projectiles, must be used in a targeted manner and only for the purpose of dealing with a concrete and imminent threat of harm to a person. State agents should not resort to such weapons in ordinary situations of crowd control or for the dispersal of demonstrations, nor should they use them randomly against a crowd.<sup>14</sup> Also among the weapons that are considered less lethal are chemical irritants such as tear gas, as well as rubber pellets, and for their part, weapons with projectiles considered prohibited for the purposes of law enforcement, such is the case of metal pellets. These weapons are also subject to strict requirements of legality, necessity, proportionality, and accountability and can only be used in situations where other, less harmful measures have proven ineffective in dealing with a threat and the intensity of force needs to be increased gradually.<sup>15</sup>

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Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, the Rapporteur on Human Rights Defenders and focal point on reprisals of the African Commission on Human Rights, and the Office for Democratic Institutions and Human Rights (ODIHR), September 2023, available in: [JointDeclarationProtectingRightFreedominTimesEmergencies15Sept2022.pdf \(ohchr.org\)](#)

9. United Nations, *Human Rights Committee, General Comment 36*, on the right to life, CCPR/C/GC/R.36/Rev.7, para. 19.

10. United Nations, *Human Rights Committee, General Comment 37* (2020), CCPR/C/GC/37, para. 88.

11. United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted in September 1990.

12. United Nations, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, April 1, 2014, A/HRC/26/36, paras. 72 and 73.

13. Amnesty International, *Lethal Racism*, p. 43 (cited above).

14. United Nations, *United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in the United Nations*

*Maintenance of Public Order*, para. 7.5. See also: Amnesty International, *Kinetic Impact Projectiles in Law Enforcement*, pág. 12. <https://www.amnesty.nl/content/uploads/2023/03/Amnesty-position-paper-kinetic-impact-projectiles.pdf>

15. United Nations, *United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement*, para. 6.3.1 and 6.3.4.

See also: Human Rights Committee, *General Comment 36*, 3 September 2019, CCPR/C/GC/36, paragraph. 14.

## 4.2 INDIVIDUAL RESPONSIBILITY OF SUPERIORS IN THE CHAIN OF COMMAND

The United Nations Human Rights Committee stipulates that States have an obligation of “investigating and prosecuting potential cases of unlawful deprivation of life, meting out punishment and providing full reparation.”<sup>16</sup>

The Committee also maintains that “investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates.”<sup>17</sup> In addition, the Committee considers that “States parties are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials.”<sup>18</sup>

For its part, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that “Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.”<sup>19</sup>

According to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, in a report addressed to States parties to the International Covenants on Human Rights, “under the principle of command responsibility, civilian and military superiors, including political leaders, can be held criminally liable for crimes amounting to international crimes committed by their subordinates, including for failing to prevent the commission of such crimes or prosecute their subordinates for them. That is provided by the Rome Statute of the International Criminal Court but is also part of customary international law.”<sup>20</sup> These concepts are relevant because of the events that could constitute extrajudicial executions committed during the protests, which occurred in a broader context of excessive use of force and multiple grave human rights violations by the security forces.

For its part, the jurisprudence of the Inter-American Court of Human Rights is instructive on the criteria to assess the responsibility of superiors in the chain of command, which are:

**Knowledge:** The superiors knew or should have known about the crimes that were being committed or were going to be committed.<sup>21</sup> In this regard, it is important to specify that the Court has held that it is not necessary for the superior to have specific details of the unlawful acts committed or about to be committed, but it is sufficient to have some general information in his possession that notifies him of possible unlawful acts of his subordinates.<sup>22</sup>

**Hierarchy and organization of command structure:** Evidence that officials in senior positions had the capacity to organize and the possibility of giving orders regarding the behaviour of their agents.<sup>23</sup>

**Obligation to prevent:** Elements on any failure to prevent violations and/or lack of sanction or punishment for the acts perpetrated.<sup>24</sup>

16. United Nations, *Human Rights Committee, General Comment 36 on the right to life*, CCPR/C/GC/R.36/Rev.7, para. 19.

17. United Nations, *Human Rights Committee, General Comment 36*, CCPR/C/GC/36, para. 27.

18. United Nations, *Human Rights Committee, General Comment 36*, CCPR/C/GC/36, para. 13.

19. United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Principle 24.

20. United Nations, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, A/HRC/53/38, 23 May 2023, para. 44.

21. I/A Court H.R., *Case of Gómez Virula et al. v. Guatemala*, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 21, 2019, Series C No. 393, para. 56; and *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations, and Costs, Judgment of November 28, 2018, Series C No. 370, para. 276.

22. I/A Court H.R., *Case of Gómez Virula et al. v. Guatemala* (cited above).

23. Inter-American Court H.R., *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 28, 2018, Series C No. 371, para. 296.

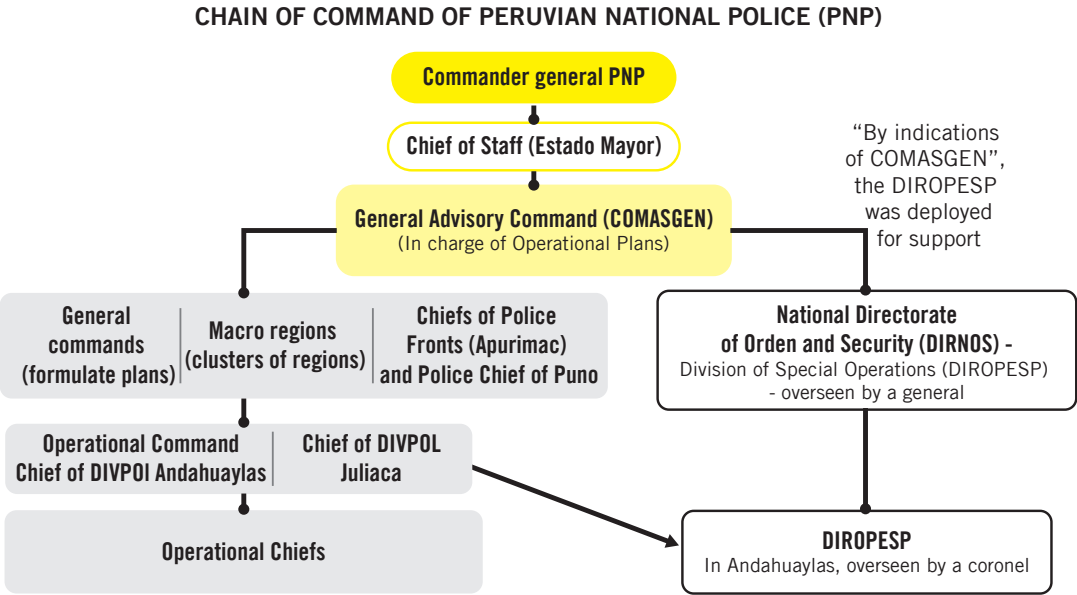
24. I/A Court H.R., *Case of Gómez Virula et al. v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of November 21, 2019, Series C No. 393, para. 56; and *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations and Costs, Judgment of November 28, 2018, Series C No. 370, para. 276.



# 5. THE RESPONSIBILITY OF THE COMMANDERS OF THE NATIONAL POLICE OF PERU

## 5.1 THE ROLE OF THE PERUVIAN NATIONAL POLICE IN SOCIAL PROTESTS

### 5.1.1 CHAIN OF COMMAND OF THE PERUVIAN NATIONAL POLICE DURING THE PERIOD OF SOCIAL PROTESTS



The Law of the National Police of Peru (PNP)<sup>25</sup> outlines that the commander general,<sup>26</sup> who is appointed by the president of the Republic and selected from a group of the most senior PNP generals, occupies the top rank in the chain of command of the institution.

25. Legislative Decree 1267 of 2016 enacted the National Police Law. For its part, this Law was amended by Law No. 31379, which amended Articles 7, 8, 10.13 and 26 of Law No. 1267, to change the terms and names of the positions of the PNP High Command. Article 8 of the Decree provides for the rule on the appointment of the Commander General. Official Gazette *El Peruano*, December 22, 2021.

26. According to Law No. 1267, Article 9(iv), the Commander General is responsible for “Directing and controlling the effective execution of policies, plans and programmes in the areas of internal order, public order and citizen security, within the framework of his mandate, in accordance with national policies.”

Although the law was reformed in December 2021 and included changes in the PNP's senior positions,<sup>27</sup> the institution's official organizational chart still does not reflect these changes. This was confirmed to Amnesty International by the PNP in response to a request for public information.<sup>28</sup>


The changes in the PNP's organizational structure that took place at the end of 2021 are relevant to the operations in response to social protests, since, with the adjustments to the PNP's senior positions, the General Advisory Command (COMASGEN, for its internal acronym) began to gain prominence. According to Article 13 of Law 31379, COMASGEN "is the body in charge of arranging, evaluating and supervising the implementation, operability and execution of the strategies and plans in charge of the Peruvian National Police formulated by the Chief of Staff (*Estado Mayor*)."<sup>29</sup>

It is striking that COMASGEN does not appear in the PNP's organizational chart. Nor is it a position of the High Command, (the body comprised of the most senior commanders), according to Law 31379. Although it appears to depend on the Chief of Staff (*Estado Mayor*), (which is the second-rank position of the High Command)<sup>30</sup> the relationship between these two is not clear. From the beginning of the protests, the COMASGEN was occupied by a general who a few weeks after the end of the protests, in March 2023, was promoted to commander general of the police by the president.<sup>31</sup> The communication between this general and the President will be addressed in Chapter 7 of this report.

For his part, the commander general of the PNP (the head of the entire institution) established, in MULTIPLE MEMORANDUM NO. 61-2022-CG PNP/SEC of December 8, 2022,<sup>32</sup> that the COMASGEN should formulate the indications in provide for the police services of the Macro-regions, Special Directorates and Police Fronts, these being the most instrumental units during social protests. This memorandum responds to the PNP Law which stipulates that the commanding general may delegate his functions.<sup>33</sup>

En ese contexto, este despacho **DISPONE**:

1. El COMASGEN PNP, a través de la Dirección Nacional de Orden y Seguridad y la Dirección Nacional de Investigación Criminal, dispondrá que los señores Generales PNP Jefe de las Macropoles, Direcciones Especializadas, Regiones Policiales, Frentes Policiales, garanticen los servicios policiales en sus respectivas jurisdicciones, orientados a brindar protección a las personas, bienes públicos y privados, así como evitar posibles alteraciones del orden público, a través de ataque a instituciones públicas y privadas, daños materiales, saqueos, bloqueo de vías, etc; debiendo actuar en el marco de la Constitución Política del Perú y de las leyes, con el irrestricto respeto de los derechos humanos.
2. Las unidades que cumplen función administrativa a nivel nacional, se encontrarán disponibles para el apoyo de los servicios policiales que puedan ser dispuestos por el COMASGEN PNP.



↑  Excerpt from MULTIPLE MEMORANDUM NO 61-2022-CG PNP/SEC

27. Law No. 31379, Official Gazette *El Peruano*, December 22, 2021.

28. According to a response to a freedom of information request submitted by Amnesty International, the PNP detailed, in Report No. 90-2024-SECEJE-PNP/ DIRPLAINS-DIVMDI, II, F, March 14, 2024: "the Peruvian National Police does not have an updated organizational chart as a result of Law No. 31379, but it must be prepared together with the modification of the Regulations of the PNP Law, by virtue of Legislative Decree 1604, which will be approved by Supreme Decree, and this is in the process of formulating a proposal in the Police Institution."

29. Law No. 31379, which modifies Legislative Decree 1267 of 2017, Law of the Peruvian National Police, Article 13. Published in the Official Gazette *El Peruano* on December 23, 2021.

30. Law No. 31379, Article 8.

31. Supreme Resolution 051-2023-IN, Official Gazette *El Peruano*, March 20, 2023.

32. Public Prosecutor's Office, Criminal File No. 506012800-2022-47-O of the Special Team of Prosecutors for Cases with Victims During Social Protests, Volume 41 (hereinafter "Andahuaylas Criminal File").

33. For his part, the Commander General of the PNP supervises COMASGEN. According to the PNP regulations (Article 7 (19): "The Commander General of the Peruvian National Police may delegate functions to the Deputy Commander, Inspector General, Executive Secretary, National Directors, Director of the National School of Professional Police Training, Director of Administration, Director of Human Resources, Director of Police Welfare and Support, Director of Police Health and Chiefs of the Police Macro Regions." In Law No. 31379, published in the Official Gazette *El Peruano*, on December 22, 2021, the role of Deputy Commander, which was previously the second highest position in the institution, was changed to the Chief of Staff (*Estado Mayor*).

## 5.1.2 PNP OPERATIONAL PLANS

The operational plans of the Peruvian National Police are the basic documents that guide the actions of this public force. Planning documents follow a hierarchy, starting with **General Plans**, which give indications for the police at the national level, followed by **Operational Plans**, which, in the case of social protests, were prepared by the chiefs of each region and passed to COMASGEN for signature.<sup>34</sup> The operational commanders<sup>35</sup> were in charge of preparing an **Operations Order** that details more information at a specific level based on each Operation Plan. Finally, there are **Command Provisions**, which are drawn up for each commission, squad, or group of squads.

The most relevant General Plans for operations in the Apurimac (Chincheros and Andahuaylas) and Puno (Juliaca) regions were the General Plans for Social Conflicts, 2022 and 2023,<sup>36</sup> the GENERAL OPERATIONS PLAN No. 16-2022-COMASGEN - GO PHP/OFIPOI NATIONAL EMERGENCY-2022 and the General Plan for Macro Regions.<sup>37</sup> According to Criminal File No. 506012800-2022-47-0 of the Special Team of Prosecutors for Cases with Victims During Social Protests, COMASGEN prepared and signed all these general plans, and was in charge of keeping the PNP commander general informed.<sup>38</sup> Subsequently, in each region, the chiefs of the “Police Fronts” (police zones) or Police “Macro Regions” (clusters of regions) drew up operational plans, and as such, became the general command of these plans. For each operation, under the general command there was an operational command that, in turn, coordinated with the operational chiefs at street level. For example, in the Andahuaylas operational plan, it specified that “the use of weapons is by express order of the operational chief, reporting to the operational command.”<sup>39</sup>

For its part, COMASGEN ordered the deployment of support forces from the Directorate of Special Operations (DIROPESP), who were sent from Lima or other cities to the regions where social protests were taking place.<sup>40</sup> The DIROPESP was arranged by COMASGEN to move as a support force “and make itself available to the operational command” in each of the localities.<sup>41</sup>

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34. For example, according to the head of the Apurimac Police Front, in his statement to EFICAVIP, which appears on page 8584 of the Andahuaylas Criminal File, “The plans are prepared by the UNIPLEDU of the Apurimac Police Front, I review them and then send them to COMASGEN who approves them.”

35. See, for example: *MEMO/MULT NO.372-2022-FFPP-APURIMAC/SEC/UNIPLEDU DATED DECEMBER 9, 2022*, Page 8435 of the Andahuaylas Criminal File, Volume 43, which provides that the operational command will issue the order for operations.

36. General Plan of Operations No. 001 “Social Conflicts - 2023”, Andahuaylas Criminal File, Volume 43, Page 8460

37. General Plan of Operations 01-2023 COMASGEN-CO PNP/OFIPOI “Police Macro Regions 2023” January 2023, Andahuaylas Criminal File: Volume 43, Pages 8437-8460

38. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, p. 8556

39. Operational Plan No. 088-2022-COMASGEN-CO-PHP/FP-APURIMAC-SEC- UNIPLEDU “MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022” TO THE PGO NO. 001-2022-SCG PNP/DIVECS “SOCIAL CONFLICTS 2022”.

40. Operations Order No. 303-2022-SUPPORT FOR THE ANDAHUAYLAS POLICE FRONT

41. Operations Order 329-2022 DIROPESP-PNP/SEC-UNIPLEDU-AREPLOPE “APOYO x-MACROREPOL-PUNO-NATIONAL EMERGENCY PUNO 2022”.

## 5.1.3 THE POLICE'S OPERATIONAL PLANS OPENED THE DOOR TO GRAVE HUMAN RIGHTS VIOLATIONS

Amnesty International conducted an analysis of several PNP documents included in the criminal file of the cases or obtained as PNP responses to freedom of information requests. The analysis focused on two episodes of repression: First, the killings and injuries as a result of police repression in Andahuaylas and Chincheros, Apurimac region, on December 10, 11, and 12, 2022, and secondly, the police operation in Juliaca, Puno region, on January 9, 2023. These two episodes resulted in a death toll of six people in Andahuaylas and Chincheros, and 18 people in the case of Juliaca, in addition to several dozens with serious injuries. The organization also reviewed PNP planning documents for the period of protests and its response in various regions, as well as general plans for the entire institution.<sup>42</sup> Each of these documents are reiterative of their previous versions and focus on concepts that guided the operations that took place. These general concepts are discussed in more detail below.




Covers of some of the several operational plans of the PNP reviewed by Amnesty International  ↑

42. The police operations during December 10, 11 and 12, 2022 in Andahuaylas and Chincheros responded to three main Plans: OPERATIONS PLAN NO. 088-2022-COMASGEN-CO-PHP/FP-APURIMAC-SEC- UNIPLEDU “MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022” UNDER THE GENERAL PLAN NO. 001-2022-SCG PNP/DIVECS “SOCIAL CONFLICTS 2022”. OPERATIONS PLAN NO. 089-2022-COMASGEN-CO-PNP/FP-APURIMAC-SEC-UNIPLEDU. “DECLARATION OF STATE OF EMERGENCY APURIMAC REGION - 2022” TO THE PGO NO. 001-2022- SCG PNP/DIVECS “SOCIAL CONFLICTS 2022”. OPERATIONS PLAN NO. 098-2022-COMASGEN-CO-PNP/FP- APURIMAC-SEC-UNIPLEDU “NATIONAL EMERGENCY-APURIMAC-2022” UNDER THE GENERAL OPERATIONS PLAN NO. 16-2022-COMASGEN - GO PHP/OFIPOI NATIONAL EMERGENCY-2022” (12 Dec).

## A. INAPPROPRIATE AND DANGEROUS USE OF THE IDEA OF THE “FIGHT AGAINST TERRORISM”

In 2023, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, expressed grave concern about a growing trend around the world that “rather than taking measures to address the legitimate concerns raised by civil society, activists, social movements and protesters, States present them as enemies, resorting to unnecessary use of force and other unlawful and arbitrary measures to silence and suppress them.”<sup>43</sup> This is precisely what happened during the social protests in Peru.



Far from being conceived as police operations applied in the context of a social protest, the PNP’s Operational Plans focused on combating the people who took to the streets, mostly peacefully. In all the plans and operational orders analysed by Amnesty International, the PNP named the “friendly forces” of its operation (understood as the police themselves, the army, the authorities), and on the other hand “adversaries.” Under the category of “adversaries,” the plans and orders list, among others, “opponents of the government in power,” “disaffected people,” and “political-social organizations opposed to the government,” as well as “family members and sympathizers linked to criminal activities” and “NGOs related to social movements.” In addition, the same list that identifies civil society groups that exercise their rights as “adversaries” also includes so-called “terrorist organizations” and “criminal organizations.”<sup>44</sup>



8. Que, es probable los estudiantes y/o universitarios, pobladores de las zonas rurales se sumen a la medida de protesta, causando graves alteraciones del orden público, con intenciones de buscar enfrentamiento con las FF.O y posterior victimizarse ante la opinión pública.
9. Que, es probable organizaciones sociales, gremiales, sindicales y comunales, se sumen a las protestas convocadas, con el propósito de hacer una causa común.
10. Que, es probable organizaciones violentistas existentes en la provincia de Andahuaylas, aprovechen la coyuntura para infiltrarse entre los manifestantes con miras a buscar que reaccionen y provoquen acciones violentas con consecuencias fatales.
11. Que, cabe la posibilidad remanente de las OT-SL autodenominado Ejército Militarizado del PCP-MLM-PM, así integrantes de otras organizaciones extremistas, se infiltren en las protestas para ejecutar actividades de AGIPRO.
12. Que, es probable los etnocaceristas apoyen la medida de protesta e incentiven a los manifestantes a tomar acciones radicales y violentas.



Excerpt from Plan 088-2022 of Andahuaylas of December 9, 2022

FUENTE: DEPPISG

En los gráficos de barras precedentes se puede apreciar que organizaciones sociales vienen ejecutando medidas de protesta del 07 al 13 DIC 22, a nivel nacional. En Lima su máxima convocatoria fue de 1750; mientras que, en provincia fue de 36 235 personas, realizando las siguientes acciones:

- Enfrentamiento con las FF.O
- Actos de violencia hacia las instituciones del estado y a la propiedad privada
- Bloqueo de vías.
- Oposición a la continuidad en el cargo de Dina Ercilia BOLUARTE ZEGARRA.
- Articulación de las acciones de fuerza.
- Participación de integrantes de Organismos Generado de las OT-TA y SL



Excerpts from the General Operations Plan 01-2023 COMASGEN-CO PNP/OFIPOI “Police Macro Regions 2023” January 2023

The Operational Plans for both Andahuaylas (Apurímac region) and Juliaca (Puno region)<sup>45</sup> mention the acronym OT/SL. OT stands for “terrorist organizations” and “SL” refers to *Sendero Luminoso* - Shining Path – one of the armed groups that were central actors in the internal armed conflict between the 1980s and 1990s. As an example, the operational plans for the Puno region comments that: “it is likely that people belonging to OT/SL will infiltrate the masses, in order to incite the population to increase the levels of violence and in this way, pressure the national government to pay attention to their platform of struggle.”<sup>46</sup>

43. United Nations, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Advancing accountability and ending impunity for serious human rights violations related to the exercise of the rights to freedom of peaceful assembly and of association*, A/HRC/53/38, para. 15.

44. These terms are repeated throughout the operational plans that were analysed by Amnesty International.

45. Puno Operational Plan 046-2022

46. Puno Operational Plan 046-2022

Although national security is a legitimate aim for states during states of emergency, in the context of the protests, there was no evidence that restricting the rights of protesters was necessary to achieve this end. The “anti-terrorist” logic based on the protection of national security to the detriment of human rights formed the conceptual basis that inspired all the actions of the PNP. Senior PNP commanders interviewed by Amnesty International ascribed to these concepts, claiming that the protests were aimed at causing “international panic.”<sup>47</sup> However, the information gathered by intelligence services in the PNP’s operation plans lacks evidence of any link between protesters and organizations involved in the commission of crimes under domestic law associated with “terrorism.”

Finally, it should be noted that the decision of the PNP’s top ranks to deploy in the protests the DIROPESP (formerly DIROES/DINOES), a division that focuses on issues related to “counterterrorism”,<sup>48</sup> is evidence of the anti-terrorist approach of the police response during the emergency. The DIROES (Directorate of Special Operations) was established in 1987, during the time of the internal armed conflict in Peru.<sup>49</sup> In the book “Heroes Among Us”,<sup>50</sup> an official publication of the Minister of the Interior on the history of the DIROES, the description of this institution does not speak of its role in demonstrations and social protests, but is described as “a special counter-terrorist operation that entails many special tasks, such as the use of snipers, SWAT teams, paramedics, and so on.”<sup>51</sup> Despite the fact that, according to a former Deputy Minister of Security of the Ministry of the Interior who served in that role during several previous presidential administrations, interviewed by Amnesty International, it is not unusual for DIROPESP to be deployed during social protests, and therefore the 2022-2023 episode would not have been the exception in that regard, the expert and former official said that it is one of the “most combative” units of the PNP.

## B. EXPLICIT PERMISSION TO USE LETHAL FORCE

The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association said in May 2023 that “also concerning is the tendency of States to provide law enforcement agents with immunity, or with broad powers and unrestricted use of force, including lethal force, on the grounds of national security and public order, which is contrary to the principles of necessity and proportionality.”<sup>52</sup>

Although the operational plans cite domestic laws and regulations that call for an appropriate use of force in line with international standards on the matter,<sup>53</sup> in addition to applying force gradually and progressively, the permissiveness to use lethal force is repeated in several sections of the plans, without much guidance on its limits in terms of respect for human rights. For example, the operating plans do not include a list of situations in which lethal force is permitted and do not explicitly prohibit the use of lethal force in all situations that would fall outside that list, which is ultimately a narrow set of circumstances, according to international standards.

Amnesty International reviewed the main laws and regulations used by the PNP regarding the use of force,<sup>54</sup> which emanate from Legislative Decree No. 1186 of 2015 that regulates the use of force by the PNP and is accompanied by a series of manuals and protocols.<sup>55</sup> Although these rules would not permit an illegitimate use of force, in March 2020, Peru’s Congress enacted Police Protection Law No. 31012, which expressly eliminates clause c) of Article 4 of Legislative Decree No. 1186, which established the principle of proportionality and defined it as “the use of force is proportional when the level of force used to achieve

47. Amnesty International, Interview with representatives of the PNP: head of the Directorate of Order and Security (specialist in human rights), Chief of Staff; Assistant Secretaries and Generals, September 20, 2023, Lima, Peru.

48. Law 1267 of the Peruvian National Police, Article 137.

49. Ministry of the Interior, *Press release: Police Special Operations Directorate celebrates 31st anniversary with tactical demonstrations*, August 25, 2018, available at: <https://www.gob.pe/institucion/mininter/noticias/18292-direccion-de-operaciones-especiales-de-la-policia-celebra-31-aniversario-con-demostraciones-tacticas>.

50. Ministry of the Interior, *Heroes Among Us: History and Memory of the Directorate of Special Operations of the National Police of Peru* October 2020, available at: <https://cdn.www.gob.pe/uploads/document/file/3914340/H%C3%A9roes%20entre%20nosotros%2C%20fuerzas%20especiales.pdf>.

51. Ministry of the Interior, *Heroes Among Us* (cited above).

52. United Nations, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report, A/HRC/53/38, para. 21.

53. Among them, Legislative Decree No. 1186, which regulates the use of police force. Broadly speaking, this law aligns with international standards on the use of force, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, of the United Nations, 1990.

54. Legislative Decree No. 1186 regulating the Use of Force by the Peruvian National Police was approved in August 2015, and the regulation that develops it a year later. This law, which contemplated the principles of legality, necessity and proportionality, also established clear criteria for the use of firearms.

55. After Legislative Decree No. 1186, several relevant manuals were published during the following years, namely: MANUAL OF HUMAN RIGHTS APPLIED TO THE POLICE FUNCTIONS (Ministerial Resolution No. 952-2018-IN); and the MANUAL OF OPERATIONS FOR THE MAINTENANCE AND RESTORATION OF PUBLIC ORDER. RD. N° 179-2016-DIRGEN/EMG-PNP OF 22MAR2016. Similarly, Directive No 15-2022-CG PNP/EMG (RCG No 418-2022-CG PNP/EMG-PNP OF 13 OCTOBER 2022. Amnesty International reviewed these internal PNP documents, which broadly reflect the stipulations of the international standards of the United Nations.

the legal objective sought corresponds to the resistance offered and the danger represented by the person to be intervened or the situation to be controlled”.<sup>56</sup> In addition, this law annuls the possibility for a judge to order the preliminary judicial detention and preventive detention of a police officer; it exempts from criminal responsibility the “personnel of the Armed Forces and the National Police of Peru who, in the fulfilment of their constitutional function and in the use of their weapons or other means of defense, in a regulatory manner, cause injury or death” and establishes a presumption of legality of the actions of the police through the “principle of reasonableness of means that will be interpreted in favour of the intervening police personnel.” In other words, it obliges the judiciary to favour police conduct.

Although this law establishes that it will not be applied when police officers use force “in contravention of the Political Constitution of Peru, the norms of International Human Rights Law recognized by the Peruvian State and this law”, it is an ambiguous and contradictory precept because the norm clearly contravenes international standards and favours impunity for unlawful acts perpetrated by the security forces. At the time, the UN Human Rights Committee expressed its concern about this law.<sup>57</sup>

Mentions of lethal force in the operational plans become even more relevant given that the regulatory framework governing the use of force for police officers in Peru had serious deficiencies since the beginning of the operations implemented in the context of the 2022 social protests. On this point there are three important elements to analyse.

First, the General Plans for Social Conflicts were an important basis for the development of all police operations during the protests. These plans serve as a guide to concepts and provide insight into how the police conceive of force against protesters. According to the General Plan for Social Conflicts 2023, when demonstrators use “sticks, stones, blunt objects” against the police, this action would be “seeking a disproportionate response [from the police] to victimize themselves.”<sup>58</sup> Instead of seeing these physically confrontational actions by certain people at demonstrations as part of the challenges that the police may face, instructing them not to be provoked, to resort to dialogue and seek to evade escalation, the plans would place the responsibility for any police excesses on the protesters.

Second, far from recalling that lethal ammunition is not appropriate for the control of demonstrations,<sup>59</sup> the 2023 General Plan for Social Conflicts (signed by the COMASGEN) expressly allows the use of lethal force. The plan calls “to provide for a group with lethal weapons under the command of an officer, which will be employed when the operational chief so decides.”<sup>60</sup> While the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials leave room for the use of lethal ammunition, the standard is explicit in recalling that “law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury,” in addition to a restricted list of other situations.”<sup>61</sup> The Human Rights Committee has also identified the concepts that regulate the use of lethal force.<sup>62</sup> However, the indication to use lethal force in the PNP plans is not accompanied by any qualifier, and it would seem that the criteria of the operational chief would be sufficient to justify its use:

**q. Prever un grupo con armas letales al mando de un Oficial, el mismo que será empleado cuando el Jefe Operativo lo disponga.**

Excerpt from the PNP's 2023 General Plan for Social Conflicts  

Similarly, the General Plan for Social Conflicts 2023 cites a 2015 PNP Directive (Directive 03-17-2015) as a guiding concept for the actions of the entire PNP at the national level. However, this directive goes against international standards, and even against Legislative Decree 1186 on the Use of Force, also from 2015. It is noteworthy that, only six days after Legislative Decree 1186 (the highest regulation on the use of force for the

56. Police Protection Law, Law No. 31012, Official Gazette El Peruano, March 28, 2020.

57. United Nations, Human Rights Committee, Concluding observations on the sixth periodic report of Peru, CCPR/C/PER/CO/6, 5 April 2023.

58. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43. General Plan of Operations for Social Conflicts, 2023.

59. United Nations, Human Rights Committee, General Comment 37, para. 88. Also, for example, the legitimate use of force presupposes that “lethal force may not be used intentionally merely to protect law and order or to serve other similar interests (for example, it may not be used only to disperse protests, to arrest a suspected criminal, or to safeguard other interests such as property).”; United Nations, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, April 1, 2014, A/HRC/26/36, paras. 72 and 73.

60. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, Page 8460. General Plan of Operations for Social Conflicts, 2023.

61. United Nations, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, Principle 9: “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

62. United Nations, Human Rights Committee, General Comment 36, para. 18.

police) was published in the Official Gazette,<sup>63</sup> the PNP issued a directive<sup>64</sup> that contradicts the law regarding the circumstances in which lethal weapons can be used. Although the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials restrict the use of lethal force to very few situations — specifically, when someone’s life is at risk<sup>65</sup> and Legislative Decree 1186 does the same,<sup>66</sup> this PNP directive expands the grounds for using lethal force.

Directive 03-17-2015 mentions six situations in which the use of lethal force, i.e. firearms with lethal bullets, is permitted. The situations permitted in this directive for the use of lethal force are not in line with UN international standards, most notably Principle 9 of the Basic Principles cited above. For example, although Principle 9 speaks of the use of firearms “in self-defence,” this self-defence is only in the face of “an imminent threat of death or serious injury”; however, the PNP Directive speaks of using lethal force “in self-defence and/or to safeguard the lives of other people,” without making it explicit that self-defence does not apply against any type of situation, but only against imminent danger of death or serious injury. For its part, the sixth clause ignores all logic and adds that lethal force can be used to “repel attacks or actions against installations, aircraft, boats, official vehicles, civil and police authorities.” Having analysed the PNP’s operating plans, the emphasis placed on private property and government facilities as part of the motivations for its actions in social protests is very telling. Although there was damage to several government facilities during the time of the social protests (without any of those killed having been proven to have been involved in one of these acts), no damage to property is justification for the use of lethal force. It is concerning that this concept, from a 2015 directive that should have been corrected by 2023, was cited to guide police operations during social protests in January 2023.

The permissive attitude towards the use of lethal force shown in the operational plans would seem to permeate to the highest ranks of the PNP. In a senior PNP interview with Amnesty International in September 2023, members of the PNP made erroneous claims about international use-of-force standards. The representatives of the institution maintained that due to the burning of premises and properties that occurred during social protests, the use of lethal force would be allowed, according to Principle 14 of the UN Basic Principles. This assertion is unfounded, since Principle 14 states that: “In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9<sup>67</sup> – i.e., in a situation of imminent danger to life or serious injury. As explained above, Principle 9 establishes a series of grounds for the use of force, which in no way include damage to facilities or property. Of particular concern is that the general who made this statement during the interview with Amnesty International introduced himself as the institution’s human rights expert during the meeting and said that he was in charge of the police training school at the time. Despite his possible deficiencies in terms of knowledge regarding the application of international law, in January 2024, President Dina Boluarte appointed this general as the new commander general of the PNP.<sup>68</sup>

Although Amnesty International only had access to the General Plan for Social Conflicts 2023, it appears that its previous versions followed the same permissive line for the use of lethal force. For example, the Operational Plan 088-2022, prepared for operations in social protests in Andahuaylas, takes as its conceptual framework the General Plan of Social Conflicts of 2022, which would have been the previous version of the General Plan.<sup>69</sup> For its part, Operational Plan 088-2022 mentions *fusileros* (“riflemen”) who answer to operational chiefs as a routine part of the operation, while police force is provided with the use of “lethal and non-lethal weapons.” While international standards do not ignore the circumstances in which lethal force can be justified in terms of controlling demonstrations, it is troubling that the language of the plans does not emphasize the exceptionality of lethal force, and that they provide for the delivery of both non-lethal and lethal weapons to police officers deployed. Although the plan seems to indicate that lethal weapons would only have to be delivered to “riflemen” or to a particular small group, PNP weapons logs reviewed by Amnesty International, both in Chincheros and Andahuaylas and in Juliaca, show that the PNP provided lethal ammunition to hundreds of its agents along with AKM rifles, Pietro Beretta pistols (Juliaca and Ayacucho) and Sig Sauer pistols (Juliaca and Ayacucho), among others.<sup>70</sup> Providing lethal weapons does not seem to have been the exception, but a central part of the operations.

63. Legislative Decree No. 1186, Official Gazette *El Peruano*, August 21, 2015.

64. PNP Directive No. 03-17-2015-DIRGEN-PNP/EMG-PNP-B.

65. United Nations, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, Principle 9.

66. Legislative Decree No. 1186, Article 8.8.

67. United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990

68. Ministry of the Interior, Press release: 24 January 2024, available at: <https://www.gob.pe/institucion/mininter/noticias/896949-victor-zanabria-fue-reconocido-como-nuevo-comandante-general-de-la-policia-nacional-del-peru>

69. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, p. 8435.

70. Amnesty International, *Lethal Racism*, p. 12 and Annex.



This normalization of lethal force is demonstrated in the statements to prosecutors of the police who participated in the operations. For example, a PNP captain,<sup>71</sup> in his statement to the Prosecutor's Office as part of the preliminary investigation into the events in Andahuaylas, said: "My squads had the means [provided] for that type of demonstration... equipment and accessories delivered by the State for the fulfilment of the service, lethal and non-lethal."<sup>72</sup> This captain was a squad leader of one of the patrols that may have been key in the repression in Andahuaylas, as explained below.

Amnesty International interviewed a former Minister of the Interior of Peru. Based on the former minister's knowledge of the functioning of the security forces, it is highly unlikely that the use of lethal force at the Andahuaylas and Juliaca airports would have been applied without an express order. In addition, the former minister cited other examples of mass strikes and social demonstrations that occurred at airports during his administration, without a single death.

Beyond the material authors of the deaths during the social protests, who may have been mid- and low-ranking police officers, the elements presented above are relevant to evaluate the State's responsibility in the planning of operations that seem to have been permissive of an unlawful use of lethal force by the troops deployed. These PNP plans, and the concepts that underpin them, could be contrary to the Peruvian State's human rights obligations.

## 5.2 THE ROLE OF COMMANDERS IN OPERATIONS

As mentioned above, according to the Inter-American Court of Human Rights, superiors can be held responsible for serious human rights violations committed by their subordinates. The police commanders had within their functions to draw up plans and orders and, during the course of operations, they knew that illegitimate acts could be committed, or in any case, they had a duty to know, according to international law.<sup>73</sup> In addition to the extensive information published in the media and on social networks in real time during the social protests, the police commanders, depending on their rank, either had direct involvement in the operations, or received internal reports on them.

In the case of Andahuaylas, the police operations between December 9 and 12, 2022, where five people died and dozens were injured,<sup>74</sup> followed the indications of the OPERATIONAL PLAN NO. 088-2022-COMASGEN-CO-PHP/FP-APURÍMAC-SEC- UNIPLEDU "MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022" – UNDER THE GENERAL PLAN NO. 001-2022-SCG PNP/DIVECS "SOCIAL CONFLICTS 2022".<sup>75</sup> In the case of Chincheros, where a child died and multiple people were seriously injured on December 12, 2022,<sup>76</sup> Amnesty International asked for more information about this operation via freedom of information requests, but the Chincheros PNP responded by claiming that its files had been burned during the social outbreak, so they did not provide more information on the matter.<sup>77</sup> Finally, in the case of Juliaca, the police operation followed Operations Plan 046-2022 and its respective January 2023 Operations Orders. All these operational plans in Andahuaylas, Chincheros and Juliaca came into force after their approval by the COMASGEN.<sup>78</sup>

71. Captain of the National Police, Division of manoeuvres against illicit trafficking of the Sinchis Mazamari.

72. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, p. 8550.

73. Inter-American Court H.R., *Case of Gómez Virula et al. v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of November 21, 2019, Series C No. 393, para. 56; Inter-American Court H.R., *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations, and Costs, Judgment of November 28, 2018, Series C No. 370, para. 276

74. Amnesty International, *Lethal Racism*, p. 14.

75. This plan was complemented by COMPLEMENTARY SHEET N° 01 TO THE OPERATIONS PLAN N° 088-2022-COMASGEN-CO- PNP/FP- APURIMAC-SEC-UNIPLEDU "REESTABLISHMENT OF PUBLIC ORDER APURIMAC - 2022" TO THE PGO N° 001-2022-SCG PNP/DIVECS "SOCIAL CONFLICTS 2022". OPERATIONS PLAN NO. 089-2022-COMASGEN-CO-PNP/FP-APURIMAC-SEC-UNIPLEDU. "DECLARATION OF STATE OF EMERGENCY APURIMAC REGION - 2022" TO THE PGO NO. 001-2022- SCG PNP/DIVECS "SOCIAL CONFLICTS 2022".

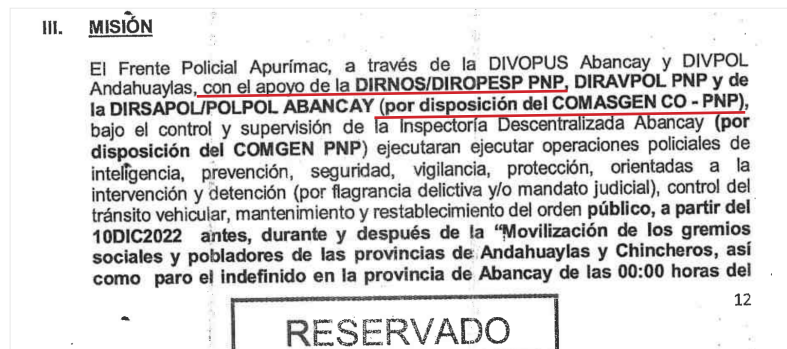
76. Amnesty International, *Lethal Racism*, p. 14.

77. In this regard, Amnesty International visited the town of Chincheros on several occasions in situ during January and February 2023, a few weeks after the social protests, without observing serious visible damage to the facilities of the police station, with the facilities of the Public Prosecutor's Office in the town being more visibly damaged, even after reviewing the images published on social networks. Similarly, the organization subsequently asked the PNP for a list of damage to its facilities in the country due to the social protests, without the PNP registering Chincheros on its list as a damaged premises of the Peruvian National Police in its response (Official Letter 3262-2023-COMASGEN-CO-PNP/DIRNOS-SEC, sent to Amnesty International on October 11, 2023).

78. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 32, Page 6255. OPERATIONS PLAN NO. 088-2022-COMASGEN-CO-PHP/ FP-APURÍMAC-SEC- UNIPLEDU "MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022" TO THE PGO NO. 001- 2022-SCG PNP/DIVECS "SOCIAL CONFLICTS 2022".

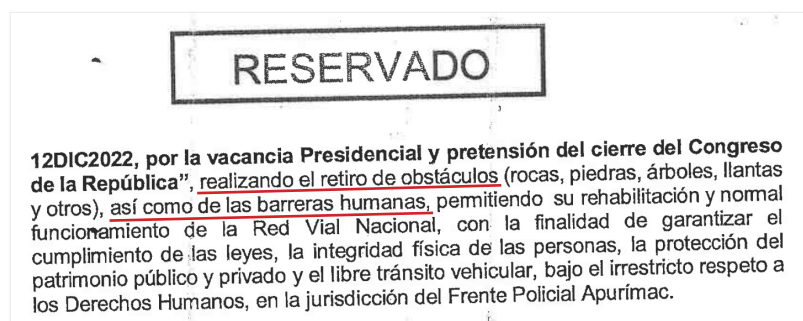
## 5.2.1 THE COMASGEN ORDERED THE DEPLOYMENT OF SPECIAL FORCES (DIROPESP) THAT PROVED KEY TO THE KILLINGS THAT OCCURRED OVER MONTHS

On December 10, 2022, after communities from various parts of the department of Apurímac had been organizing for several days to carry out commercial stoppages and protests, especially in the city of Andahuaylas, the head of the Police Front of the Apurímac Region sent the Operational Plan 088-2022 to the general of COMASGEN for review and approval “to be put into execution.”<sup>79</sup> This plan placed the DIRNOS/ DIROPESP operations as a key support force for the operations.



Extract from Operational Plan 088-2022, where the COMASGEN authorizes the deployment of the DIRNOS (National Directorate of Order and Security, to which DIROPESP – Division of Special Operations pertains) (Underlined by Amnesty International)

It is important to emphasize the role that DIROPESP played during the social protests. As mentioned above, DIROPESP is a highly specialized elite force, in many cases for “anti-terrorist” operations, but also according to Law 1267 of the PNP, in its article 173, it responds in multiple scenarios such as “against illicit drug trafficking... search and rescue of people, disasters, floods and catastrophes” but also for the “maintenance and restoration of internal order.” Amnesty International interviewed a former deputy minister of security in the Ministry of the Interior who oversaw security issues within the ministry, including a close relationship with the PNP, who commented that it is common for the base police of local police stations to carry pistols, but in the case of AKM and FAL rifles, they are generally not carried by local police but by special operations units. Although the legal framework and the functions of DIROPESP do not prevent them from getting involved in operations linked to social protests, it was still a conscious decision of the commander of COMASGEN to have opted for a specialized force with specific capabilities in the use of lethal force, to face protests that, although they had some violent incidents, they were mostly peaceful. Instead of emphasizing the use of methods to reduce tensions with protestors and stressing that lethal force should only be used as a last resort, the operational plans signed by COMASGEN had the express mission of restoring public order, in addition to carrying out “the removal of obstacles (rocks, stones, trees, tires and others), as well as human obstacles” (emphasis added).

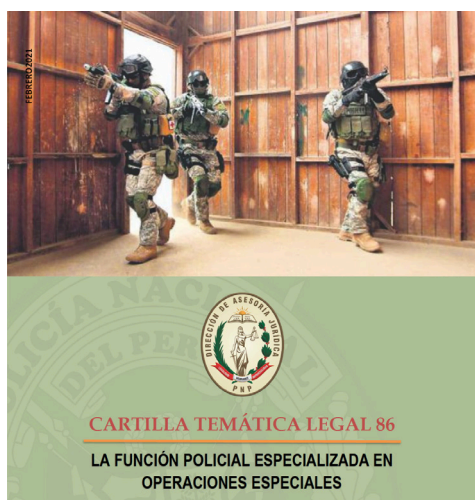


Excerpt from the text on the PNP’s “Mission” in Operations Plan 088-2022, where COMASGEN authorizes the deployment of DIROPESP (Underlined by Amnesty International)

This kind of broad order may have resulted in discretion in choosing the type of method used to remove these “human obstacles,” as well as using a dehumanizing label on people who might be blocking streets by way of an action of protest.

79. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 32, p. 6254. Official Letter No. 2013-2022-FFPP-APURIMAC/SEC-UNIPLEDU December 10, 2022, Attaching OPERATIONS PLAN No. 088-2022-COMASGEN-CO-PHP/FP-APURIMAC-SEC- UNIPLEDU “MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022”.

The deployment of large numbers of heavily armed special forces without a clear mission and without specific instructions on how to operate could have led to a police intervention with an understanding that the – lethal – weapons provided would be used.



Example of the type of weapon and uniform used by DIROPESP police officers

According to statements by police officers during the prosecutors' interrogations,<sup>80</sup> operations on the ground consisted of coordinated efforts that responded to an established chain of command. Every decision that was made came from a superior and was communicated throughout the chain, whether the decision was to change location for a matter of streets, or if it was a matter of using force. The operational chiefs were key in the orders from moment to moment, and in keeping the General command informed on a permanent basis.

Operational Ranks in PNP Operations	
PNP Commander General	
General COMASGEN	
<p><b>"General command" – A general in charge of overseeing the Plan of Operations in a Police Front (Apurimac) or Macro Region (Puno)</b></p> <p><b>Operational command (active in the operation)</b></p> <p><b>Operational chief (active in the operation)</b></p>	<p><b>"General command" – a general in charge of the DIROPESP commission – special operations – deployed to support the Police Front or Macro Region</b></p> <p><b>Operational command (active in the operation)</b></p> <p><b>Operational chief (active in the operation)</b></p>

## THE ROLE OF DIROPESP IN POSSIBLE EXTRAJUDICIAL EXECUTIONS IN ANDAHUYLAS DURING THE PNP OPERATION

Amnesty International obtained evidence permitting an analysis of possible perpetrators in relation to two of the six killings that occurred in the Apurimac region, where the first deaths were recorded during the period of protests. This analysis is relevant to evaluate the actions of the PNP not only in reference to these deaths, but also to the functioning of the institution in general, including in the operations that followed in the following months.

On December 12, 2022, DIROPESP units were stationed with AKMs in front of Cerro Huayhuaca hill in Andahuaylas. Some protesters threw improvised projectiles at police from behind a bridge 100 metres away, on the other side of a small river. From the videos and photos analysed and verified by Amnesty International's Evidence Lab, in addition to the witnesses interviewed, the presence of protesters consisted of a small group of people who did not appear to pose a real risk to the lives of the police.<sup>81</sup> Although there is no evidence that the lives of the police officers were in danger, DIROPESP agents used lethal weapons from the roof of a building and fired in the direction of Cerro Huayhuaca hill, where passers-by were watching the skirmish between protestors and police below.<sup>82</sup>

80. Amnesty International reviewed multiple statements from police officers questioned by the prosecutorial team investigating the protests. These statements are in the Andahuaylas Criminal File (Public Prosecutor's Office. Criminal File No. 506012800-2022-47-0 of the Special Team of Prosecutors for Cases with Victims During Social Protests) and Juliaca (Criminal File 023-2023).

81. Amnesty International, *Lethal Racism*, p. 18.

82. Amnesty International, *Lethal Racism*, p. 18.

As a result of its previous investigation, Amnesty International described the deaths of 18-year-old John Erik Enciso Arias and 18-year-old Wilfredo Lizarme Barboza as possible extrajudicial executions by DIROPESP police.<sup>83</sup> Both victims died in the city of Andahuaylas on December 12 at 16:00 and 16:30 hours respectively. A bullet hit them while they were sitting on Cerro Huayhuaca hill, watching the police operation against protests below, in the center of the city. The deaths appear to have been caused by lethal ammunition from a group of six DIROPESP police officers located on the roof of a building on the corner of Ejército and César Vallejo Avenues.<sup>84</sup> A gunshot residue analysis confirmed that neither John Erik nor Wilfredo had shot firearms at the time of their deaths.<sup>85</sup>

The operations in Andahuaylas were overseen by a general responsible for the Apurímac Police Front. According to his statement to the Prosecutor's Office, there was a complementary sheet to Operations Plan No. 88-2022-COMASGEN- CO-PNP/FP-APURIMAC, which had been formulated on December 9, 2022. According to the general, "this complementary sheet was made in order to give me the general command of operations. I was on vacation on December 7, retaking duty on December 12 at 10:30 a.m." It is also worth noting that the decision to shorten the general's vacation came directly from the highest rank of the PNP, the commander general "who ordered me to suspend my leave and return me to my jurisdiction."<sup>86</sup> Although the general says he began his service on December 12, he also says that he had been active since the previous day, since he flew on December 11 in PNP air transport to Ayacucho, where he met the general in command of DIROPESP, and then moved to Andahuaylas by helicopter on December 12 in the morning.<sup>87</sup>

For their part, the DIROPESP police were sent to Andahuaylas by order of COMASGEN, in two commissions, each responding to its corresponding operational order.<sup>88</sup> One commission consisted of 48 officers under the command of a PNP colonel as the operational command<sup>89</sup> and, below him, a major as the operational chief, who gave verbal orders while on the street. The other DIROPESP commission had arrived on December 10 directly at the Andahuaylas airport, with 49 troops answering to a commander,<sup>90</sup> who, for his part, handed over command to the colonel who arrived the next day, being the highest ranking member of the DIROPESP on the ground, and "who assumed control of all the personnel at the airport on December 11," the date on which David Atequipe Quispe (18 years old) and Beckham Romario (15 years old) died during the police operation.<sup>91</sup>

DIROPESP police were organized by squads during the operations, with a squad leader for a group of between 9 and 15 policemen who moved together. Ten DIROPESP squads were deployed from Lima to support police operations in Andahuaylas on December 12, all under the command of a colonel, with 97 agents.<sup>92</sup>

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83. Amnesty International, *Lethal Racism*, p. 15.

84. Amnesty International, *Lethal Racism*, p. 15.

85. Amnesty International, *Lethal Racism*, p. 73

86. Public Prosecutor's Office, Andahuaylas Criminal File, PNP General's Statement, Volume 43, Pages 8584 onwards.

87. Public Prosecutor's Office, Andahuaylas Criminal File, PNP General's Statement, Volume 43, Pages 8584 onwards.

88. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43. This Criminal File accounts for the statements of DIROPESP police officers before the fiscal investigation. These details of the deployment of DIROPESP troops came from the following Orders: Operations Order No. 299-2002-DIROPESP-PNP-SEC-UNIPLEDU-AREPLOPE "SUPPORT FOR THE VIII MACREPOL AYACUHO-PROVINCE OF PAUCAR DEL SARA – CIA; Operations Order No. 303-2022-SUPPORT FOR THE ANDAHUAYLAS POLICE FRONT; and Operations Order 304-2022. In addition, the OPERATIONS PLAN NO. 088-2022-COMASGEN-CO-PHP/FP-APURIMAC-SEC- UNIPLEDU "MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022" TO THE PGO NO. 001-2022-SCG PNP/DIVECS "SOCIAL CONFLICTS 2022" detailed that the support force would consist of 100 DIROPESP troops.

89. According to several police officers interviewed by the Prosecutor's Office, this provision came from Operations Order 304-2022. Volume 43 of the Criminal File No. 506012800-2022-47-0 of the Special Team of Prosecutors for Cases with Victims During Social Protests.

90. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, Commander's Statement, Folio 8597 onwards; in addition to the information provided for in Operations Order No. 303-2022-SUPPORT FOR THE ANDAHUAYLAS POLICE FRONT.

91. Public Prosecutor's Office, Andahuaylas Criminal File. According to the statement of a Commander of DIROPESP, Volume 43, page 8597 onwards. The deaths of David Atequipe and Beckham Romario were documented as part of Amnesty International's previous report (*Lethal Racism*, May 2023).

92. This is clear from the statements of officers in the squads in Volume 43 of the Andahuaylas Criminal File.

According to information provided to Amnesty International by Official Letter No. 435-2023 MP-FN – FPSTEDHIAPURÍMAC of the Public Prosecutor’s Office, DIROPESP had the following weapons for use in Andahuaylas:

DEPENDENCIA POLICIAL	TIPOS DE ARMAS LETALES Y NO LETALES	FECHA Y LUGAR
DIROPESP - LIMA DIVPOL ANDAHUAYLAS	Fusil Automático AKM	11 y 12 de diciembre de 2023 - Andahuaylas
	AKM-K	
	HK-91	
	AK-47	
	Fusil HK-G3	
	Fusil Asalto AKM 65	
	Fusil AKM 65-C	
	Pistola SIG SAUER	
	Pistola SS	
	Pistola Parabellum	
	Pistola Pietro Beretta	
	Perdigonera	
	Fusil G3	
	Lanza GAS	
	LZA. GAS CAL. 37/38MM	
	ESCOPE. CAZA. CAL. 12GA	
CART. Lacrimógeno CAL.37/38MM		
Granadas LAC. DE MANO FAIKEN		
PERDIG. GOMA CAL. 12 GA MAXAN		



Official Letter No. 435-2023 MP-FN – FPSTEDHIAPURÍMAC of the Public Prosecutor’s Office, sent in May 2023 to Amnesty International in response to a freedom of information request.

In addition to the ten DIROPESP squads that arrived from Lima, the Division of Manoeuvres against Illicit Trafficking of the “Sinchis Mazamari” [another special operations police force], under the command of a colonel, provided a commission of 49 troops overseen by a captain, who left Ayacucho to support the PNP in Andahuaylas.<sup>93</sup> In this way, the forces from the Special Operations Directorate would have reached at least 12 squads in total and at least 149 police, according to the statements of the officers before the Prosecutor’s Office as part of the preliminary investigation underway.

## INDICATIONS OF THE DIROPESP POLICE WHO MAY HAVE SHOT AT CERRO HUAYHUACA HILL, ANDAHUAYLAS

Of the 12 squads of DIROPESP and SINCHIS on December 12, at least three were very close to the point from which the fatal shots that caused the death of John Erick and Wilfredo Lizarme were fired between 16:00 and 16:30 hours.<sup>94</sup> According to the videos analysed and verified at the time by Amnesty International, there were several groups of police in the area that day, some who took cover with shields on the corner of Ejército and César Vallejo Avenues, in response to some people on the other side of the river were using homemade projectiles.<sup>95</sup> The corner of these streets was also the location of the building from where police officers went up to the roof to shoot at the hill (according to the owner of the building, as a result of an illegal raid on his property).<sup>96</sup>

Of the three squads in question, one was overseen by a police officer of Superior Technical rank, who declared to the Prosecutor’s Office that his police were placed on the corner of Mariano Melgar and Alfonso Ugarte streets, until 18:00 hours. However, he stated that his squad, despite carrying rifles, did not make use of lethal weapons that day.<sup>97</sup> Another squad answered to a commander, and according to his statement, the police in his charge remained all day on the corner of Peru Avenue and Hugo Pecse Avenue until 17:00 hours.<sup>98</sup>

Finally, one captain oversaw two squads of the “SINCHIS-Mazamari”, with “all weapons, lethal and non-lethal.”<sup>99</sup> The captain declared before the Prosecutor’s Office that his police were on Avenida Ejército and César Vallejo until approximately 17:00 hours. This location was the closest to the rooftop from where

93. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, p. 8550. Statement to the Prosecutor’s Office of the investigated, Captain of the National Police.

94. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, Page 8534 onwards.

95. Amnesty International, *Lethal Racism*, p. 16.

96. Amnesty International, *Lethal Racism*, p. 15.

97. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, p. 8507.

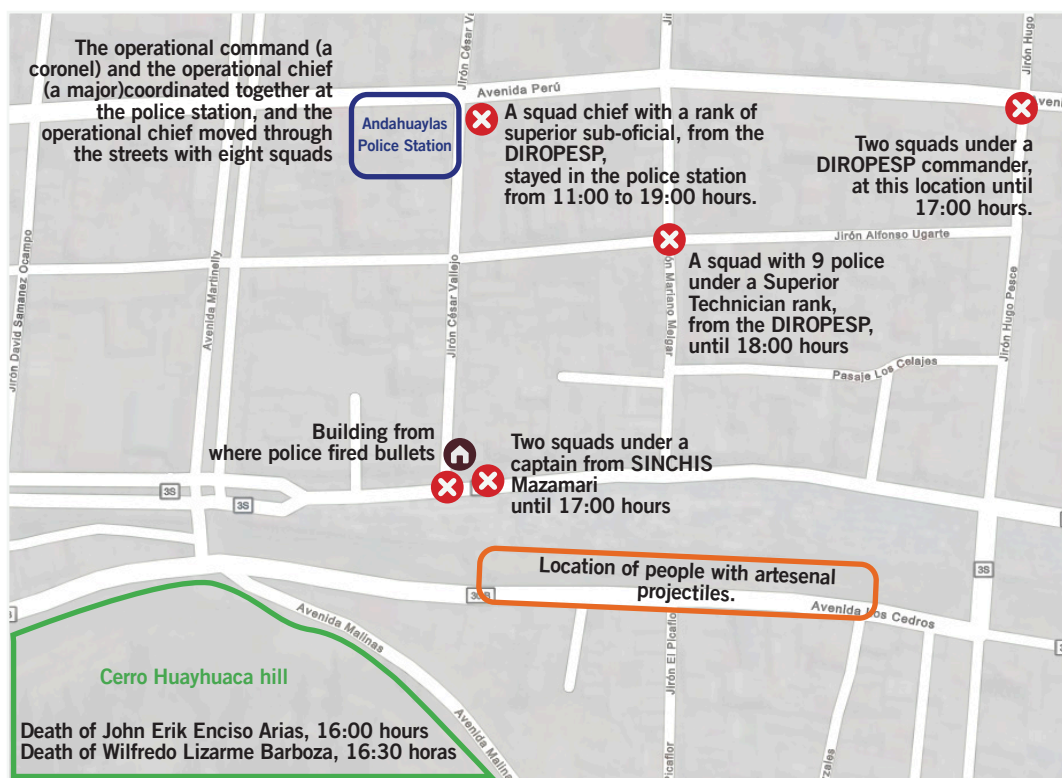
98. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 44.

99. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, p. 8550. The presence of these two squads of Sinchis Mazamari was also confirmed by the PNP General Command in charge of the Apurimac Police Front in its statement to the Prosecutor’s Office.

witnesses saw police shoot in the direction of Cerro Huayhuaca hill. The captain in charge confirmed in his official statement to prosecutors that his squads had “constant confrontation [with demonstrators] between 9:00 a.m. and 18:00.” and that he was personally wounded by shrapnel and projectiles.<sup>100</sup>

In addition to the three squads mentioned above, at least one more squad responded to orders of the operational chief, a major in charge of the entire DIROPESP force in Andahuaylas, who started the day at the police station and later moved in the streets with different squads, in addition to giving verbal orders in real time, according to statements by agents that day.<sup>101</sup>

The following map shows the locations of the DIROPESP squads and their relationship with the Andahuaylas Police Station (in blue). It also locates the building from which shots were allegedly fired, and the location of the fatalities on Cerro Huayhuaca. Amnesty International visited these locations in person, after interviewing eyewitnesses to the events:



100. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, p. 8550.

101. Public Prosecutor's Office, Andahuaylas Criminal File. This information was obtained from the statements of: a) Statement to the Office of the Prosecutor, Volume 43, p. 8534. According to the officer, he had a squad in his charge, however, on the morning of December 12, the Major told him to stay at the Andahuaylas Police Station performing administrative tasks all day, while the Major took charge of his squad. He declared, "I don't know where my squad was, my squad moved with the Major, since I carried out administrative work at the Police Station." and (b) Statement of the Commander, Volume 43, p. 8597. The Commander declared that he began the day at the Major's side, and they set out together on foot in the morning, in the company of ten squadrons. Later the Major continued on his own, in the company of eight squadrons.

## PROXIMITY OF COMMANDERS DURING THE DAY

For his part, the General command, in charge of the Apurimac Police Front, stated that he spent the day at the Talavera police station, which is on the outskirts of the city of Andahuaylas, approximately 15 minutes by car from the place where the killings occurred.<sup>102</sup> The operational command, a colonel, who had command of the entire DIROPESP force, and was the superior of the operational chief, (a major), dispatched from the Andahuaylas police station, which was just two blocks from the place where his forces fired bullets.<sup>103</sup>

## AFTER THE TRAGEDY IN ANDAHUAYLAS, THE COMASGEN ONCE AGAIN GAVE A LEADING ROLE TO DIROPESP IN JULIACA

A clear example of the recurrence in the type of operations and privileged deployment given to the DIROPESP during the repression of protests, which would imply the responsibility of PNP commanders, was the decision to deploy the same DIROPESP commander that had overseen the same forces in Andahuaylas for special operations in the city of Juliaca, Puno region, weeks later. The general in charge of the Division of Special Operations, as in Andahuaylas, was in charge of conducting all special operations in Juliaca, according to Operations Order 001-2023-DIROPESP-PNP/SEC-UNIPLEDU-AREPLOPE-APOYO X MACROREPOL-PUNO-NATIONAL EMERGENCY-PUNO-2023. Alongside the general was the same colonel who had overseen the operational command in Andahuaylas, who, according to the operations order, also had a key role in the operations in Juliaca. These two officials, if there is no information to the contrary, could have indications of not having intervened in time to prevent the excessive use of force when they were in charge of special operations in Andahuaylas or to hold police officers accountable for violations committed.<sup>104</sup>

**RESERVADO**

COPIA N° .....  
DIROPESP PNP - SEC  
UNIPLEDU-AREPLOPE  
VITARTE: 06ENE2023

**ORDEN DE OPERACIONES Nº 001-2023-DIROPESP-PNP/SEC-UNIPLEDU-AREPLOPE "APOYO X-MACREPOL-PUNO -EMERGENCIA NACIONAL-PUNO - 2023"**

(Para ejecutar el desplazamiento de personal – DIROPESP PNP, por vía aérea DIRAVPOL desde LIMA hasta la ciudad de JULIACA – PUNO, con el fin de apoyar a la X MACREPOL PUNO, para ejecutar operaciones policiales de prevención, seguridad y protección, control del orden público y tránsito vehicular orientados a la intervención y/o detención (por flagrancia delictiva o mandato judicial), ante los graves hechos de alteración del orden público, violencia y actos vandálicos contra las instalaciones del Aeropuerto Internacional Inca Manco Cápac de la ciudad de Juliaca-X MACREPOL PUNO, realizados el día 06ENE2023, donde resultaron heridos personal policial y civiles, con la finalidad de garantizar el orden interno y el normal desarrollo de las actividades ciudadanas, en la jurisdicción de la X-MACREPOL-Puno, con apoyo de las Fuerzas Armadas (DS. N° 143-2022-PCM de 14DIC2022), por un periodo de 30 días, respetando la Constitución Política del Perú, las leyes y los Derechos Humanos).

REF. : DISPOSICIÓN DE COMANDO Nº 202300000226 - COMASGEN-CO-PNP/OFIPOI del 06ENE20223

PLAN GENERAL DFE OPERACIONES Nº 016-2022-COMASGEN-CO-PNP/OFIPOI "EMERGENCIA NACIONALCONFLICTOS SOCIALES 2022".

CARTAS : Carta Nacional a escala 1: 5000 Edición 2011 (Región Puno).

I. **ORGANIZACIÓN**

A. **COMANDO**

1. **Comando General**

General PNP  
Director de Operaciones Especiales de la PNP

Operations Order  
001-2023-DIROPESP-PNP/SEC-UNIPLEDU-AREPLOPE-APOYO X MACROREPOL-PUNO-NATIONAL EMERGENCY-PUNO-2023.

According to the information from PNP records in the Criminal File,<sup>105</sup> 230 DIROPESP troops were deployed in the operations in Juliaca on January 9, 2023, where hundreds of demonstrators approached the airport runway and later mobilized towards the city centre.<sup>106</sup> That day became the deadliest of the entire period of social protests, with 18 people killed and more than 100 injured as a result of the excessive use of lethal and less lethal force by security forces.<sup>107</sup>

102. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, Pages 8584 onwards. PNP General's Statement.

103. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43.

104. Operations Order 001-2023-DIROPESP-PNP/SEC-UNIPLEDU-AREPLOPE-APOYO X MACROREPOL-PUNO-EMERGENCIA NACIONAL-PUNO-2023, Volume 16, folios 3034-3061, January 6, 2023

105. Public Prosecutor's Office, Juliaca Folder, Volume XI, pp. 113 to 124.

106. Amnesty International, *Lethal Racism*, p. 26.

107. Amnesty International, *Lethal Racism*

During the day in Juliaca, DIROPESP forces and military gathered on the airport runway a little after noon.<sup>108</sup> Although several police units were involved in different sectors, DIROPESP had the coordination of security at the airport according to statements by police officers who participated in the operations that day.<sup>109</sup> Another member of DIROPESP testified in his interrogation to the Prosecutor's Office (that was later reported by a media outlet) that after his supply of tear gas ran out, "I was forced to use my firearm, shooting at the ground to prevent [protesters] from entering the airport."<sup>110</sup>

The PNP plans show that responsibility for the airport had been assigned to DIROPESP:

**ZONA DE RESPONSABILIDAD ASIGNADO AL PERSONAL DIROPESP**  
**"CABECERA 30". HASTA EL PUESTO CONOCIDO COMO "CABECERA 12 FINAL DE PISTA"**



Excerpt from the EFICAVIP's Juliaca Criminal File, Volume III, p. 589. Shows the airport runway as "DIROPESP Responsibility Zone"

The situation in Juliaca became lethal after the concentration of police and military forces at the airport. Amnesty International's Evidence Lab was able to verify a photo of a Peruvian army Mi-171ShP helicopter flying over the airport facilities at that time, firing tear gas, contrary to international standards, as had happened in Ayacucho on 15 December 2023. In the moments that followed, demonstrators tried to enter the runway and were repelled with firearms by security forces who tried to prevent them from entering. At least eight of the 13 deaths that took place on 9 January that Amnesty International was able to document occurred in the vicinity of the airport.<sup>111</sup>

108. Amnesty International, *Lethal Racism*, p. 29, and Human Rights Watch, *Reconstruction of a deadly day of protests*, Juliaca, Peru, available at: <https://www.hrw.org/es/es/video-photos/interactiva/2023/05/10/they-the-policemen-killed-my-brother/reconstruction-of-a-deadly-day-of-protests-in-juliaca-peru>


109. Public Prosecutor's Office, Record of witness statement of police officers, July 19, 2023, folios 6231/6235 of the Juliaca Criminal File "there was also a Colonel ... of DINOES [former names for DIROPESP] who was the Chief of all airport security."

110. Infobae, *PNP chief's testimony confirms use of lethal weapons in Juliaca protests: AKM rifles due to lack of tear gas*, June 2, 2023, available at: <https://www.infobae.com/peru/2023/06/03/testimonio-de-jefe-pnp-confirma-uso-de-armas-letales-en-protestas-de-juliaca-fusiles-akm-por-falta-de-lacrimogenas/>

111. Amnesty International, *Lethal Racism*, p. 31, as well as documentation on the organization's record.



The actions of DIROPESP at the Juliaca airport are relevant because the mission entrusted to these forces was exactly the same as in Andahuaylas about four weeks earlier. On 6 January, COMASGEN signed the Operations Order 001-2023 DIROPESP PNP/ SEC-UNIPLEDU AEROPLA “APOYO X MACREPOL PUNO EMERGENCIA NACIONAL 202”<sup>112</sup> which gave DIROPESP the same objective of “removing obstacles... as well as human obstacles.” It is also striking that this operations order would seem to have been copied and pasted from the previous plan for Ayacucho’s operations on December 15, 2022, since, due to an apparent error, it speaks of the restoration of public order “in the province of Huamanga” (where the city of Ayacucho is located):



4. DIROPESP a través de la DIVISION DE OPERACIONES ESPECIALES

- a. Disponer el apoyo de OCHENTA (80) efectivos PNP, especializado en Control de Multitudes, debidamente implementado con equipos de protección corporal antidisturbios y de los recursos logísticos necesarios para el cumplimiento de la misión, los mismos que serán trasladados por vía aérea hasta la ciudad de Juliaca Puno, a fin de apoyar a la X MACREPOL PUNO / REGPOL JULIACA.
- b. Instruir al personal PNP comisionado la misión a cumplir conforme a la presente Orden de operaciones, con la finalidad de garantizar el libre tránsito vehicular, protección del patrimonio público y privado, realizando las coordinaciones con la línea de comando enmarcado en el presente Plan de Operaciones y Comisarias PNP, personal PNP que deberá estar debidamente implementado con su equipo de control de multitudes.
- c. Seleccionar al personal policial a comisionar, a fin que se encuentren psicológica y psicosomáticamente aptos (aptitud “O” o “A”), para el servicio, teniendo en consideración que los servicios a prestar serán a una altura de más de 3250 m.s.n.m.
- d. Ejecutar operaciones policiales de mantenimiento y/o restablecimiento del Orden Público en la provincia de Huamanga, realizando el retiro de obstáculos (rocas, piedras, árboles, llantas y otros), así como de las barreras humanas, permitiendo su rehabilitación y normal funcionamiento de la Red Vial Nacional, asignadas por el Comando Operativo.
- e. Formar escuadras policiales con armamento no letal y equipo completo de control de disturbios, para efectuar operaciones policiales de protección y seguridad que garanticen la libre circulación de todos los vehículos incluidos los encapsulados.

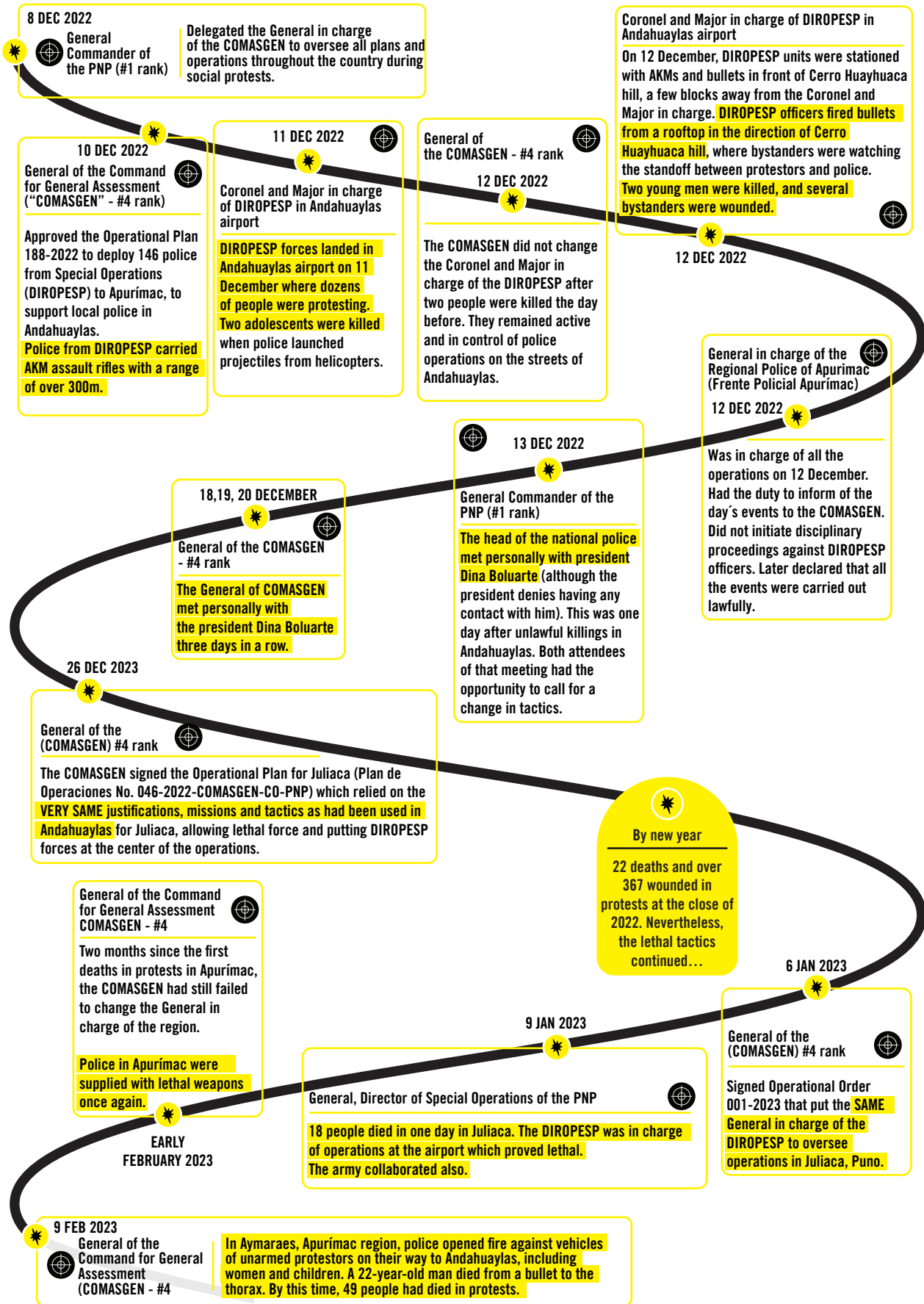


Excerpt from Operations Order No. 001-2023 DIROPESP PNP, where the mission is to remove “human obstacles” – while indicating that the police will have non-lethal weapons and will act respecting human rights. This was contradicted by the weapons distributed, which included rifles and pistols, all lethal weapons. (Underlined by Amnesty International)

112. Public Prosecutor’s Office, Juliaca Folder, Volume 16, folios 3034-3061, January 6, 2023.

# POLICE COMMANDERS' ACTIONS AND OMISSIONS HAD LETHAL CONSEQUENCES

## – DEC 2022-FEB 2023




## 5.2.2 INSTITUTIONAL CHANNELS OF COMMUNICATION DURING OPERATIONS

The commanders in charge of operations during social protests had the responsibility of keeping their superiors informed at all times. For their part, superiors had the responsibility of ensuring that communication worked on a permanent basis. The institutional lines of communication followed the same logic, both in the operations in Andahuaylas and in Juliaca, according to their operational plans.

In the case of Apurímac, the general in charge of the Apurímac Front and General command of the operation in Andahuaylas on December 12, declared before the Prosecutor's Office that the operational chief kept him informed of the "incidents involving blood" (*hechos de sangre*) of the operation, with a report that the operational chief had to prepare.<sup>113</sup> However, the operational chiefs, in addition to making a general report, according to Plan 088-2022, had to report "by the fastest means possible to the operational command" and, for its part, the operational command had to "permanently report to the general command on the execution of police operations." That is, the higher-ranking commander would have been informed at all times by his immediate subordinates in the chain of command.

Despite the information he would have had, it is striking that the general who occupied the general command during the operations denied knowing the details about the use of force by police officers in the Apurímac region. Ten months after the operations, on October 2, 2023, in response to an interrogation by the Public Prosecutor's Office, the general stated that he did not know if police officers used lethal weapons:<sup>114</sup>

**23. PREGUNTADA DIGA ¿TUVO CONOCIMIENTO SI EN ALGUNA ZONA DE APURÍMAC – ANDAHUAYLAS – ABANCAY- CHINCHEROS, SE USARON ARMAS DE FUEGO LETAL PARA CONTRARRESTAR LAS PROTESTAS DE LOS DÍAS 10-11- 12 – 13-14 DE DICIEMBRE DE 2022? Dijo: Desconozco.-----**

↑  Excerpt from Statement of the general in charge of the Apurímac Police Front during the social protests in Andahuaylas in December 2022

In addition, the general maintained that "at all times the human rights of those violent people were respected," and that "at no time did I omit compliance with any regulations."<sup>115</sup>

In the case of police operations in Juliaca, Operations Plan 046-2022 designated the head of the tenth Macro region-Puno ("X-Marcopolo"), as the General command of the operation, and a colonel as the operational command of the operation. This plan, as also happened in Andahuaylas, provided that the general command be informed by its subordinates in the chain of command.

As for the channels of communication, there were institutional mechanisms, coordinated by the CEOPOL (communications centre) of the police regions, which concentrated all the information. In addition, the squad leaders declared before the Prosecutor's Office that the requirement was to send an "informative note every day to the institutional email",<sup>116</sup> which were compiled by CEOPOL. In addition, according to the General Plan of Operations 01-2023 COMASGEN-CO PNP/OFIPOI "Police Macro Regions 2023" of January 2023<sup>117</sup>, there was "permanent communication, within the PNP Radio Network, the Serenazgo Communications Center and the Municipal Surveillance Video Camera Operations Center."

Furthermore, in case the institutional channels provided were not enough as proof that the commanders should have been aware of the facts, the criminal file includes extensive evidence about communication via cell phone. The same general who had the General command during the operations, despite having declared that he had no knowledge of several events of the operation in Andahuaylas under his command, at the same time confirmed that he was part of WhatsApp groups between generals and also with subordinates, where they communicated "permanently."<sup>118</sup> Another DIROPESP police officer also commented that there was a WhatsApp group "with all the police officers in Andahuaylas."<sup>119</sup> Finally, it is worth noting that the operational plans expressly contained the cell phone numbers of the operational chiefs and other key personnel in the operation, so it would be difficult for the commanders to claim that they did not have knowledge, or ways to obtain such information, since they also had the possibility of calling any of their subordinates.

113. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, Pages 8584 onwards. PNP General's Statement

114. Public Prosecutor's Office, Andahuaylas Criminal File. Volume 43, page 8494.

115. Public Prosecutor's Office, Andahuaylas Criminal File. Volume 43, page 8494.

116. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, p. 8570.

117. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 43, Pages 8437 to 8460.

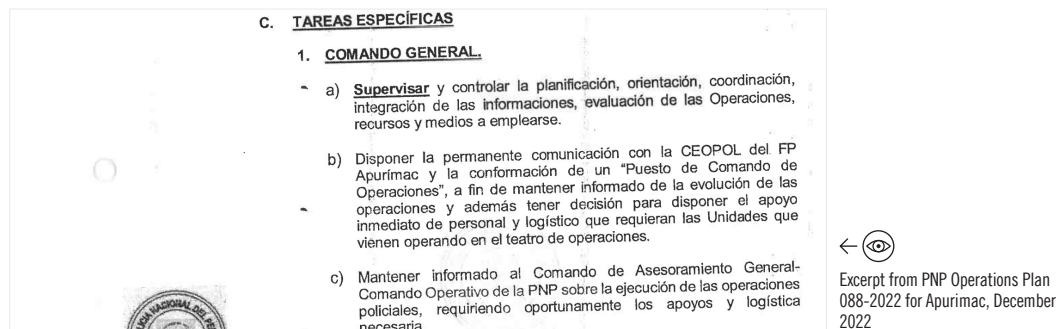
118. Public Prosecutor's Office, Andahuaylas Criminal File, p. 8593.

119. Public Prosecutor's Office, Andahuaylas Criminal File, p. 8570.

### 5.2.3 REAL-TIME KNOWLEDGE BY THE PNP TOP RANKS

The same responsibility that the heads of operations in the regions had during social protests also applied to the PNP high command who were in the capital, Lima, while the killings occurred in the south of the country. According to the General Operational Plan 01-2023-COMASGEN-CO-PNP/OFIPIO “POLICE MACRO REGIONS 2023”, the general in charge of COMASGEN (mentioned above),<sup>120</sup> was responsible for keeping the PNP commander general informed about the development of police operations.

For their part, the General commands of operations in the regions had the responsibility of reporting to COMASGEN, as shown in this example of the Operations Plan for Apurimac:



Also relevant is the evidence of the police operation in Andahuaylas on December 12, 2022 described above, where the general who had the general command declared before the Prosecutor’s Office that at 19:00 hours that day (a little more than two hours after the deaths occurred on Cerro Huayhuaca hill), he arrived at the Andahuaylas police station and gathered all his officers that afternoon to “recount the events of that day.”<sup>121</sup> In addition, he stated that the meeting went on until midnight. This information suggests that this would have been a good opportunity to inform the PNP top ranks about the events that occurred in Andahuaylas, in addition to taking the necessary precautions to prevent more deaths.

### 5.2.4 OBLIGATION TO INTERVENE TO PREVENT EXCESSIVE USE OF FORCE

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association said that “ law enforcement commanders should be held criminally liable not only for the orders they have given, but also for failing to prevent, suppress or report serious abuses, including the unlawful use of force or firearms, when they knew or should have known that crimes would be or had been committed by their subordinates.”<sup>122</sup>

The prolonged period of repression for several months shows that the PNP commanders had the opportunity to intervene and direct police operations. However, there are multiple indications that they did not take this opportunity.

The General Plan for Social Conflicts, published in January 2023 with the signature of the general in charge of COMASGEN, was the backbone of the operations carried out in the context of the social protests that had already been ongoing for several weeks by then. Even though, by then, there was already strong evidence of excessive use of force by police officers, including autopsies that in several of the cases showed that the bullets used matched the weapons carried by police officers, the conceptual approach of the new plan does not seem to have changed at all. The plan takes stock of the country’s situation and analyses ongoing social conflicts to inform the actions of the entire PNP. However, this overview of social conflicts only cites people who died in social conflicts up to November 2022 and omits to mention the period of protests since the investiture of the presidency of Dina Boluarte on December 7. In addition, the plan does not specify any measures to ensure that grave human rights violations do not occur again, nor does it establish new routes to ensure accountability for excessive use of force.

Worse, police operations continued to rely on an armoury service that kept providing police officers with lethal weapons. Amnesty International reviewed the February 2023 arms records in the Apurimac region. These documents show that, even though at that time the Apurimac region was one of the deadliest in social

120. General Plan of Operations 01-2023-COMASGEN-CO-PNP/OFIPIO “POLICE MACRO REGIONS 2023” the COMASGEN. Work in the Andahuaylas Criminal File, Volume 43, Page 8437. The General Plan for Social Conflicts 2023 also indicates that the commander general of the PNP must be informed at all times.

121. Public Prosecutor’s Office, Andahuaylas Criminal File, Volume 43, Pages 8584 onwards. PNP General’s Statement

122. United Nations, Special Rapporteur on the rights to freedom of peaceful assembly and of association Report A/HRC/53/38, para 45.

protests, lethal weapons such as rifles and pistols were still given to the police.<sup>123</sup> Not only did they have them, but they used them. On February 9, 2023, as documented by the Office of the UN High Commissioner for Human Rights,<sup>124</sup> armed police intercepted a series of vehicles where demonstrators, including women and children, were returning from having participated in demonstrations. According to information received by the Office of the High Commissioner, the police allegedly fired at the trucks, resulting in the death of a 22-year-old man from a bullet to the chest. These events occurred in the province of Aymaraes, Apurimac region, and, according to investigations published based on official material obtained through requests for information,<sup>125</sup> the general who had overseen the lethal operations of the previous weeks in Andahuaylas was once again placed as General command of this operation. This information coincides with that reviewed by Amnesty International, which analysed the PNP's Operational Plan 002-2023 "Apurimac National Emergency" that was ordered by the same general in command of the operations carried out in the context of the protests in January 2023.<sup>126</sup> Even more serious is the fact that the Apurimac PNP Disciplinary Office archived the entire internal disciplinary file for these events, as will be detailed in the next section.


## 5.3 THE COMMANDERS DEPLOYED TROOPS WHO DID NOT HAVE TRAINING IN CONFLICTS AND SOCIAL PROTESTS

According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, "commanders should be responsible for decisions to deploy certain units for policing protests, including when deciding to deploy the army or other bodies/units that have not been trained in human rights and public order, as this increases the probability that serious human rights violations will be committed."<sup>127</sup>

There are several examples of police officers deployed who appear not to have had training in crowd control or social conflicts. In response to a request for public information, through Official Letter No. 1583-2023-DIRREHUM-PNP/DIVSICPAL/DEPSICP of December 4, 2023, the PNP provided Amnesty International with the Personnel Information Reports (RIPER) of several of the General and Operational Commands of the operations during social protests. Several had taken courses in "Crowd and Riot Control and Standards on the Use of Force."

However, in the case of the major, who according to the PNP official letter,<sup>128</sup> was in command during the police operation on December 12, 2022 in the town of Chincheros, Apurimac region, where a child died, the RIPER report does not mention any course taken on social conflicts, crowd control or standards on the use of force in social protests.

It is also striking that there were not only operational commanders without adequate training, but also General commands of entire regions. In the case of the general in charge of the Apurimac Police Front, (mentioned above in relation to the deaths in Andahuaylas on December 12, 2022), this commander declared to the Prosecutor's Office that he did not have training in relation to social protests and crowds:

 **20. PREGUNTADO PARA QUE DIGA: Considerando su respuesta anterior ¿RESPECTO AL RESTABLECIMIENTO DEL ORDEN A CONSECUENCIA CONFLICTOS SOCIALES EN EL CONTEXTO DE MULTITUDES Y PROTESTAS SOCIALES y ACCIONES OPERATIVAS EN SUS ACTUACIONES POLICIALES, TIENE CAPACITACIONES Y CUÁLES SON? DIJO:** En cuanto al manual de mantenimiento y restablecimiento del orden público, no tengo una capacitación certificada, pero sí conocimiento básicos, cada vez que uno hace un curso de

↑  Copy of the statement before the Public Prosecutor's Office of the general in charge of the Apurimac Police Front

123. Public Prosecutor's Office, Andahuaylas Criminal File, Volume 41, Pages 8011 to 8060. Acts of Control and Verification of Armoury Warehouses of the PNP of Apurimac.

124. Office of the United Nations High Commissioner for Human Rights (OHCHR), *Observations on the Human Rights Situation in the Context of the Protests in Peru*, October 19, 2023, p. 35, available at: <https://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-SP.pdf>,

125. *Ojo Público*, *PNP Inspectorate ignored chain of command in new investigations into protests*, August 15, 2023, available at: <https://ojo-publico.com/derechos-humanos/inspectoría-pnp-archivo-casos-jefes-policiales-identificados>

126. Andahuaylas Criminal File, Volume 41, Page 8062.

127. United Nations, Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report A/HRC/53/38, para. 45.

128. Official Letter No. 1583-2023-DIRREHUM-PNP/DIVSICPAL/DEPSICP of December 4, 2023

In this case, the responsibility for having deployed this general, even though he did not have training in social conflicts, could be attributed to the then commander general of the PNP, who, according to the prosecutor's investigation, personally called the chief general of the Apurimac Police Front to take command of the operation in Andahuaylas.<sup>129</sup>

## 5.4 ABSENCE OF DISCIPLINARY PROCESSES AND ACCOUNTABILITY OF POLICE OFFICERS IN CHARGE

According to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, in several countries, “many of the same officials who have been implicated in allowing serious crimes against protesters to be committed are still in their posts and in charge of managing protests, allowing for such crimes to be repeated.”<sup>130</sup>

The PNP's senior commanders have failed abysmally to ensure accountability for those who may have been implicated in the grave human rights violations committed during the protests. According to evidence gathered by Amnesty International, this failure appears to be the result of a deep-rooted pattern of impunity within the institution.

Amnesty International spent more than a year trying to obtain information to compile a complete list of the number of police officers who had been sanctioned or suspended in relation to the events that occurred in the social protests, with partial responses from the PNP on this issue. This demonstrates the lack of transparency of the PNP to provide information that should be in the public domain. This is consistent with the climate of impunity within the institution when it comes to establishing disciplinary sanctions.

In February 2023, the PNP ignored its obligations under transparency legislation and failed to respond to the first request for information entered by Amnesty International on this point.<sup>131</sup> Almost a year after the first deaths during the protests, the PNP prepared a data table for Amnesty International, which it provided to the organization during an interview with the PNP Inspector General in September 2023.<sup>132</sup> However, while this table provided more information, it still did not clarify the number of disciplined police officers, as it grouped each region by the number of administrative disciplinary files (EADs) opened, taking into account that an EAD could include either a single police officer or several. When Amnesty International asked for more precision on the number of police officers facing disciplinary proceedings, the Inspectorate suggested to Amnesty International to request the information via freedom of information request, again. The organization again submitted a request,<sup>133</sup> and received several partial responses from the PNP. The assessment that comes to light from the information provided by the PNP shows there were several matters where the Inspectorate declined jurisdiction and transferred the file to the Office of Internal Affairs of the Ministry of the Interior. This is since, according to the Regulation of Law 30174 that Regulates the Disciplinary System of the PNP,<sup>134</sup> when the police officer under investigation has the rank of general or higher, the administrative investigation falls under the responsibility of the Ministry of the Interior.

129. Public Prosecutor's Office, Andahuaylas Criminal File. Volume 43, pages 8584 onwards. PNP General's Statement

130. United Nations, Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Promoting Accountability and Ending Impunity for serious human rights violations related to the exercise of the rights to freedom of peaceful assembly and of association*, Report A/HRC/53/38, para. 46.

131. Amnesty International's first request for information on police discipline was dated February 1, 2023, with letter number 004-2023/AIPE/DIR.

132. Amnesty International, Interview with representatives of the PNP High Command: Chief of Staff, Head of the Directorate of Order and Security; more generals and deputy secretaries, September 20, 2023.

133. On 18 December 2023, Amnesty International requested the Ministry of the Interior of Peru for the complete list of Disciplinary Administrative Files opened in the Internal Affairs Office of the General Office of Institutional Integrity, for disciplinary administrative actions against personnel of the Peruvian National Police, on the occasion of police actions to control and maintain public order carried out in the city of Andahuaylas on 10 December, 11, 12 December 2022; in the city of Chincheros on December 12, 2022; in the city of Ayacucho on December 15, 2022; and in the city of Juliaca on January 9, 2023. On January 11, 2024, they sent information letter No. 001-2024-IGPNP where they reported that the petition became unattainable for the moment “due to legal fiction” and alleged confidentiality. On March 21, 2024, they sent us letter No. 000019-2024-IN-OFII-OAI informing us that in relation to point 1 of the request, the following disciplinary administrative files were opened: Andahuaylas and Chincheros (00047-2022-IN-OGII-OAI), Ayacucho (00034-2023-IN-OGII-OAI) and Juliaca (00036-2023-IN-OGII-OAI). Regarding points 2 and 3, it is mentioned that file No. 0047-2022 administrative-IN-OGII-OAI was referred to the Inspector General of the PNP.

134. Regulations of Law No. 30174, Article 29.

## NUMBER OF DISCIPLINARY ADMINISTRATIVE FILES (EAD) IN RELATION TO THE DEATHS OF CIVILIANS AND PNP PERSONNEL DUE TO SOCIAL PROTESTS, FROM DECEMBER 7, 2022 TO SEPTEMBER 18, 2023

N°	Office of Discipline	EAD Status			Number of EADs	Deceased		Number of deaths
		Preliminary Enquiries	Jurisdiction declined (to Office of Internal Affairs)	File		PNP	Civil	
1	N° 13 (Lima)			1	1		1	1
2	Abancay		1		1		1	1
3	Andahuaylas	1	2		3		6	6
4	Arequipa	2			2		2	2
5	Camana			1	1		1	1
6	Cusco	2			2		2	2
7	Huamanga		1		1		10	10
8	La Merced	2			2		3	3
9	Puno	1	3		4	1	21	22
10	Trujillo			2	2		2	2
<b>Total general</b>		<b>8</b>	<b>7</b>	<b>4</b>	<b>19</b>	<b>1</b>	<b>49</b>	<b>50</b>

Information provided to Amnesty International by the PNP Inspectorate, September 2023.

In relation to people who died in protests, the PNP appears to have opened 19 Administrative Disciplinary Files and of these they declined jurisdiction in 7 and archived another 4, leaving the Inspectorate only 8 active files by the PNP.

## NUMBER OF ADMINISTRATIVE DISCIPLINARY FILES (EAD) IN RELATION TO PEOPLE INJURED AMONG PNP PERSONNEL AND CIVILIANS DUE TO SOCIAL PROTESTS, FROM DECEMBER 7, 2022 TO SEPTEMBER 18, 2023

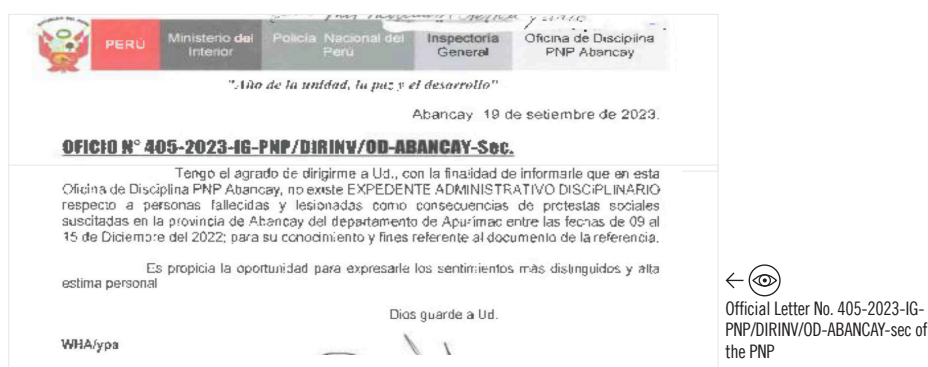
N°	Office of Discipline	EAD Status				Number of EADs	Wounded		Number of injured
		Pending	Preliminary Enquiries	Jurisdiction declined (to Office of Internal Affairs - MININTER)	File		PNP	Civil	
1	From Arequipa	3	3		6	12	31	9	40
2	From Cusco		2		11	13	67	11	78
3	By Ica				2	2	2		2
4	From Pucallpa		1			1	5	4	9
5	OD Puno		1			1	1		1
6	OD Trujillo				2	2		14	14
<b>Total general</b>		<b>3</b>	<b>7</b>	<b>0</b>	<b>21</b>	<b>31</b>	<b>106</b>	<b>38</b>	<b>144</b>

Information provided to Amnesty International by the PNP Inspectorate, September 2023.

In relation to people injured in protests, the Inspectorate opened 31 Administrative Disciplinary Files, however 21 of these have been archived.

According to the Law that Regulates the Disciplinary Regime of the PNP and its regulations, the disciplinary process has three stages: the stage of “preliminary enquiries”, which has to do with the collection of any relevant evidence, followed by the “investigation stage” where the relevant steps are taken to prepare a report on the case and, finally, the “decision stage” where a final resolution can be issued, including a sanction. For its part, Article 9 of the Law that Regulates the Disciplinary Regime of the PNP, classifies the sanctions for different types of infractions, between “minor”, which have a warning and simple sanction, followed by “serious infractions” with “rigorous” sanctions and, finally, “very serious” infractions where the police officer can be put in a situation of “retirement.” To date, Amnesty International does not have any information confirming that any PNP officer, of any rank, has received a disciplinary sanction arising from the unlawful police operations implemented in the context of social protests between December 2022 and March 2023. The institution in charge of the PNP’s internal investigations is the Inspector General’s Office, which, in turn, is part of the PNP High Command and, according to information reviewed by Amnesty International, has several characteristics that raise concerns about objectivity and the effective will to establish responsibility for the deaths that occurred.<sup>135</sup>

Specifically, regarding the Apurimac region, the information provided in September 2023 by the Disciplinary Office in Abancay, (part of the PNP Inspector General’s Office) is particularly striking. This office explicitly confirmed that **“THERE IS NO ADMINISTRATIVE DISCIPLINARY FILE OPEN** regarding the deceased and injured people from December 9 to December 15, 2022 in Apurimac.”<sup>136</sup>



From the information that the PNP came to deliver to Amnesty International on disciplinary processes, the proceedings in certain cases identify the chain of command and, even so, do not manage to issue a sanction. On the contrary, identifying alleged perpetrators often appears to be the first step to archiving the case or declining of jurisdiction. For example, the death of Robert Pablo Medina Llanterhuay, 16 years old, which occurred on December 12, 2022 in Chincheros, Apurimac, by “Firearm Projectile” (PAF),<sup>137</sup> is described in file No. 147-12-2022 and the 20220967317 processing sheet, as well as in resolution No. 001-2022-IGPNP-DIRINV-OD-ANDAHUAYLAS of the Andahuaylas PNP Disciplinary Office (OD) dated December 14, 2022, which determines that it is a fact that merits carrying out preliminary enquiries:

“(…) as a result of the attack on the facilities of the PNP Chincheros Sectoral Police Station, the minor Roberto Pablo Medina Llanterhuay (16) died, allegedly due to the impact of PAF. From these facts, it is presumed that the PNP personnel of the PNP Chincheros Sectoral Police Station would have incurred in acts of improper functional conduct (…). In the present administrative investigation, **the administrator has been identified as the PNP major** [Amnesty International omits the name of the Major here].”<sup>138</sup>

This police resolution appoints an investigation assistant and asks that the major be notified with a copy of it of those who are responsible, giving him up to five working days as a deadline to present a defense. For its part, according to research carried out by investigative journalists from the media outlet Ojo Público on this same case, also based on requests for public information, the major confirmed in his defense that on December 12, 2022, he was in command of 42 police officers and that he fired “deterrent” shots.<sup>139</sup> However, instead of advancing with the investigation through the proceedings specified in Law No. 30714 and the resolution

135. Article 2 of Legislative Decree No. 1267, the Peruvian National Police Act, as amended by Legislative Decree 1318, states in article 11 that the Office of the Inspector General of the PNP “carries out administrative disciplinary investigations, within the scope of its competence, in accordance with the legal regulations in force and the guidelines established by the General Office of Institutional Integrity of the Ministry of the Interior”. and that “it maintains functional dependence on the General Office of Institutional Integrity of the Ministry of the Interior.”

136. Public Prosecutor’s Office, Andahuaylas Criminal File, p. 7934, Official Letter No. 405-2023-IG-PNP/DIRINV/OD-ABANCAY-sec.

137. Amnesty International, Lethal Racism, p. 19.

138. Public Prosecutor’s Office. File No. 147-12-2022, resolution No. 001-2022-IGPNP-DIRINV-OD-ANDAHUAYLAS of the Disciplinary Office (OD) Andahuaylas PNP dated December 14, 2022.

139. Ojo público, Inspectorate filed 11 new cases on protests and opens the way to police impunity, April 21, 2024, available at: <https://ojo-publico.com/derechos-humanos/inspectoria-pnp-archivo-11-nuevos-casos-relacionados-las-protestas>.



of the OD Andahuaylas PNP of December 14, 2022, on October 10, 2023, according to information that the PNP gave to Ojo Público, the PNP Inspectorate archived the file,<sup>140</sup> which should have served to punish those responsible for the death of Robert Pablo Medina. According to a letter delivered to Amnesty International in response to a request for public information, the PNP Disciplinary Office in Andahuaylas indicated that “to date, the alleged perpetrator of the death of the citizen who died during the marches and violent protests on December 12, 2022, in the district and province of Chincheros has not been identified, facts which to date are the subject of criminal investigation by the Public Prosecutor’s Office.”<sup>141</sup>

For their part, investigative journalists from the media outlet *Ojo Público* detailed that the PNP Inspectorate filed 18 files in relation to police operations in Andahuaylas, Chincheros, Cusco, Puno and Ayacucho.<sup>142</sup>

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140. *Ojo Público*, Inspectorate filed 11 new cases on protests and opens the way to police impunity, April 21, 2024, available at: <https://ojo-publico.com/derechos-humanos/inspectoría-pnp-archivo-11-nuevos-casos-relacionados-las-protestas>.

141. *Ojo Público*, Inspectorate filed 11 new cases on protests and opens the way to police impunity, April 21, 2024, available at: <https://ojo-publico.com/derechos-humanos/inspectoría-pnp-archivo-11-nuevos-casos-relacionados-las-protestas>.

142. *Public Eye*, *Protests in Peru: archived cases expose negligence in Police Inspectorate*, August 6, 2023, available at: <https://ojo-publico.com/4538/protestas-peru-inspectoría-la-policía-archiva-cuatro-casos>; Inspectorate filed 11 new cases on protests and opens the way to police impunity, April 21, 2024, available at: <https://ojo-publico.com/derechos-humanos/inspectoría-pnp-archivo-11-nuevos-casos-relacionados-las-protestas>.

# 6. COMMANDERS OF THE ARMED FORCES: POSSIBLE RESPONSIBILITY FOR THE KILLINGS IN AYACUCHO

On December 15, 2022, a Peruvian army operation in the context of protests in Ayacucho resulted in the death of ten people, including an adolescent, and at least 72 others injured, many very seriously.

The way in which these human rights violations were committed responds to the dynamics of coordination and operation of the forces in charge.<sup>143</sup>

According to the Law on the Organization and Functions of the Ministry of Defense,<sup>144</sup> the Joint Command of the Armed Forces (CCFFAA) is “responsible for the planning, coordination, preparation and conduct of the joint operations of the Armed Forces,”<sup>145</sup> and this depends on the Ministry of Defense. Although the army has its own commander general who is the head of the army, this official, according to the law, only makes available the resources of his institution to aid the execution of plans that come from the Joint Command of the Armed Forces, which is composed of the High Command Committee, including the commander general of the army.<sup>146</sup>

According to documents in Criminal File 67-2022, reviewed by Amnesty International, the military actions in Ayacucho were carried out by the Second Infantry Brigade, under the command of a general who signed the Order for Military Actions in Other Situations of Violence (OSV) in Support of the PNP “No 10-2° Brigada Inf”.<sup>147</sup> The deployment of the army fell under Supreme Decree 143-2022, which declared a state of emergency nationwide on December 14, 2022. Amnesty International interviewed the then head of the CCFFAA at the time of the social protests in December 2022,<sup>148</sup> who confirmed the chain of command of the operations in Ayacucho. According to the head of the CCFFAA, a Supreme Decree is in place, this eliminates the need for the Minister of Defense to draft guidelines to guide military actions.<sup>149</sup>

For its part, the Second Brigade is subordinate to the Fourth Division of the army. However, the head of the CCFFAA told Amnesty International that, from the guidelines, direct command would have passed directly from the CCFFAA to the Eastern Operational Command, which functioned as the superior of the Second Brigade, without passing through the Fourth Division.<sup>150</sup> The Eastern Operational Command (EOC) was reflected in the chain of command that Amnesty International was able to review in official documents of the armed forces regarding

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143. Amnesty International, *Lethal Racism*, p. 19.

144. Legislative Decree No. 1134, Article 8.

145. Legislative Decree No. 1134, Article 8, (2).

146. Army Law, Legislative Decree No. 1137, Article 7

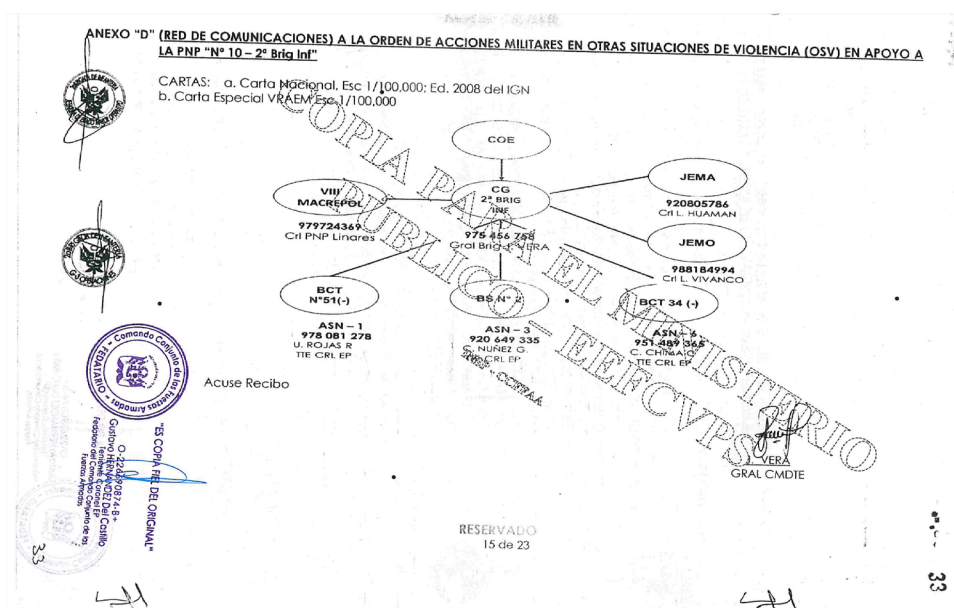
147. Public Prosecutor's Office, Criminal File 67-2022.

148. Amnesty International, Interview with the head of the Joint Command of the Armed Forces, 21 September 2023.

149. Amnesty International, Interview with the head of the Joint Command of the Armed Forces, 21 September 2023.

150. Amnesty International, Interview with the head of the Joint Command of the Armed Forces, 21 September 2023.

the Military Action Order mentioned above. This chain of command put the chief general of the Second Brigade in charge of the coordination of military action in Ayacucho, remaining in close communication with the COE as his superior, as well as superiors in the armed forces and with the PNP.



↑ Excerpt from the Order for Military Actions in Other Situations of Violence (OSV) in Support of the PNP "No 10-2nd Inf Brigade", outlining the relationship of the head of the Second Brigade to the rest of the chain of command.

According to the criminal file, the six patrols that intervened in the response to the protests at the Ayacucho airport responded to a lieutenant colonel.<sup>151</sup> During the afternoon of December 15, 2022, the chief general of the Second Brigade ordered the Fourth Division to send reserve troops that, according to evidence that has been published in videos by investigative journalists from *IDL-Reporteros*, were involved in the events that resulted in the deaths of Leonardo Hancco Chacca, Christopher Ramos (-) and Jose Luis Yucra.<sup>152</sup>

## 6.1 SENDING COMBAT FORCES TO SITUATIONS THAT DID NOT MERIT IT

According to the United Nations Human Rights Committee, “the military should not be used to police assemblies, but if in exceptional circumstances and on a temporary basis they are deployed in support, they must have received appropriate human rights training and must comply with the same international rules and standards as law enforcement officials.”<sup>153</sup>

The Regulations of Legislative Decree 1095, which was cited in the Supreme Decree signed by the president declaring a state of national emergency in December 2022, establishes the rules for the use of force by the military in national territory.

According to this regulation, there are two types of situations in which the armed forces can be deployed. One situation is “military operations” against “hostile groups” or, in other words, in combat or conflict situations. In these situations, the regulations require that the military be governed by International Humanitarian Law (IHL) reserved for environments of war or internal conflict. This legal framework conceives the use of force in a specific way, and indeed places lethal force as the first option, and not as a last resort to protect life under strict respect for international human rights law, especially the principles of legality, necessity and proportionality.

According to the regulations, the other situation in which military personnel can be deployed concerns “military actions” in “Other Situations of Violence” (OSV). This type of deployment must be governed by International Human Rights Law (IHRL),<sup>154</sup> according to the international standard of the UN Human Rights

151. Public Prosecutor’s Office, Criminal File 67-2022, p. 459.

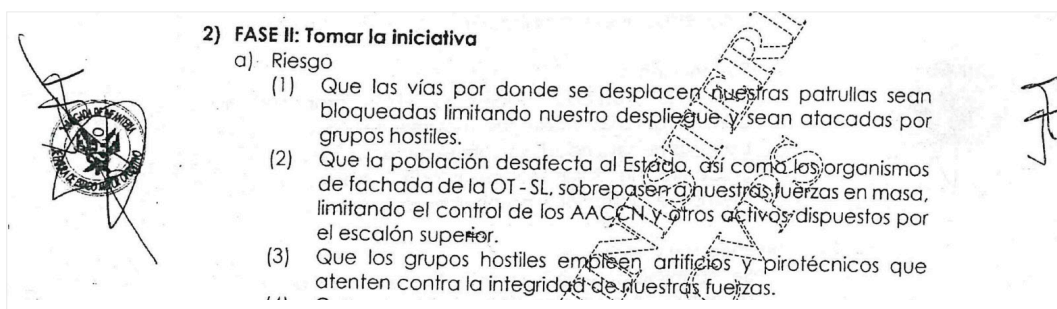
152. IDL Reporteros, *This is how the Army killed in Ayacucho*, <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>, December 14, 2023, available at: <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>

153. United Nations, Human Rights Committee, *General Comment 37*, CCPR/C/GC/37, para. 80.

154. Regulations of Supreme Decree 1095, Article 3.

Committee mentioned above. In this sense, the UN Basic Principles on the Use of Force by Law Enforcement Officials also apply and place the use of firearms as something extremely exceptional.

However, from the beginning, the approach to the military intervention in Ayacucho, although it was framed as “OSV”, conceptually, was planned as a combat operation against “hostile groups.” The military actions followed the “Order for Military Actions in Other Situations of Violence (OSV) in support of the PNP “No 10-2nd Brigade,”<sup>155</sup> as mentioned above. However, even though the army should only have used force under a strict approach of proportionality, necessity and legality, the order framed military intervention against “hostile groups”, a term that should be reserved, according to Legislative Decree 1095, only for “military operations” in combat contexts under international humanitarian law reserved for contexts of armed conflict. In addition, the Order of Military Actions for Ayacucho mentions terrorist organizations such as “SL” (Shining Path), evoking the period of internal armed conflict of the 1980s and 1990s, where the army had a role in frontal combat against such groups.



↑ An excerpt from the Order of Military Actions of the 2nd Infantry Brigade of Ayacucho

## 6.2 PERMISSIVENESS IN THE USE OF LETHAL FORCE BY THE ARMY

To date, Amnesty International has found no evidence of the use of weapons or other violent means by demonstrators that could have posed a threat to the lives of police or military personnel in the events in Ayacucho. Witnesses interviewed indicated that the army fired lethal ammunition at and around the airport, sometimes chasing protesters or firing in the direction of those helping injured people. Video footage verified by Amnesty International’s Evidence Lab confirms that military personnel continued to shoot at unarmed people. However, the army’s use of lethal force in Ayacucho was widespread and sustained for seven hours.<sup>156</sup>

**“ For a soldier to shoot, his chief must have given him the order. There is no way they do it without an order, unless they are being directly shot at, which was not the case during the protests.”**

Retired general with four decades of military service, interviewed by Amnesty International

*These statements provide context about the situation and not data verified by Amnesty International*

Following the investigation that was carried out for Amnesty International’s previous report, the evidence confirmed that Galil rifles had been supplied to soldiers for their participation in Ayacucho,<sup>157</sup> but the publicly available information did not account for the bullets fired, despite international standards as well as Peruvian regulations requiring soldiers to fill out reports every time ammunition is discharged.<sup>158</sup> In addition, more recently, media investigations brought to light that of 112 members of the army who were interviewed by the Armed Forces Inspectorate, none of them admitted to firing lethal weapons on December 15 in Ayacucho.<sup>159</sup>

155. Public Prosecutor’s Office, Criminal File 67-2022.

156. Amnesty International, *Lethal Racism*, p. 23.

157. Amnesty International, *Lethal Racism*, p. 23.

158. United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Special Provisions, Principle 11 (f).

See the Regulations of Legislative Decree No. 1186 regulating the use of force by the PNP, Article 12: “Any police action (...) that involves the use of force, and in particular the firearm, must be communicated to the hierarchical superior or immediate superior, by means of a report, minutes, report (...) it shall contain the date, time, place, circumstances and grounds for the legality, necessity and proportionality of the force, specifying the plan or order of operations, the administrative disposition (...).”

159. IDL Reporteros, *This is how the Army killed in Ayacucho* <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>, December

As part of the investigation for this report, Amnesty International obtained, through a freedom of information request, the ammunition expenditure records that would show that members of the army fired at least 1,200 rounds of ammunition during the afternoon of December 15, 2022. In addition, these bullets corresponded to the army units that were deployed at the critical points of the military actions in the Ayacucho airport and its surroundings.

2a BRIG INF  
BS N° 2  
AYACUCHO  
ENE- 23

**ACTA DE CONSUMO N° 001/S-4/BS N° 2/OFL DE TIRO/12.00**

En la Ciudad de Huamanga a los treinta (30) días del mes de enero del Dos Mil Veintitres, reunidos los miembros de la comisión de consumo conformado por:

PRESIDENTE : MY CAB MONTAÑEZ MASCARO Leek Kerry (S-3)  
VOCAL : STTE INF QUISPE HUAHUALA Darwin (Ofi. de Tiro)  
SECRETARIO : TCO2 T/MAMP MENDOZA QUINTO Raúl (SSTT-MG)

Procedieron a consumir los artículos de Material de Guerra (MUNICIÓN) de los cargos del BS N° 2, que fueron empleados en las acciones militares en apoyo a la PNP el día 15 de diciembre del 2022, consumidas por las patrullas de seguridad a los activos críticos del BS N° 2 del PC Huamanga en apoyo a la PNP, de acuerdo al siguiente detalle:  
Referencia: a. Orden de Acciones Militares en otras situaciones de violencia N° 10/2a BRIG INF/SIEDOC del 16 de diciembre del 2022.  
b. Orden verbal del día 15 de diciembre del 2022.

N°	NSG	DESCRIPCION DEL ARTICULO	CANTIDAD	OBS
01	1305-48-135-0002	CART CAL 5.56x45 mm ISRAELI M-855 BALA ORDINARIA, MARCA: SS109 MOD: M-855	842	

En fe de lo cual procedieron a firmar la presente Acta de Consumo en original y dos copias.

SECRETARIO

← Detail of the records of ammunition spent and the verbal order given on 15 December to use lethal force (Underlined by Amnesty International)

2° BRIG INF  
CIA PM N° 2  
HUAMANGA  
DIC - 2022

**ACTA DE CONSUMO DE ARTICULOS DE CLASE V N° 010/CIA PM N° 2/S-4/12.00**

En la ciudad de Huamanga, a los quince (15) días del mes Diciembre del año Dos mil veintidós, reunidos los miembros de la comisión de control de consumo de Clase V de la Compañía Policía Militar N° 2, conformado por:

PRESIDENTE : STTE INF CALDERON RODRIGUEZ VICTOR (EJECUTIVO/S-3)  
VOCAL : SO1 T/INF ANCHAYHUA QUIQUE ALFREDO (S-4)  
SECRETARIO : TCO3 T/MAMP YANCE ECHACAYA ROY (OFL. TIRO)

Procedieron a verificar y constatar el consumo de clase V (Munición) los cuales fueron empleados en las acciones militares en situaciones de violencia, dentro de nuestro sector de responsabilidad, como el control interno en apoyo a la Policía Nacional del Perú, para asegurar los activos críticos, así como las instalaciones públicas, vías y servicios esenciales; empleados por el personal de OO, TCOS, SSOO Y PTSM, de acuerdo al siguiente detalle:

N S G	DESCRIPCION DE ARTICULO	MODELO	MARCA	CANTIDAD	OBS
1305-90-135-0001	CARTUCHOS CAL 5.56x45 MM BOSNIA UNISGRUP M-SS/109	BALA ORDINARIA	BOSNIA	250	PATRULLA ALFA.

-ACTA DE ENTREGA N° 086/S-4/BS N° 2/SSTT MG-MUN/12.00 DEL 14-DIC-22.

En fe de lo cual se procedió a firmar la presente Acta de Consumo en original y tres (03) copias.

SECRETARIO

2° BRIG INF  
CIA PM N° 2  
HUAMANGA  
DIC - 2022

**ACTA DE CONSUMO DE ARTICULOS DE CLASE V N° 011/CIA PM N° 2/S-4/12.00**

En la ciudad de Huamanga, a los quince (15) días del mes Diciembre del año Dos mil veintidós, reunidos los miembros de la comisión de control de consumo de Clase V de la Compañía Policía Militar N° 2, conformado por:

PRESIDENTE : STTE INF CALDERON RODRIGUEZ VICTOR (EJECUTIVO/S-3)  
VOCAL : SO1 T/INF ANCHAYHUA QUIQUE ALFREDO (S-4)  
SECRETARIO : TCO3 T/MAMP YANCE ECHACAYA ROY (OFL. TIRO)

Procedieron a verificar y constatar el consumo de clase V (Munición) los cuales fueron empleados en las acciones militares en situaciones de violencia, dentro de nuestro sector de responsabilidad, como el control interno en apoyo a la Policía Nacional del Perú, para asegurar los activos críticos, así como las instalaciones públicas, vías y servicios esenciales; empleados por el personal de OO, TCOS, SSOO Y PTSM, de acuerdo al siguiente detalle:

N S G	DESCRIPCION DE ARTICULO	MODELO	MARCA	CANTIDAD	OBS
1305-90-135-0001	CARTUCHOS CAL 5.56x45 MM BOSNIA UNISGRUP M-SS/109	BALA ORDINARIA	BOSNIA	198	PATRULLA BRAVO.

-ACTA DE ENTREGA N° 086/S-4/BS N° 2/SSTT MG-MUN/12.00 DEL 14-DIC-22.

En fe de lo cual se procedió a firmar la presente Acta de Consumo en original y tres (03) copias.

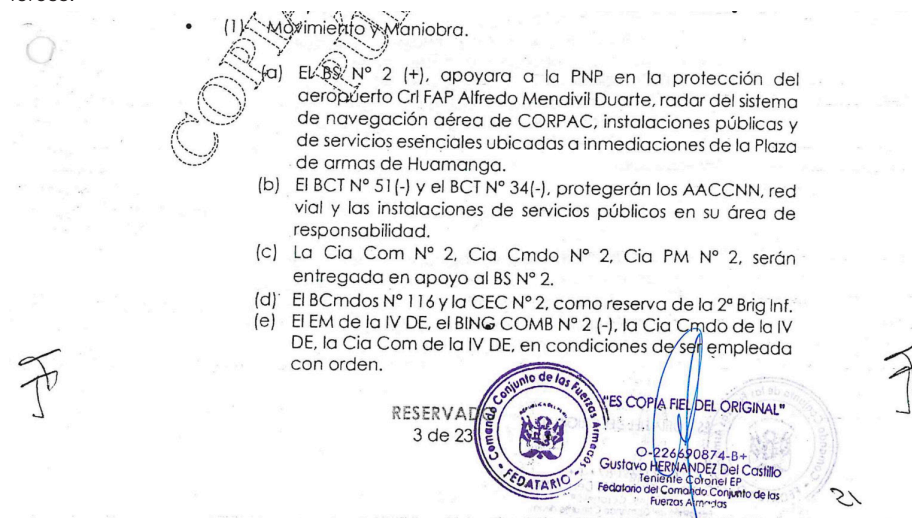
In the case of the first of these records on the ammunition used by the Service Battalion No. 2 of the Second Infantry Brigade, the express mention of a “verbal order” of 15 December, 2022 is striking. Amnesty International consulted this document with former high-ranking military officers who confirmed **that this verbal order would mean there had been permission from an army superior to fire rifles in Ayacucho**. Any criminal investigation must analyse who was giving verbal orders that day, and the knowledge that the general in charge of the Second Infantry Brigade may have had in this regard.

It is worth noting that the three records shown above in relation to the bullets fired in Ayacucho refer to only two of the several military units deployed that day. In addition to Service Battalion No. 2 “BS No. 2”, which

14, 2023, available at: <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>

according to records appears to have fired 842 rounds in one day, Military Police Company No. 2 (CIA PM 2) would have fired 448 rounds. However, these units were accompanied by others that were deployed during December 15, as extra reserve support. These other units, according to data from army reports, may have been responsible for most of the deaths that occurred that day.<sup>160</sup> Thus, the total number of rounds fired during December 15 could have been even much higher than 1,200.

According to the Military Actions Order, the reserve forces included special commando companies, (Cia Com No 2; CEC No 2) and the General Staff Reserve (MS) of the Fourth Division. This information, published for the first time by the investigative media outlet *La Encerrona* and *IDL-Reporteros*, is also contained in the file of the Army Inspectorate, included in the Criminal File to which Amnesty International had access. In addition, according to what the chief general of the Second Brigade declared to the Army Inspectorate, protestors broke through the barrier of the airport at 1:30 p.m, causing the general to order the deployment of several reserve forces.



↑ An excerpt from the Order of Military Actions of the Second Infantry Brigade of Ayacucho

## 6.3 KNOWLEDGE OF COMMANDERS AND THEIR POSSIBLE LIABILITY FOR OMISSION

During an interview in September 2023 with the then head of the CCFFAA, Amnesty International asked two questions whose answers seem to go in different directions. At the beginning of the interview, Amnesty International asked the general how he experienced the first days after the social outbreak on December 7, when protests erupted throughout the country. The head of the CCFFAA replied that they were very busy days, and that: “at that time I was communicating with my operational commanders 2 or 3 times a day.” Later, the Amnesty International representative asked him how his contact with his operational commanders had been on December 15, eight days after the beginning of the protests, when the military repressed protestors in Ayacucho. To that question, the general replied that he had not spoken to his commanders on the phone: “That day we found out what was happening through the media, television, etc. We couldn’t know much more, it was a very intense day, we didn’t sleep, and well, when you’re with that accelerated dynamic, you don’t spend it on the phone, that’s not the way it is.” It appears striking that even though it was usual for him to talk to his commanders 2 or 3 times a day during the first days of December 2022, on the day of the events in Ayacucho, the general would have barely used his telephone.

There are several reasons why it is very difficult to sustain the thesis of the former head of the CCFFAA, that “we could not know more.” In the first place, the general admitted that he learnt of the facts through the media, which is also an important mode of knowledge that carries responsibilities. Even if he had only heard about the situation through the press, because of his position he should have done something about

160. IDL Reporteros, *This is how the Army killed in Ayacucho*, <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>, December 14, 2023, available at: <https://www.idl-reporteros.pe/asi-mato-el-ejercito-en-ayacucho/>, in addition to the information in the CCFFAA Inspectorate file, reviewed by Amnesty International.

it or asked for more information. If he did not act, it could be inferred that the events seemed correct to him. Secondly, the general is a military expert in the Ayacucho region. According to his resume, he was formerly the general chief of the Second Infantry Brigade in Ayacucho, the same unit that was deployed during the events of December 15, 2022.<sup>161</sup> In this way, the alignment of the former head of the CCFFAA general with his possible knowledge about the field of action in which the military actions in Ayacucho were taking place, could not have been more detailed. In addition, his statement that “we could not know anything” is questionable, since there were not many people more qualified than him to know how to obtain information from that field of action.

Thirdly, as demonstrated both in official reports and in a statement to the prosecutor’s office<sup>162</sup> and in a report by the Ombudsman’s Office <sup>163</sup> to which Amnesty International had access, the human rights Ombudsman communicated via telephone at 17:47 hours, (after having also called the Minister of Defense), with the head of the Joint Command of the Armed Forces to demand a ceasefire. By that time, several people had already died and dozens had been injured. Despite this warning, the head of the CCFFAA reportedly failed to stop the shooting on the part of the military, which continued over the next few hours, causing an increase in killings until nightfall.

Finally, it is worth mentioning information obtained by the investigative media outlet *La Encerrona*, which published the reports of the statements of military personnel involved in the military actions in Ayacucho without, to date, the army having denied the authenticity of these reports.<sup>164</sup> In those statements, the military stated that they had problems receiving instructions from their superiors because the cell phone signal had been blocked because there was a prison in the area.

Dentro del equipamiento, la 2ª Brig Inf no se dispone de un sistema de comunicaciones que facilite el Comando y Control oportuno y eficiente de la fuerza en todos sus niveles; por lo que para resolver esta deficiencia se tuvo que hacer uso de los teléfonos móviles particulares de cada miembro de la Fuerza de Seguridad, con la dificultad de que en el sector del Fuerte los Cabitos y el aeropuerto la señal de telefonía está bloqueado por un sistema de bloqueadores que existe en el PENAL, el mismo que se encuentra a inmediaciones del aeropuerto. Este hecho, no permitió una comunicación eficiente entre los diferentes niveles de Comando y tampoco entre los miembros de las patrullas. Las dificultades de Comando y control expuestas en el párrafo precedente y las condiciones de violencia de los manifestantes, originaron que cada patrulla y en algunos casos hasta cada integrante de la fuerza expuesta a las agresiones de los manifestantes, tuvieron que tomar decisiones individuales sobre el uso gradual de la fuerza, para lo cual obviamente estuvieron capacitados; como ocurrieron en el

↑  Excerpt from the reports of the statements of military personnel involved in the military actions in Ayacucho

These statements, which were replicated on multiple occasions by several military personnel in an identical manner, raise questions about what really happened that day since, in the first place, the order of military actions provided that, in the event of any failure in the cell phone signal, the troops would have satellite phones:

7) Los teléfonos celulares de los Cmdtes de áreas, Cmdtes de patrulla y adjuntos deberán estar permanentemente cargados, en condiciones de recibir órdenes verbales o en textos, manteniendo la disciplina de comunicaciones.


8) En lugares alejados, donde no exista señal de celular, se deberá coordinar con el G-6 la entrega de teléfonos satelitales.

RESERVADO  
7 de 23

Comando Conjunto de las Fuerzas Armadas  
FEDATARIO

"ES COPIA FIEL DEL ORIGINAL"

O-224694874-B  
Gustavo HERNÁNDEZ Del Castillo  
Teniente Coronel EP  
Federario del Comando Conjunto de las Fuerzas Armadas

↑  Excerpt from the reports of the statements of military personnel involved in the military actions in Ayacucho

161. Agenda País, *Peruvian Army: Who is its new Commander General?*, October 31, 2020, available at: <https://agendapais.com/actualidad/ejercito-del-peru-quien-es-su-nuevo-comandante-general/>

162. Public Prosecutor’s Office, EFICAVIP, Witness Statement of Eliana Revollar Añaños, Former Ombudsman, November 30, 2023.

163. Ombudsman’s Office, Ayacucho Office, *Report No. 0022-2022-DP/OD- AYA*, December 18, 2022

164. La Encerrona, *TEN ministers have criminal INVESTIGATIONS #LaEncerrona*, August 17, 2023, available at: <https://www.youtube.com/watch?v=decf-g1znJk>

On the other hand, Amnesty International interviewed multiple eyewitnesses to the events who said they were using their cell phones and social networks at all times, including a journalist who filmed from the Ayacucho airport tarmac with her cell phone using the internet in real time. In addition, the organization interviewed another general who in the past was also head of the Second Infantry Brigade in Ayacucho and said: “They say that the phones did not work, that is a lie. There are radios, and there are telephones. Both are used. I was very connected with Lima.”

The above shows how, not only would the commanders of the armed forces have been aware of the illegitimate repression of the military taking place in Ayacucho, but they would have had the opportunity to intervene. Elements clearly exist to merit deepening any possible criminal investigation in this regard. In no way has it been proven there was no communication between the troops and military commanders who certify individual decisions.

## **6.4 LACK OF ACTION TO DISCIPLINE MILITARY PERSONNEL FOR POSSIBLE HUMAN RIGHTS VIOLATIONS**

On 21 September 2023, Amnesty International interviewed representatives of the Armed Forces Inspectorate alongside the head of the CCFAA. At the time, they told the organization: “As for the sanctions applied in Ayacucho, the office of the Inspectorate of the VRAEM region took charge of that investigation, and serious sanctions were applied to some officers.” Following this statement made during the interview, Amnesty International requested information in writing about this information, yet the military representatives failed to provide further details.<sup>165</sup>

This is even though, according to the Inspectorate’s file, reviewed by Amnesty International, only 8 of the 36 soldiers investigated by the Inspectorate were sanctioned for “minor misdemeanours” that led to between one and three days of simple confinement. Even more serious is the fact that the CCFFAA Inspectorate said in its final report that the actions of the army were carried out “respecting the regulations in force, complying with preventive protocols, firing shots in the air to dissuade the angry mob of demonstrators who violently attacked them, putting the lives of the members of the patrols at risk, and in strict compliance with preserving the lives of the people.”<sup>166</sup>

The CCFFAA’s almost complete denial of the grave human rights violations committed by the military in Ayacucho, and its failure to ensure internal discipline, accounts for its resounding failure to ensure that no more human rights violations occur.

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165. Amnesty International contacted the person designated at the meeting to follow up on this information, but it never materialized. In response, in December 2023, the organization formally requested information on the files, but the armed forces denied the request, in Official Letter 6640-CCFFAA/SG-UAIP because it was within the category of “secret, reserved or confidential” information.

166. Public Prosecutor’s Office, Criminal File 67-2022.



# 7. POSSIBLE CRIMINAL RESPONSIBILITY OF THE PRESIDENT OF PERU

## 7.1 THE PRESIDENT'S ROLE AS COMMANDER-IN-CHIEF OF THE ARMED FORCES AND POLICE

According to Peru's constitution, the president is the head of State<sup>167</sup> and the commander-in-chief of the Armed Forces and the National Police.<sup>168</sup> The Constitution and the Organic Law of the Executive Branch<sup>169</sup> provide that, as head of State, it is the president's responsibility to "organize, distribute and order the deployment of the Armed Forces and the Peruvian National Police."<sup>170</sup>

On December 7, 2022 at 15:50 hours, after the destitution and arrest of former President Pedro Castillo, Dina Boluarte was sworn in as president of Peru.<sup>171</sup> According to the official record, among the first people she personally met with at the government palace were the then Attorney General, the coordinator of the National Intelligence Directorate (DINI), congressmen and private individuals.<sup>172</sup> Three days after her inauguration, the president took the oath of office of her cabinet and appointed her main ministers, including the president of the Council of Ministers, the minister of Defense and the minister of the Interior.<sup>173</sup> By then, protests had already begun in several parts of the country, including allegations of excessive use of force by police. On 11 December at 16:30 hours, the first deaths were recorded in the context of the protests, and that same day the president had a meeting with the minister of Defense and the minister of the Interior<sup>174</sup> and a session of the Council of Ministers (the presidential cabinet) at 21:00 hours.<sup>175</sup>

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167. Political Constitution of Peru, Article 110.

168. Political Constitution of Peru, Article 167.

169. Law No. 29158, Article 8.

170. Law No. 29158 and the Political Constitution of Peru, Article 118, Clause XIV.

171. Presidency of the Republic of Peru, *Press release: Dina Boluarte sworn in as president of the republic before Congress*, December 7, 2022, available at: <https://www.gob.pe/institucion/presidencia/noticias/678266-dina-boluarte-jura-como-presidenta-de-la-republica-ante-el-congreso>.

172. Portal of the Peruvian State, Presidential Office, Registry of Visits, Official Registry of Visits on December 7, 8 and 9.

173. Presidency of the Republic of Peru, *Press release: President Dina Boluarte swore in members of the Ministerial Cabinet*, December 10, 2022, available at: <https://www.gob.pe/institucion/presidencia/noticias/678736-presidenta-dina-boluarte-tomo-juramento-a-integrantes-del-gabinete-ministerial>.

174. Portal of the Peruvian State, Presidential Office, Registry of Visits for December 9, 2022.

175. Portal of the Peruvian State, Presidential Office, Registry of Visits for December 11, 2022.

## 7.2 FOUNDATIONS OF THE POSSIBLE INDIVIDUAL CRIMINAL RESPONSIBILITY OF PRESIDENT DINA BOLUARTE

In December 2022, the Public Prosecutor's Office opened a preliminary investigation<sup>176</sup> against the president and several ministers for the crimes of aggravated homicide<sup>177</sup> and serious injuries that occurred during the protests.<sup>178</sup> In the case of the grave human rights violations committed by police and military during social protests in Peru, Peruvian criminal law provides two modalities of responsibility of relevance to the Presidency. Article 23 of the Criminal Code defines the concept of the indirect perpetrator (*autor mediato*), which is applied to the person who “carries out the punishable act by himself or through another.” For its part, article 13 stipulates the concept of improper omission, which applies to the person who “fails to prevent the commission of the punishable act (...) (i) if he has a moral or legal duty to prevent it or if he creates an imminent danger that is related to provoking it.”

The following analysis offers elements that could be relevant in any criminal investigation, while recognizing that the mandate for the investigation and determination of individual responsibilities corresponds to the Public Prosecutor's Office and the courts of Peru.

### CRIMINAL LIABILITY AS AN INDIRECT PERPETRATOR UNDER PERUVIAN CRIMINAL LAW

To assess the possible criminal responsibility of the president under the concept of the indirect perpetrator (*autoría mediata*), the criteria developed by the Supreme Court of Justice of the Republic of Peru in its April 2009 judgment against former president Alberto Fujimori for the crimes of murder, injuries and kidnapping in relation to grave human rights violations committed on a widespread scale during his regime are relevant.<sup>179</sup> According to the ruling, the concept of the indirect perpetrator “occurs when the man behind the scenes takes advantage of subjects who are subordinate to others in an organized apparatus of power, in such a way that the former maintains an objective control over the actions – mediate authorship by domination of an organization.”<sup>180</sup> [own translation of extracts from court sentence]. In this ruling, which also at the time was based on concepts of international criminal law present in the Rome Statute,<sup>181</sup> the concept of the indirect perpetrator was developed with four elements: i) the power of command ii) the disconnection from an organized legal order iii) the fungibility of the immediate executor and iv) the evident availability of the executor to the act.<sup>182</sup>

#### 7.2.1 ORGANIZED STRUCTURE AND POWER OF COMMAND

As for the first element that requires the existence of an organized structure and the power of command, the Supreme Court held that the organization of the State itself has its hierarchical logic with the president “at the very top”,<sup>183</sup> and by the same legal mandate of that structure, “it will not be essential for an express indication to exist and that it be contained in a document, whereby the strategic higher rank directly orders the immediate executor to perform a specific function.” In this regard, the Court analyzed supreme decrees and presidential directives that informed the actions of the security forces under Fujimori, without requiring these documents to have an express order requesting the execution of certain acts.

Since assuming the presidency on December 7, 2022, Dina Boluarte not only had the possibility of influencing the actions of the PNP and the armed forces, but also the constitutional mandate that placed her on the upper echelon of the organized structure of the State.

As for the vertical relationship she exercised over the PNP, the president appointed three ministers of the Interior at different periods during the time in which the social protests took place, all of whom had previously

176. This investigation was assigned to a supreme prosecutor in the Illicit Enrichment Area of the Attorney General's Office, in Criminal File 277-2022. That investigation will be outlined in more detail in later sections of this report.

177. Penal Code of Peru, Article 108, which establishes the content of the crime of aggravated homicide.

178. Peruvian Penal Code, Article 121.

179. Supreme Court of Justice of the Republic of Peru, Case No. 19-2001, of April 7, 2009 (hereinafter “*Barrios Altos Judgment*”).

180. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 718.

181. Rome Statute, Articles 25 and 28, relevant to individual criminal responsibility.

182. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, p. 634, para. 727.

183. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, p. 625, para. 573.

been commander generals of the Peruvian National Police and, therefore, they would have extensive knowledge about police operations. These ministers, for their part, had superiority over the PNP, since, according to the PNP Law,<sup>184</sup> the Police depends on the Ministry of the Interior. In addition, according to the Constitution, the police and the armed forces “are subordinate to the constitutional power,”<sup>185</sup> that is, the command structure that emanates from the Constitution, with the president as the highest authority. Although the first police operations began even before the president and her Council of Ministers declared a state of emergency, it is a relevant fact to investigate that since December 9 at 7:44 hours, just two days after Dina Boluarte began her position as president, the commander general of the National Police had already entered the presidential office for a work meeting, according to the official register of visits of the Government Palace.<sup>186</sup> During the course of that same day, the PNP’s Operational Plan 088-2022 was approved, which led to the police deployment in the Apurimac region, based on an anti-terrorist framework, as detailed in the previous sections of this report. The PNP commander general subsequently returned to the government palace for a meeting with the president on Dec. 13, a day after police operations that resulted in several deaths in Andahuaylas and Chincheros, in Apurimac region. For his part, the general in charge of the PNP’s General Advisory Command (COMASGEN), who signed the PNP’s operation plans, also visited the presidential office and met personally with the president on December 18, 19 and 20.<sup>187</sup>

For its part, the vertical relationship between the president and the armed forces is also explicit in the legal framework. According to the Regulations of Legislative Decree 1095,<sup>188</sup> which establishes rules for the use of force by the Armed Forces in national territory, in any military action, planning directives are approved by the “Superior Authority”.<sup>189</sup> The same Regulation defines the “Superior Authority” as “the chain of command up to the head of the Joint Command of the Armed Forces (JCCFFAA); that is, the Minister of Defense (MINDEF) and the President of the Republic.” Article 4.2 of these Regulations states “in all cases in which the participation of the Armed Forces is intended, whether military operations or military actions, the JCCFFAA issues the corresponding planning directive (strategic military level directive), which is approved by the Superior Authority.” This legal framework was expressly cited in Supreme Decree 143-2022 of December 14, sealed with the signature of President Dina Boluarte, in which she declared a state of emergency at the national level.<sup>190</sup>

Similarly, the Regulation specifies<sup>191</sup> that the Rules of Operational Conduct (RCO) “are instruments through which the Superior Authority maintains control over the use of force by the Armed Forces.” These RCOs are sent “to the President of the Republic, via MINDEF, for approval, the proposal of RCOs required for the fulfillment of the assigned mission.” In this sense, there was a clear line of command between the president and the armed forces.

In reference to police and military operations during social protests, the president publicly declared that “I may be the commander-in-chief of the armed forces, but I have no command, and the protocols are decided by them... neither the ministers nor the president have command.”<sup>192</sup> However, these statements contradict the constitutional. In this regard, the Supreme Court of Justice held: “whoever has hierarchical rank (mando) unfaillingly has command (comando). That is, this official has the power to give orders and the ability to exercise this role over a specific unit, with the consequent duties and responsibilities that this entails.”<sup>193</sup>

Although the president alleges that the protocols, (or in their case, operational plans) are only seen by military and police commanders, that point would not be relevant within the responsibility as an indirect perpetrator, since, according to the Supreme Court: “the orders issued by the President of the Republic (...) do not necessarily require any formality. They can be written, verbal, express or implicit. It should be clarified that the formal requirements of an order are reserved exclusively for command relations within the organizational

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184. Constitution of Peru, Article 169.

185. Constitution of Peru, Article 169.

186. Portal of the Peruvian State, Presidential Office, Registry of Visits for December 9. Although the PNP General entered as a “private individual,” and was recorded as having been received by the then head of the Protocol Office, the meeting was registered as a “working meeting.”

187. Portal of the Peruvian State, Presidential Office, Registry of visits for December 2022.

188. Regulation of Legislative Decree No. 1095, Official Gazette El Peruano, March 15, 2020.

189. Regulations of Legislative Decree No. 1095, Article 4.2: “In all cases in which the participation of the Armed Forces is arranged, whether military operations or military actions, the JCCFFAA issues the corresponding planning directive (strategic military level directive), which is approved by the Superior Authority.”

190. Supreme Decree 143, December 14, 2022.

191. Regulations of Legislative Decree No. 1095, Article 31.2.

192. El Comercio, *Dina Boluarte, exclusive interview: “I can be the supreme chief of the Armed Forces, but I don’t have command and the protocols are decided by them”*, May 8, 2023, available at: <https://elcomercio.pe/politica/dina-boluarte-entrevista-exclusiva-yo-puedo-ser-la-jefa-suprema-de-las-ffaa-pero-no-tengo-comando-y-los-protocolos-los-deciden-ellos-noticial/>

193. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 227.

structure of specific military units.”<sup>194</sup> In other words, it would be completely normal for there to be internal protocols of the armed forces or police that the president had not seen, nevertheless, this would not take away her command responsibility over these institutions. Finally, it is worth noting the concepts of the Supreme Court in the sense that “the senior command is indispensable, since the Armed Forces are hierarchically structured.”<sup>195</sup>



←  Photo of the ceremony of bequeathing the baton of command to President Dina Boluarte

**“I’ve been astonished by the alignment of the Armed Forces with the president [Dina Boluarte]. It is important to recall that the direct chief of the Armed Forces is the president. In other words, the head of the armed forces can meet directly with the president. His boss is not the Minister of Defense. That means that, if the president wants to call a ceasefire, it would be done immediately. The execution of presidential orders is immediate.”**

Former civil servant who held the position of President of the Council of Ministers in recent years, interviewed by Amnesty International

*These statements provide context about the situation and not data verified by Amnesty International*

## 7.2.2 DISCONNECTION FROM AN ORGANIZED LEGAL ORDER

As for the second element of the indirect perpetrator criteria, “the disconnection from an organized legal order,” the Supreme Court held that this concept “means that the organization is structured, operates, and remains outside the national and international legal system.”<sup>196</sup> In other words, the police and/or military operations of which the president was commander-in-chief-would have had an aspect of illegitimacy that would go against the law.

This is important, as the unlawful elements of police and military operations in response to social protests were clear from the first days of Dina Boluarte’s administration.

As Amnesty International has previously concluded,<sup>197</sup> the PNP and the armed forces used lethal force (bullets), weapons prohibited for use in law enforcement (pellets) and less-lethal force (tear gas) unlawfully, excessively, disproportionately and often sometimes unnecessarily. As for the use of lethal force, Peruvian security forces used various assault rifles with lethal ammunition, which is prohibited by the international standard for crowd control.<sup>198</sup> Even in circumstances where smaller groups of protesters used stones, explosives or homemade projectiles, the use of lethal force to disperse people, and apply this force in a widespread fashion, was an unlawful response by police and military agents.

After the first killings occurred in Apurimac on December 11, 2022, far from calling for accountability for the possible excessive use of force by police that led to the loss of life, the president intentionally opted for a course of action that increased the deployment of police and armed forces in response to the protests. On

194. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 229.

195. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 213.

196. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 733.

197. Amnesty International, *Lethal Racism*.

198. United Nations, Human Rights Committee, *General Comment 37*, CCPR/C/GC37, July 27, 2020, para. 88.

December 13, the president convened her cabinet and asked the minister of the Interior to draft a state of emergency at the national level. This Council of Ministers received police and military intelligence reports<sup>199</sup> alleging that the demonstrators could have links to organizations accused of acts related to “terrorism.” However, the information available to Amnesty International to date provides no evidence that any of the victims killed or injured in the protests had criminal records that could link them to “terrorist organisations”.<sup>200</sup> In addition, the intelligence provided in the operational plans of the police and the army, and reviewed by Amnesty International, does not provide any concrete evidence linking the protesters to a criminal organisation. Peru’s foreign minister would later admit in an interview with the New York Times that the government had no evidence that the protests had links to criminal groups.<sup>201</sup> There is no public information that indicates that the president, or any of her ministers, asked the intelligence services for any corroboration or proof regarding their allegations that the demonstrators had links to “terrorist organizations.”

Amnesty International interviewed retired general Wilson Barrantes, former director of National Intelligence (DINI), an institution that “as the governing body, provides Strategic Intelligence, Military Intelligence and Police Intelligence, and carries out counterintelligence activities in the areas of its responsibility.” General Barrantes told Amnesty International that he had been going since 9 December to provide information to the president. According to the general’s testimony, and also what he declared before the Public Prosecutor’s Office,<sup>202</sup> the DINI provided the president with updated reports every hour on the situation of social protests.<sup>203</sup> According to what Barrantes told Amnesty International, the dimension of the protests at the national level was social in nature, without centralized coordination, and throughout the country there were no more than forty thousand people in the streets. Similarly, the DINI did not characterize the protests as “terrorist” and, as Barrantes has declared to the Prosecutor’s Office, the media and Amnesty International, the DINI did not see the need for a declaration of emergency or the deployment of the armed forces.

Despite the apparent absence of hard evidence linking social protests to terrorism, the president made unfounded statements that branded the protesters as “terrorists” and praised the actions of the Peruvian security forces.<sup>204</sup>

On December 14, 2022, the president convened the National Defense and Security Council, which is the highest decision-making body of the National Defense System,<sup>205</sup> which she chairs. Despite the fact that the law stipulates that the National Director of Intelligence is a member of this council, this public official, at that time former general Wilson Barrantes who had recommended to the president not to deploy the armed forces, was excluded from the council, and a few days later, he was fired by the president.<sup>206</sup> These actions, combined with the illegitimate actions of the security forces and the line of public discourse that the president maintained to stigmatize social protests, as a whole lend elements of relevance to analyse the concept of the indirect perpetrator.

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199. Amnesty International obtained the minutes of the December 2022 Councils of Ministers where these confidential intelligence reports were presented. The reports were: Report No. 262-2022-COMASGEN-CO-PNP/OFIPOL and Reserved Letter No. 863-2022-CG/PNP/SEC and Official Letter No. 862-2022-CG PNP/SEC; Report No. 260-2022-COMASGEN-CO PNP/OFIPOI of the PNP. While the organization was unable to obtain the content of these reports, it was able to review multiple operational plans, as mentioned above, that accounted for the kind of information contained in these confidential reports. For his part, the investigator, Américo Zambrano, explained that these reports contained allegations that the demonstrators had links to terrorist organizations. See: Américo Zambrano, *Nuestros muertos. A history of violence and repression*. February 2024, Editorial Aguilar, Lima Peru.

200. See, for example: Human Rights Watch, *Peru: Evidence refutes the official version of the deaths in Juliaca*, May 10, 2023, available at: <https://www.hrw.org/es/news/2023/05/10/peru-las-pruebas-refutan-la-version-oficial-sobre-las-muertes-en-juliaca> Also see: La República, Américo Zambrano: “None of those killed in the protests have a history of terrorism”, March 3, 2024, available at: <https://larepublica.pe/politica/2024/03/03/americo-zambrano-ninguno-de-los-fallecidos-en-las-protestas-tiene-antecedentes-por-terrorismo-dina-boluarde-alberto-otarola-pnp-160011>.

201. New York Times, *Protests in Peru: The foreign minister acknowledges that there is no evidence of support for criminals*, February 2, 2023, available at: <https://www.nytimes.com/es/2023/02/02/espanol/peru-protestas-gervasi.html#:~:text=Deportes-.Protestas%20en%20Per%C3%BA%3A%20la%20canciller%20reconoce%20que%20no%20hay%20pruebas,que%20se%20hallar%C3%A1n%20las%20pruebas>.

202. Amnesty International, Interview with retired General Wilson Barrantes, 15 September 2023.

203. Amnesty International, Interview with retired General Wilson Barrantes, 15 September 2023.

204. Amnesty International, *Lethal Racism*, p. 56.

205. Legislative Decree No. 1129 regulating the National Defense System.

206. Legislative Decree No. 1129, Article 6.

**“Nationwide declarations of states of emergency are not common. Of course, there are some routine ones for certain regions or places, but national declarations are not as such.”**

Former civil servant who held the position of president of the Council of Ministers in recent years, interviewed by Amnesty International

*These statements provide context about the situation and not data verified by Amnesty International*

### 7.2.3 “THE FUNGIBILITY OF IMMEDIATE EXECUTORS”: THE CONFIDENCE IN SUBORDINATES

The third element of the doctrine of the indirect perpetrator speaks of “the fungibility of the immediate executor.” This means that the indirect perpetrator can be sure that his or her subordinates will execute what has been indicated, and if not, they will be easily interchangeable with other members of the organization who will execute the strategy. As for the police and military institutions, this concept from the Supreme Court is relevant because there is precisely “a plurality of potential executors in the structure of the apparatus of power”<sup>207</sup> when it comes to institutions formed to pursue the same objective. In the case of operations in social protests, this objective appears to have emanated from the highest spheres of power.

The fungibility of the PNP and the armed forces during social protests is demonstrated by the replication of tactics used by hundreds of police and military deployed throughout the country over a period of several months. The evidence suggests there was compliance with orders in such a way that they were widely used and replicated in the operations during the protests in various areas of the country. The fact that the use of lethal ammunition was constant over a period of months, even knowing the mortality it was causing, points to a planned and conscious strategy and not to isolated events caused by officers acting on their own. In this sense, the Supreme Court determined that former President Fujimori was aware of how the institutionality that he headed worked, “whose automatism he knew and could control through his middle managers.”<sup>208</sup> For her part, although Dina Boluarte had been president for a few days when the first deaths occurred during the protests, it would be difficult to argue a lack of knowledge about the institution she led, given that since 2021 she had held the position of vice president, a role which also has a constitutional mandate. She was elected as first vice president<sup>209</sup> in the July 2021 general election and held that position for almost 18 months until she became president. According to the Constitution, the person designated as the first vice-president holds the office of president in the event of the temporary or permanent impediment of the president.<sup>210</sup> In addition, the vice presidency is part of the Senior Directorship in the organic structure of the Presidential Office, according to official information published by the office of the Presidency of Peru.<sup>211</sup> Therefore, the functioning of the State apparatus, which would mean the power of command that the president has over the PNP and the armed forces, should not be ignored.

### 7.2.4 THE AVAILABILITY OF IMPLEMENTERS

The fungibility of the immediate executors is linked to the last and fourth element of the indirect perpetrator doctrine, which stipulates “the evident availability of the executor towards the act.” According to the Supreme Court, “the executor ceases to act as an individual entity and becomes part of the strategic, operational and ideological whole that integrates and leads the existence of the organization. All this configures a collective psychology that is expressed in the adhesion and strong predisposition of the executor towards the illicit act that the structure disposes of or plans.”<sup>212</sup>

The security forces, both military and police, follow a training logic that encourages obedience to orders. In the case of the armed forces, the Inter-American Court of Human Rights has held that “they are trained to

207. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 738 (3).

208. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 745 (8).

209. In Peru, the Constitution stipulates that two vice presidents are elected next to the person who occupies the Presidency of the country. One of these people is designated as “first vice president”, and the other as “second vice president”.

210. Political Constitution of Peru, Article 115.

211. Presidency of the Republic of Peru, Organization, available at: <https://www.gob.pe/presidencia>.

212. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, p. 650, para. 741.

fight against enemies.”<sup>213</sup> Amnesty International interviewed several military officers of lower ranks, sergeant and non-commissioned officers, the same ranks of the soldiers that were deployed in significant numbers during the military repression in Ayacucho.<sup>214</sup> During interviews, Amnesty International asked them what would happen to them if they failed to comply with an order. In response, they all said they would receive physical punishment, including but not limited to forced positions or forced nudity. A sergeant commented “the troops are like a slave.”<sup>215</sup> This collective feeling of obedience in operations and strategies was also confirmed in interviews with two former military officers of higher ranks (a general and a major), as well as an expert on military issues, who asked not to disclose their names. They all emphasized the indoctrination of the military and how it plays such an important role in their predisposition to confront any subject that the orders of their superiors have indicated as adversaries or enemies.

As for the police, Amnesty International spoke with five active PNP officers, of different ranks and with between four and 30 years of service in the police force.<sup>216</sup> They all agreed that if they did not comply with an order, there would be consequences. A non-commissioned officer told Amnesty International that “you can be punished, even if you have a legal justification.” Another said that “I have had bosses who have done illegal things, and I have colleagues who do not obey orders, and they have received harassment, but not physical reprisals.”

These reflections support the idea of a culture of hierarchical obedience within the police and military forces that would favour the almost unquestionable fulfilment of orders, in line with the “evident availability of the executors” that is a fundamental element of the indirect perpetrator. However, there is always the possibility that there are agents who do not comply with orders. According to information reported in the media, with a copy of his statement before a prosecutor, a police officer told the Prosecutor’s Office, in June 2023, that he received verbal orders to use lethal ammunition in the operation carried out in Juliaca on January 9, 2023, and that his superior had told him that these orders came from the president herself.<sup>217</sup> This policeman’s statement is worth noting for several reasons. First, it shows the verticality of orders, which would have come from the top of the chain of command. Second, the severity of consequences for an officer who goes against the obedience of the institution is striking. In this case, the policeman, who, dismayed by what had seemed to him an illegitimate order, resigned from his position the day after the operation in Juliaca, and later published details of the operation on his social networks, appears to have faced a process of preventive detention by the Military Police Jurisdiction, according to media reports at the time.<sup>218</sup> Finally, it is relevant that prosecutors do not seem to have followed this line of investigation or to have called the officer again for questioning, according to what Amnesty International has been able to learn from lawyers representing the victims in this criminal file, despite the fact that he had given key testimony that could give clues to understand the dynamics of the police operation in Juliaca and the source of the orders.

The ongoing investigation into the crimes of aggravated homicide and injuries could delve into the elements presented above, among others, to evaluate whether the president could have responsibility as indirect perpetrator, as provided by the legal framework and the precedents of Peruvian jurisprudence.

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213. I/A Court H.R., Case of Montero Aranguren et al. (Retén de Catia) v. Venezuela, para. 78.

214. Public Prosecutor’s Office, Criminal File 67-2022

215. Amnesty International, anonymous interviews with active members of the Peruvian army, September 2023.

216. Most of these interviews were conducted in September 2023, with some conducted in May 2024. The location and particularities of each police officer are reserved, for reasons of the safety of the interviewees who requested anonymity.

217. La República, *PNP Witness: “They told us that the Juliaca protesters were terrorists,”* August 26, 2023, available at: <https://larepublica.pe/politica/judiciales/2023/08/26/testigo-pnp-nos-dijeron-que-los-manifestantes-de-juliaca-eran-terroristas-protestas-dina-boluarde-pnp-puno-represion-fiscalia-1866332>. See also. Américo Zambrano. Nuestros Muertos. A history of violence and repression. Editorial Aguilar, Lima, February 2024.

218. La República, *Military Police Jurisdiction requests preventive detention against officer who resigned from the PNP for massacre in Juliaca,* February 19, 2023, available at: <https://larepublica.pe/sociedad/2023/02/18/puno-juliaca-fuero-militar-policial-pide-prision-preventiva-contr-a-efectivo-que-renuncio-a-la-pnp-por-masacre-en-juliaca-lrscd-1110474>

## 7.3 COMMAND RESPONSIBILITY BY OMISSION: KNOWLEDGE OF HUMAN RIGHTS VIOLATIONS

As noted above, international law, as well as Peruvian criminal law, allows that, in addition to being responsible for actions taken through the apparatus of power (as explained in the previous analysis on the indirect perpetrator doctrine), those occupying the highest positions in the chain of command can also be subject to criminal investigation if they did not prevent human rights violations from occurring, or failed to call for investigations and/or punish those responsible and failed to hold them accountable. To demonstrate this responsibility of command by omission, it is first necessary to establish that there was a relationship of hierarchical control. This element was addressed in the previous section on the indirect perpetrator doctrine.

The remaining elements of command responsibility will now be addressed, namely: the knowledge that the president had, or should have had, in relation to the human rights violations that were being committed during the social protests and, secondly, her failure to prevent further human rights violations from being committed, as well as punishing and holding accountable those who may be responsible. The responsibility to prevent is also ultimately linked to guarantees of non-repetition to ensure that no further episodes of unlawful force occur in the future.

### 7.3.1 KNOWLEDGE THROUGH PUBLIC INFORMATION

From the first days of the protests, the national and international media published, minute by minute, information about the demonstrations taking place. Similarly, social networks captured in real time, through videos and photos taken at the scenes, the dimension of state repression against protesters and the actions on the part of police and military.

For its part, as of December 11, when the first deaths occurred in the protests, the Human Rights Ombudsman's Office, through the Unit for the Prevention of Social Conflicts and Governance, published daily monitoring reports, called "political crisis and social protest reports." These reports carried updates on the situation in all regions of the country, and a tally of dead and injured people. Similarly, it is important to recognize the public statements made by the Human Rights Ombudsman's Office during the state of emergency, according to the mandate given to it by the Organic Law of the Ombudsman's Office: "during states of emergency, the Ombudsman (...) may suggest to the administrative, judicial, or military authorities, the measures that, in its view (...) affect the essential core of constitutional rights."<sup>219</sup> In this regard, it is worth noting the public statement of the Ombudsman's Office of Peru on December 15, 2022 at 16:19 hours, where it reports on dead and injured people at the Ayacucho airport and states: "we demand from CFFAA\_Peru the immediate cessation of the use of firearms and tear gas bombs launched from helicopters."<sup>220</sup> Days after the deaths in Ayacucho, the Ombudsman's Office published a statement confirming the excessive use of force during military operations.<sup>221</sup> On January 4, faced with the resumption of social protests in several parts of the country after the Christmas season, the Ombudsman's Office issued a statement emphasizing that "it is the duty of the central government and the Congress of the Republic to find a solution of broad consensus that returns tranquillity and peace to the country."<sup>222</sup> Similarly, the Ombudsman's Office spoke out again on January 29, 2023 "in defense of life and democracy", denouncing the lack of actions taken by the Executive and Legislative branches to prioritize people's right to life during the protests.<sup>223</sup>

For its part, since the first deaths during the protests were recorded, the Inter-American Commission on Human Rights (IACHR) published a series of press releases, mentioning the killings and injured people, in addition to the acts of violence against journalists. Its first communiqué, on December 12, 2022, reminded the Peruvian State of its duties on the use of force and its obligation to protect human rights.<sup>224</sup> By December 16, the Commission confirmed, via another statement, that it had received an invitation from the Peruvian State

219. Law N° 26520, art. 29

220. Ombudsman's Office, X (twitter.com), December 15, 2022, available at: [https://x.com/Defensoria\\_Peru/status/1603515063553634304](https://x.com/Defensoria_Peru/status/1603515063553634304).

221. Ombudsman's Office, X (twitter.com), December 19, 2022, available at: [https://x.com/Defensoria\\_Peru/status/1605033895350751234](https://x.com/Defensoria_Peru/status/1605033895350751234).

222. Ombudsman's Office, X (twitter.com), January 4, 2023, available at: [https://x.com/Defensoria\\_Peru/status/1610633951965593601?lang=en](https://x.com/Defensoria_Peru/status/1610633951965593601?lang=en).

223. Ombudsman's Office, X (twitter.com), January 29, 2023, available at: [https://x.com/Defensoria\\_Peru/status/1619746414673940481?lang=en](https://x.com/Defensoria_Peru/status/1619746414673940481?lang=en).

224. Inter-American Commission on Human Rights, *IACHR and Special Rapporteurship for Freedom of Expression condemn acts of violence in Peru and call for a broad and inclusive dialogue, with an intercultural perspective*, December 12, 2022, available at: <https://www.oas.org/p/CIDH/jsForm?File=es/cidh/prensa/comunicados/2022/277.asp>



to visit the country and monitor the situation, an additional sign of the Executive Branch's knowledge of the situation of the protests. On December 21, the president received a technical visit from representatives of the IACHR, an organization that also carried out a mission to Peru between January 11 and 13, 2023.<sup>225</sup>

### 7.3.2 KNOWLEDGE FROM INSTITUTIONAL SOURCES AND SUBORDINATES IN THE CHAIN OF COMMAND

According to the record of visits to the Government Palace, from her first day in office, the president met with officials who possessed relevant information on the situation unfolding in social protests. While these meetings, the minutes of which Amnesty International has not had access to, would not be evidence of responsibility in themselves, they are important clues that should be investigated further, not least because they are evidence of fluid and almost daily communication. On December 9, at 21:30 hours, the visitor's log of the Government Palace records a meeting between the president and the director of the National Intelligence Directorate (DINI), and a second meeting took place on December 11.

In addition to the information that the president received via the DINI, she was informed of the situation of the social protests through the Council of Ministers. On December 11, the Government Palace's visit log shows that the Defense and Interior ministers met personally with the president at 10:12 hours. The next day she met again with these two ministers in charge of the chain of command of the PNP and the armed forces, now formally in the Council of Ministers, which since December 11 had listened to confidential reports from the National Police and the armed forces that formed the basis for declaring a state of emergency in the Apurímac region, and later a national emergency. In the case of the then minister of Defense, Alberto Otárola, the president not only met with him at 12:00 hours, when the session of the Council of Ministers was recorded, but also had a personal meeting after the first killings at the hands of security forces occurred, at 19:26 hours.<sup>226</sup> Subsequently, on December 13, according to the minutes of the Council of Ministers, the minister of the Interior and the minister of Defense presented information on the various social conflicts at the national level. In the same council, it is recorded in the minutes that the president took the floor after the information presented by the ministers, saying that this information "has received the support of the Council of State, which has asked that public order be restored."<sup>227</sup> In this way, the official documentation makes it clear that the president was aware of the information and analysis on the situation of protests in the country, in addition to the proposal to declare a state of emergency, which she endorsed on December 13, asking the minister of the Interior to prepare a draft of this decree.

During the period of the state of emergency, the Council of Ministers met frequently, and although there were not always meetings after each episode of protest repression, sometimes the president did hold a meeting afterwards. For example, on December 16, the day after ten people died in Ayacucho, there was no meeting of the Council, but the president did meet with the minister of Defense that day. Similarly, the day after the 18 killings in Juliaca in January 2023, the president had a session with ministers at the palace, including the then minister of the Interior, Victor Rojas, who entered the palace at 8:52 and left at 10:45 hours.

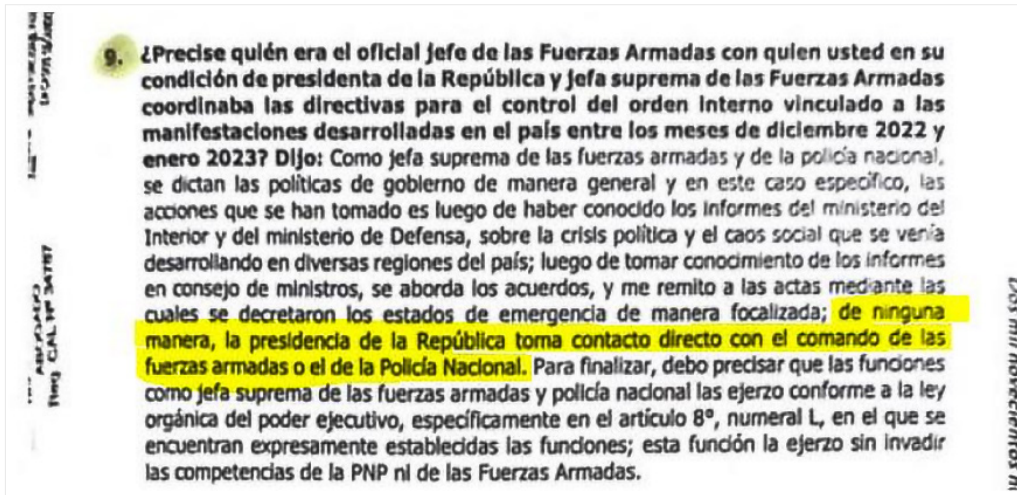
According to the president, in her statement under oath to the Public Prosecutor's Office on June 6, 2023, "in no way does the Presidency of the Republic make direct contact with the commanders of the Armed Forces or the National Police."<sup>228</sup>

225. Presidency of Peru, X (twitter.com), December 21, 2023, available at: <https://x.com/presidenciaperu/status/1605670514269249548>; and Standard Transparency Platform, Presidential Office, Register of Visits of December 21, 2022.

226. Standard Transparency Platform, Presidential Office, Register of Visits on December 12, 2022.

227. Minutes of the Council of Ministers, 13 December 2022, on file with Amnesty International.

228. Public Prosecutor's Office, Criminal File 277-2022, p. 2995. Interrogation of Dina Boluarte before the Attorney General's Office, June 6, 2024.



↑ Dina Boluarte's statement to the Public Prosecutor's Office on June 6, 2023

However, the record of visits to the Government Palace shows that on December 13, 2022, the president personally met with the head of the Joint Command of the Armed Forces, between 18:47 and 20:52 hours. This general returned to meet with the president on December 16, 17, 18 and 19.<sup>229</sup> He also met with the PNP commander general, who entered the same day at 18:59, and left at 20:51 hours. These commanders of the police and armed forces registered their visit as a “working meeting with the President of the Republic.” By that date, several people had already been killed and dozens injured in the context of social protests. Although the president herself did not meet personally with the military and police commanders until December 13, since December 9, at 7:44 hours., the commander general of the PNP had already entered the presidential office in the Government Palace, according to the official register of visits.<sup>230</sup> Similarly, on December 14, as noted above, the president convened the National Security and Defense Council, which was recorded with a photo of the president with the JCCFFAA and the PNP commander general.



← Meeting of the National Security and Defense Council, which took place on December 14, 2022, with the presence of the president and military and police commanders

## 7.4 COMMAND RESPONSIBILITY BY OMISSION: FAILURE TO PREVENT AND INTERVENE

Amnesty International analysed a set of decisions, actions and public statements by the president during the months that the social protests lasted. Given that her position as head of state and commander-in-chief of the PNP and the Armed Forces would have allowed her the possibility of ordering a change of tactics in the police and military response, the available information suggests that her timid words were not enough in the face of her actions. On the one hand, there are a few attempts to call for respect for human rights and legal protocols,

229. Portal of the Peruvian State, Presidential Office, Registry of Visits for December 13, 16, 17, 18 and 19, 2022.

230. Portal of the Peruvian State, Presidential Office, Registry of Visits for December 9.

but in her actions, it is clear she failed to actively intervene in the course of operations to prevent further violations, call suspected crimes to account and, most importantly, ensure that no more killings occurred.

As a result, there was no change in the strategy underpinning operations in response to protests. As the weeks and months passed, the president continued to sign decrees that allowed for the prolongment of states of emergency and that enabled the same framework for police and military operations, without introducing any changes to them or their implementation. Killings in the protests not only continued but increased. In Juliaca, on January 9, 2023, 18 people were killed in a single day, marking the deadliest episode since the beginning of the protests, four weeks earlier. Even after this date, the president continued to deny that security forces were responsible for these deaths, even as the press and international organizations presented evidence of their involvement. In addition, the president publicly supported repressive actions by police and armed forces against protests and continued to stigmatize protesters as “terrorists” and “criminals,” providing a permissive public discourse for the police and military to crack down on public gatherings.

### **7.4.1 LACK OF EVIDENCE OF WRITTEN INDICATIONS REQUIRING RESPECT FOR HUMAN RIGHTS**

According to the updated United Nations Body of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity<sup>231</sup> “the fact that violations have been committed by a subordinate does not exempt that subordinate’s superiors from responsibility, in particular criminal, if they knew or had at the time reason to know that the subordinate was committing or about to commit such a crime and they did not take all the necessary measures within their power to prevent or punish the crime”<sup>232</sup> (emphasis added). It is important to note that this international standard indicates that superiors are obliged to take *all* necessary measures and not just a few isolated measures. In this sense, it is worth evaluating the indications that the president gave during the social crisis of 2022 and 2023, to examine her possible omissions.

Under the Law on Transparency and Access to Public Information, Amnesty International requested a copy of all written communications, of any kind, from the office of the Presidency to the minister of Defence and the minister of the Interior in relation to the social protests that took place between 7 December 2022 and 9 February 2023.<sup>233</sup> At first, the presidential office responded through Memorandum No. 000125-2024-DP/SG<sup>234</sup> that “the requested documents are confidential as they contain recommendations as part of the deliberative process prior to making a government decision, so it was not possible to respond to the request.” However, as part of the response, the Office of the Presidency attached a record of a search carried out for documents issued, which yielded two letters sent from the Presidency to the Ministry of the Interior and the Ministry of Defense, dated December 19, 2022, without providing the details of those two letters. As a follow-up and second request for information, Amnesty International asked for “the total number of communications (letters, memoranda, emails or others) sent from the presidential office to the minister of Defense and the minister of the Interior” about the social protests during the same period. In response, an official of the General Secretariat of the Presidency responded by saying: “In this regard, the report of the requested information is sent, extracted from the Document Management System of the General Secretariat of the Presidential Office between December 7, 2022 and February 9, 2023” and attached the same record of the two letters sent, one to the minister of the Interior and one to the minister of Defense on December 19, 2022. Similarly, the official mentioned that this information was the same as that extracted for the first request for information that Amnesty International had entered. Amnesty International subsequently filed an appeal to obtain the content of these letters, and on 18 June 2024, in response to a favourable decision on the appeal, the Presidential Office sent Amnesty International these two letters,<sup>235</sup> both of which were signed by the Secretary-General of the Presidential Office at the time, requesting urgent reports from both the minister of the Interior and the minister of Defence on the events reported in media regarding the death of a person in protests in the town of Chala, Arequipa region.

231. United Nations, *Updated Body of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of the United Nations*, E/CN.4/2005/102/Add.1, 8 February 2005; Principle 27.

232. United Nations, *Updated Body of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of the United Nations*, E/CN.4/2005/102/Add.1, 8 February 2005; Principle 27.

233. Freedom of Information Request. File No. 2024-0016461. Application registered on March 6, 2024.

234. On March 21, 2024.

235. Deputy Secretary General, Presidential Office, Letter No. 000718-2024-DP/SSG-REAINF to Amnesty International, 18 June 2024

CONSULTA EMISIÓN DE DOCUMENTOS					
SECRETARIA GENERAL 21/03/2024 15:20					
FECHA EMI	TIPO DOC.	NRO DOC.	DESTINO	ASUNTO	ESTADO
19/12/2022	OFICIO	001348-2022-DP/SG	PROVEEDOR - MINISTERIO DEL INTERIOR - RUC: 20131369	INFORMACION DETALLADA	EMITIDO
19/12/2022	OFICIO	001347-2022-DP/SG	PROVEEDOR - MINISTERIO DE DEFENSA - RUC: 20131367	INFORMACION DETALLADA	EMITIDO

↑  Extract from the record of the search for documents in the presidential office in response to a request for information from Amnesty International

It is striking that, during two months, the total number of written communications registered between the president and her Interior and Defense ministers about the protests come to only two letters, which were not even signed by herself. In the letter of 18 June 2024 mentioned above, the Deputy Secretary General of the Presidential Office confirmed to Amnesty International that, as part of its search, they did not locate “memoranda, emails and/or any other documents” to these ministers during the period specified in the original request. Although the information obtained by Amnesty International on this point does not provide conclusive evidence, it would be in the hands of the investigating authorities to analyse in depth whether there was an omission on the part of the president to issue written indications to the ministers of her cabinet that could implement orders to change the course of police and military operations in response to social protests.

For his part, in a statement to the Public Prosecutor’s Office on 23 January, 2023,<sup>236</sup> Alberto Otárola, the then president of the Council of Ministers and former minister of Defense, who had been in charge of the Defense portfolio during the military operation in Ayacucho on 15 December, 2022 stated that he had forwarded to the head of the Joint Command of the Armed Forces a WhatsApp message from the president in which she asked that operations in response to protests not cause loss of human life.<sup>237</sup> However, the only record of this WhatsApp message in the criminal file appears as a screenshot<sup>238</sup> of a message that appears to have been sent to the head of the Joint Command of the Armed Forces on 18 December, 2022, three days after the events in Ayacucho, in which the army used lethal ammunition causing the death of 10 people. If only this telephone message exists, and no other written or other evidence, this could mean that there would be no real evidence that the president intervened in a timely and efficient manner to prevent the tragic killings in Ayacucho.

Finally, in an official letter from the head of the Joint Command of the Armed Forces (CCFFAA) dated 20 January, 2023, analysed by Amnesty International, the CCFFAA responded to a request from the Public Prosecutor’s Office,<sup>239</sup> requiring records of any official correspondence received by the Joint Command of the Armed Forces from the president, the minister of Defense or the president of the Council of Ministers during operations in Andahuaylas between December 10 and 12, 2022, Ayacucho on December 15, 2022, and Juliaca on January 9, 2023. In its response, the CCFFAA stated<sup>240</sup> that its institution had no record of any official communication from any of these senior public officials. The absence of such communication, if not refuted by other hard evidence, could be an indicator that the president and other senior officials did not take the required actions to prevent human rights violations.

The possible absence of records of written communication signed by the president that could have required a change in tactics in lethal operations should be an important clue for any criminal investigation into human rights violations committed in the context of the protests. This, combined with the absence of any statement by the president on her social media accounts during the period of social protests condemning the use of lethal force or possible unlawful acts by the police and armed forces,<sup>241</sup> are critical elements to consider during the analysis of command responsibility. If there were written indications from the Presidency ordering respect for human rights and avoiding deaths in the state response to protests, it seems that they may have come late, or without effective follow-up by the president to have a real effect.

236. Public Prosecutor’s Office, Folder 277-2022, p. 728.

237. The details of these WhatsApp messages, including screenshots of them, have been reviewed by Amnesty International as part of its review of the evidence in Criminal File 277-2022.

238. For its part, in June 2023, these WhatsApp messages were verified by a legal notary, and the detail of these records have been reviewed by Amnesty International due to the reproduction of these messages of the legal notary, which remain in the Criminal File 277-2022 and were annexed to the book by researcher Américo Zambrano, *Nuestros Muertos, a history of violence and repression*, Editorial Aguilar, Lima, February 2024, page 196.

239. Public Prosecutor’s Office, Criminal File 277-2022, p. 728.

240. Public Prosecutor’s Office, Criminal File 277-2022, p. 718.

241. Amnesty International reviewed the accounts of X (twitter.com) of the Presidency and the official website of the Presidency of the Republic during December 2022 to February 2023, and did not find any statement condemning or questioning the actions of the security forces during the period of protests

## 7.4.2 SCANT EVIDENCE OF VERBAL INDICATIONS TO RESPECT HUMAN RIGHTS

Through a freedom of information request, Amnesty International obtained copies of the minutes of the presidential cabinet meetings held between 12 December and 1 February.<sup>242</sup> During those six or seven weeks, according to the information analysed, the president presided over 29 sessions of the Council of Ministers (presidential cabinet). In all but one of these sessions, she made no mention of the deaths that were occurring in the context of the state's response to the protests. The overwhelming emphasis of the minutes remained on protecting property from "vandalism" and considering new states of emergency. The only exception to the silence during cabinet meetings regarding deaths during the protests came on December 21, the same day that the president had met with representatives of the Inter-American Commission on Human Rights.<sup>243</sup> At this cabinet meeting, the president called for the police and army to use only less lethal force, to prevent further deaths.

- Solicitó al Ministro de Defensa y al Ministro del Interior que frente a la violencia que se presente en las protestas, las Fuerzas Armadas y la Policía Nacional del Perú sólo usen la disuasión no letal, a fin de evitar más muertes.

↑  Excerpt from the minute of the Session of the Council of Ministers (presidential cabinet), 21 December, 2022

This brief mention by the president during the ministers' session on December 21 is undoubtedly important, and if it proves to have been accompanied by other efforts, such as the demand for accountability towards police and military suspected of committing abuses, in addition to the total prohibition of the use of lethal ammunition to disperse demonstrations, it could be a strong indication of a change of strategy ordered on the part of the president.

However, this indication on 21 December appears to remain an isolated comment, devoid of real effectiveness, and contradictory to the most repeated actions of the president during the period of social protests, namely: publicly denying that the deaths were caused by police and military, praising the actions of the security forces and condemning the actions of protestors. These statements by the president will be addressed below.

Apart from this indication of 21 December, there were two references in the minutes of the Council of Ministers in relation to the actions of the police and the armed forces. During the session of the Council of Ministers on January 5, the minutes state that the president asked the minister of the Interior and the minister of Defense for a report on compliance with protocols on the use of force (use of non-lethal weapons) and to facilitate the investigations of the Prosecutor's Office. Similarly, on January 19, the minutes of the Council of Ministers mention that "a proposal was given for the regulation of the intervention of the National Police of Peru and the Armed Forces, the presentation of a report on the actions carried out and the results obtained and on the financing of the measure." It is not clear whether this proposal was made by the president or by one of the ministers, nor the type of follow-up that was given to it. Although these verbal requests for reports made by the president and the ministers during the cabinet meetings are still important, it would be relevant to analyse the actions or measures that the president has taken as a result of any report that her ministers delivered to her, since it is relevant that there were 29 meetings, some that lasted hours, without demanding sanctions for possible illegal acts by the PNP and the armed forces.

It is therefore important that any investigation into command responsibility consider that orders are not mere formalities, and examine the broader context of the president's actions, combined with the actions she could have taken to prevent the criminal acts that were committed from happening.

242. Request for public information entered on August 23, 2023, assigned with File Number 2023-0058365

243. Portal of the Peruvian State, Presidential Office, Registry of Visits of December 21, 2022.

### 7.4.3 EVIDENCE OF THE PRESIDENT'S TOLERANCE AND SUPPORT FOR THE POLICE AND MILITARY

The president's actions following the loss of life during the protests are important in assessing her potential command responsibility. In the case of Ayacucho, where 10 people lost their lives when military forces opened fire indiscriminately on unarmed protesters on 15 December, 2022, it appears that the president and the minister of Defense did not intervene even during operations to demand a ceasefire in the face of indiscriminate force, nor later, to demand accountability. This issue will be examined further in the next section that delves into the role of the minister of Defense, however, it is worth mentioning here that the shooting during the operations in Ayacucho lasted for seven hours, enough time for the president to have been informed or to have required to be informed and, consequently, called for a ceasefire. On the morning of 15 December, the president was seated next to the minister of Defense in an official ceremony,<sup>244</sup> a few hours before the first death occurred in Ayacucho. At that time, the army had already been deployed in Ayacucho and there could have been an opportunity to ask the Defense minister about the development of the operation. Although it is difficult to know in detail what was discussed at the ceremony, the truth is that hours later the security forces deployed lethal force, killing 10 people.

The next day, 16 December, instead of addressing the nation regarding deaths in Ayacucho or taking immediate steps to ask for explanations from those possibly responsible for the deaths, the president attended a ceremony of the Army's Instruction and Doctrine Command,<sup>245</sup> to oversee the graduation ceremony of military cadets, apparently without making any changes to the agenda scheduled for that day. According to publicly available information, the president did not take the opportunity to speak out on the importance of respect for human rights in military operations, nor to condemn the use of force the day before.

On 17 December, the president gave a press conference to the nation, which was inaugurated by the head of the Joint Command of the Armed Forces, who referred to the events in Ayacucho, calling those who protested "bad Peruvians."<sup>246</sup> After the statements of the head of the armed forces, the president took the floor and although she had in her hands the opportunity to demand accountability for the excessive use of force or commit to a change of strategy in response to the protests, on the contrary, she declared: "the intervention of the armed forces has been carried out within the legal framework." This could suggest that, for the head of State, what happened in Ayacucho days ago was aligned with the government's strategy.

Given that the president has a constitutional mandate to "organize and distribute" the police and armed forces, one of the most alarming signs of what could constitute a lack of presidential action in the context of the protests concerns police operations in Juliaca, Puno region, on 9 January, 2023, in which 18 people died. This occurred even though, by that date, the president had already hosted a visit from the Inter-American Commission on Human Rights, and dozens of people had already died in protests, according to the Human Rights Ombudsman's Office. However, not only was the same Director of Special Operations who had overseen the deployment of DIROPESP special forces in Andahuaylas designated as the general command of the special forces in Juliaca, as noted in the previous section on the PNP, but the operations in Juliaca contained greater integration of the armed forces from the operational planning phase.

A comparison of the PNP's operational plans for Andahuaylas on 11 and 12 December, 2022, and those for Juliaca, almost a month later, on 9 January, 2023, show that the PNP's plan for Juliaca had by then integrated greater participation of the armed forces. The Operational Plan that served as the basis for the deployment of the PNP during the social protests in Andahuaylas<sup>247</sup> made no mention of the use of the armed forces as part of the operation. Five people died over two days in the Andahuaylas protests. A few days later, the armed forces were deployed in Ayacucho, and the death toll rose to ten during a single day. In the face of these terrible results of the army's intervention in Ayacucho, the question arises as to why the Operational Plan for Juliaca (Operations Plan No. 046-2022-COMASGEN-CO-PNP), made explicit reference to the participation of the armed forces, given the combative nature of their operations. Juliaca's operational plan stipulated that the police forces would "maintain liaison and coordination with the armed forces."<sup>248</sup>

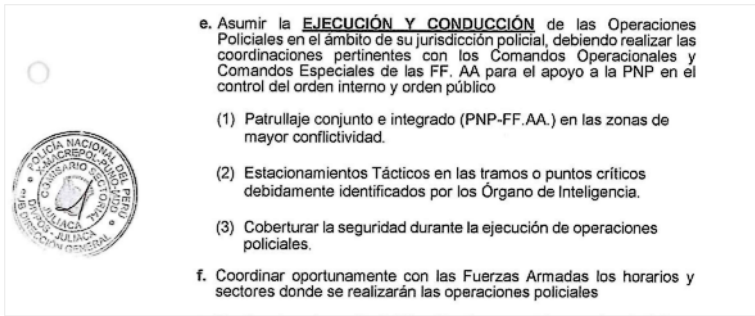
244. Presidency of the Republic, in X (twitter.com), December 15, 2022, 1:18 p.m. In addition, the official Youtube channel of the Presidency of the Republic captures the military ceremony that both Dina Boluarte and her minister of Defense attended that day together, see: Closing ceremony of the 2022 academic year of the FAP Officer School, December 15, 2022, available at: <https://www.youtube.com/watch?v=EWVB97qs4qY>.

245. Portal of the Peruvian State, Presidential Office, Registry of Visits, December 16, 2022.

246. Canal N, *Chief of the Joint Command of the Armed Forces: Bad Peruvians have tried to generate chaos in the country*, December 17, 2022, <https://canaln.pe/actualidad/jefe-comando-conjunto-ffaa-malos-peruanos-han-tratado-generar-caos-pais-n456365>

247. OPERATIONS PLAN NO. 088-2022-COMASGEN-CO-PHP/FP-APURÍMAC-SEC- UNIPLEDU "MAINTENANCE AND RESTORATION OF PUBLIC ORDER APURIMAC-2022" TO THE PGO NO. 001-2022-SCG PNP/DIVECS "SOCIAL CONFLICTS 2022".

248. Public Prosecutor's Office, Criminal File 23-2023 Juliaca, p. 457.



Excerpt from the PNP Operations Plan 046-2022 "National Emergency Puno 2022"

In the vicinity of Juliaca airport on January 9, 2023, while DIROPESP special forces opened fire with lethal ammunition on protesters for several hours,<sup>249</sup> a Peruvian army Mi-171Sh helicopter flew over the site and, according to videos analysed, fired tear gas from the helicopter,<sup>250</sup> in clear violation of international standards on the use of force.<sup>251</sup>

Any criminal investigation into the president's command responsibility must look at her role in relation to the operations in Juliaca, given that, following the 10 killings due to lethal force used by the army on 15 December, 2022, in Ayacucho, the president had the option of at least dismissing or investigating<sup>252</sup> the Defense minister for the acts committed by security forces. However, the president decided not only to keep the minister of Defense in his functions but to promote him. On 21 December, the President appointed the minister of Defense as the new president of the Council of Ministers, effectively giving him a coordinating role in relation not only to the Ministry of Defence, but also to the Ministry of the Interior. Any investigation into the consequences of these presidential decisions must analyse the close coordination between the PNP and the armed forces that followed, including the escalation of lethality in the joint police-military operation in Juliaca.

Despite overwhelming evidence that the deaths in Juliaca were caused by bullets coming from weapons in the hands of security forces, specifically DIROPESP special forces,<sup>253</sup> the president maintained her denial of this evidence, and in a speech two weeks later, on January 24, 2023, she stated in a message to the nation that the deaths in Juliaca had not been caused by the police, but by the protestors themselves, using weapons colloquially known as "dum dum".<sup>254</sup> In Amnesty International's 2023 report, the organization provided analysis that refuted the president's thesis about this type of "dum dum" ammunition, and showed it was unfounded.<sup>255</sup>

Even more worrying was the stigmatizing statement made by the president about the demonstrators in Juliaca. In the same message to the nation on January 24, she said:

"That is not a peaceful protest. It is a violent action generated by a group of radical people... based on drug trafficking, illegal mining and smuggling."<sup>256</sup> In addition, she said that the police had had "immaculate" conduct during the social protests.<sup>257</sup>

These details described above are just a few of the many examples of how the president publicly and actively supported the actions of the police and military, without assessing accountability. The stigmatisation by the president of protestors, without providing any evidence, was a repeated trend that continued for months, as Amnesty International documented in its 2023 report.

249. Amnesty International, *Lethal Racism*, pp. 27-36.

250. Human Rights Watch, *Reconstruction of a deadly day of protests in Juliaca*, Peru, May 10, 2010, available at: <https://www.hrw.org/es/es/video-photos/interactive/2023/05/10/they-the-policemen-killed-my-brother/reconstruction-of-a-deadly-day-of-protests-in-juliaca-peru>.

251. Amnesty International, *30 Rules for the Use of Chemicals in Law Enforcement*, July 2021, principle 16: "Chemical irritants should not be dispensed from above (for example, via drones) since their direction and effect are unpredictable. This use bears an increased risk of causing panic and disorientation, given that people will not know in which direction to disperse", available at: [https://www.amnesty.nl/content/uploads/2021/07/Leaflet\\_teargas\\_English\\_online.pdf?x88970](https://www.amnesty.nl/content/uploads/2021/07/Leaflet_teargas_English_online.pdf?x88970).

252. Organic Law of the Executive Branch, Law No. 29158, Chapter I. Art. 8, paragraph 2, paragraph i) "In his capacity as Head of the Executive Branch. [The Presidency may] i) Appoint and remove those who hold high positions in the State, in accordance with the law."

253. Amnesty International. *Lethal Racism*, p. 27-36.

254. TV Perú Noticias, *Official Activity 24/01/2023*, January 24, 2023, available at: <https://www.facebook.com/noticias.tvperu/videos/actividad-ofici-al-24012023/1544866762682606/>.

255. Amnesty International, *Lethal Racism*, p. 60.

256. CNN en Español, *Dina Boluarte calls for a national truce to establish dialogue tables in Peru*, January 24, 2023, available at: <https://www.youtube.com/watch?v=3KgE1P3x3hE>.

257. CNN en Español, *Dina Boluarte calls for a national truce to establish dialogue tables in Peru*, January 24, 2023, available at: <https://www.youtube.com/watch?v=3KgE1P3x3hE>.

## 7.4.4 THE PRESIDENT'S FAILURE TO ENSURE ACCOUNTABILITY FOR THOSE RESPONSIBLE AND TO PROVIDE GUARANTEES OF NON-REPETITION

The obligation to prevent further human rights violations includes not only the responsibility to intervene during operations that occur in real time, but also to take steps to ensure structural changes that ensure the protection of human rights in the future. The fact that the president did not prevent human rights violations, being empowered to do so, shows important indicators of command responsibility, as has been analysed in previous sections. In addition, it speaks of a failure and unwillingness to ensure guarantees of non-repetition and supports the idea that her infrequent, sporadic and partial indications to respect human rights could in fact have been tokenistic or cosmetic in nature, and devoid of real will.

According to the United Nations Basic Principles on the Right to Remedy and Reparation,<sup>258</sup> guarantees of non-repetition include “promoting the observance of codes of conduct and ethical standards, in particular international standards, by public officials, including law enforcement officials.” In addition, these principles encompass the principle of satisfaction, which includes “effective measures aimed at the cessation of continuing violations.”<sup>259</sup> In this context, three relevant elements to analyse what happened in Peru in the light of these principles are: the president’s lack of will and action to hold accountable those potentially responsible for deaths and injuries during the protests; the president’s lack of action to take measures so that police-military violence characterized by a highly racist bias would not be repeated, and her continued stigmatization of protesters.

### FAILURES TO PROMOTE ACCOUNTABILITY

After social protests diminished and the last of the deaths during protests was recorded in March 2023, the president had the opportunity to promote accountability for deaths caused by police and military repression and to take measures to ensure that grave human rights violations did not occur again. These include ensuring that the future use of force by the police and military is in line with international standards.

However, far from calling for the suspension from active service of the police and military commanders who designed and directed the police’s operational plans, pending their investigation, the president appointed these commanders to key leadership positions after the period of protests. To date, according to information gathered by Amnesty International through access to information requests, as well as information disseminated by media outlets and investigative journalists, the organization is not aware of any member of the PNP or the armed forces who has been suspended from active service for their possible involvement in human rights violations committed during the protests. On the contrary, according to publicly available information, many of the police and military commanders involved in the protests were subsequently assigned to higher-ranking positions.<sup>260</sup> This is despite the fact that, if the disciplinary proceedings had been initiated or carried out correctly and in accordance with international standards, some of the commanders could have been subject to sanctions that would have been detrimental to them in the normal process of promotion in the police or military ranks.<sup>261</sup>

Although the appointments and promotions by the president made appear to have followed the general rules regarding the rotation of police and military officers that allow for routine renewal of posts, based on a strict system of rank and seniority in the corps, the president, as commander-in-chief of the police and armed forces, had the option of not following this routine process because of questions about possible investigations that should have been underway.

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258. United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, General Assembly resolution 60/147 adopted on 16 December 2005

259. United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, General Assembly resolution 60/147 adopted on 16 December 2005, Principle 23 (f).

260. La República, *Reassignment of positions favors PNP generals linked to protests*, May 11, 2023, available at: <https://larepublica.pe/politica/gobierno/2023/05/11/dina-boluarte-reasignacion-de-cargos-favorece-a-generales-pnp-vinculados-a-protestas-represion-pnp-protestas-en-peru-victor-zanabria-angulo-luis-flores-solis-320001>. See also: Canal N, *Óscar Arriola and Víctor Zanabria promoted to the rank of lieutenant general*, December 16, 2023, available at: <https://canaln.pe/actualidad/ascienden-al-grado-teniente-general-oscar-arriola-y-victor-zanabria-n468942>; Infobae, *Dina Boluarte promoted five PNP generals related to deaths during the protests*, January 14, 2024, available at: <https://www.infobae.com/peru/2024/01/14/dina-boluarte-promovio-a-cinco-generales-de-la-pnp-relacionados-con-las-muertes-durante-las-protestas/>.

261. Regulations of Legislative Decree No. 1149, Law on the Career and Status of Personnel of the National Police of Peru. According to article 61 of this law, the demerits contemplated by minor or very minor infractions and sanctions are weighted until December 31 of each year.



One of the clearest examples of the president's unwillingness to promote accountability for those potentially responsible for unlawful acts was the appointment of the general who had been in charge of COMASGEN to commander general of the PNP, made by her in March 2023. The president promoted that general after a corruption scandal linked to the previous head of the PNP, who was in charge during the period of social protests and was removed from office<sup>262</sup> in March 2023. Until that moment, for his part, the head of COMASGEN held the fourth highest position in the PNP.<sup>263</sup> The legal requirement for the presidential appointment of the PNP commander general allows whoever oversees the Presidency to choose among the three highest-ranking police officers in line of seniority for the position of commander general of the Police. In other words, the president had other options, and she could have chosen two other generals at that time, both with higher positions than the general in charge of COMASGEN. However, the president chose the COMASGEN, even though this general had been directly responsible for the design and signing of operational plans and the deployment of special forces, armed with lethal weapons, in response to protests that killed 50 people and seriously injured hundreds of others.

For his part, the general of COMASGEN had personally visited the president several times during the period of social protests, even meeting with her alongside the head of the Joint Command of the Armed Forces, possibly in the absence of his superior, the commander general of the PNP at the time.

According to the government palace's record of visits, the general in charge of COMASGEN met with the president three days in a row in December 2022, and on two occasions their meetings coincided with those of heads of the armed forces. On December 18, the general of COMASGEN met with the president for three hours, in what according to the record appears to be a meeting with the then head of the armed forces.

18 de diciembre							
18/12/2022	GOMEZ DE LA TORRE ARANIBAR MANUEL JESUS MARTIN	PARTICULAR	OTROS: REUNION CON LA SEÑORA PRESIDENTA DE LA REPUBLICA	VILCHEZ VILCHEZ ENRIQUE ERNESTO	SECRETARIA GENERAL	15:58	19:26
18/12/2022	ANGULO TEJADA JORGE LUIS	PARTICULAR	OTROS: REUNION CON LA SEÑORA PRESIDENTA DE LA REPUBLICA	VILCHEZ VILCHEZ ENRIQUE ERNESTO	SECRETARIA GENERAL	16:00	19:22

The meeting between the general of COMASGEN and the president on December 19 again overlapped with the meeting between the president and the head of the CCFFAA.<sup>264</sup>

19 de diciembre							
19/12/2022	GOMEZ DE LA TORRE ARANIBAR MANUEL JESUS MARTIN	PARTICULAR	OTROS: REUNION CON LA SEÑORA PRESIDENTA DE LA REPUBLICA	VILCHEZ VILCHEZ ENRIQUE ERNESTO	SECRETARIA GENERAL	20:20	22:24
19/12/2022	ANGULO TEJADA JORGE LUIS	PARTICULAR	OTROS: REUNION CON LA SEÑORA PRESIDENTA DE LA REPUBLICA	VILCHEZ VILCHEZ ENRIQUE ERNESTO	SECRETARIA GENERAL	19:40	20:45

The next day, on December 20, 2022, the COMASGEN general met once again with the president, this time apparently for more than three hours, in the company of another PNP general, the then head of the Seventh Police Region for Lima, a position he held during the protests in the capital on 28 January, 2023 in which one person, Víctor Santisteban, died from excessive use of force.<sup>265</sup> That general of the PNP of Lima, for his part, became commander general of the PNP just over a year later, in January 2024.

20 de diciembre							
20/12/2022	ANGULO TEJADA JORGE LUIS	PARTICULAR	OTROS: REUNION CON LA SEÑORA PRESIDENTA DE LA REPUBLICA		SECRETARIA GENERAL	08:30	12:00

262. Regulations of Legislative Decree No. 1149, Law on the Career and Status of Personnel of the National Police of Peru.

263. Law No. 31379 and its provisions on the High Command of the PNP.

264. Portal of the Peruvian State, Presidential Office, Registry of Visits.

265. Amnesty International, *Lethal Racism*, p. 43.

## LACK OF ACTION BY THE PRESIDENT IN THE FACE OF THE RACIST BIAS OF THE POLICE-MILITARY REPRESSION

In Amnesty International's previous report, the organization presented a statistical analysis of the deaths that took place during the protests based on in-depth research that coded each locality where protests occurred.<sup>266</sup> This analysis supported the hypothesis that there was differential treatment in the use of force by security officials, using lethal force more frequently when it came to populations with greater indigenous representation. As a result of this investigation, the organization made a recommendation to the Presidency to “carry out, as soon as possible, an assessment of the situation of structural racism in Peru, beginning with an official invitation to the United Nations Special Rapporteur on the Rights of Indigenous Peoples and the United Nations Special Rapporteur on Contemporary Forms of Racism.” However, more than a year after the publication of the report, Amnesty International has not received any information on the steps the Presidency has taken to implement this recommendation.

## CONTINUED STIGMATIZATION OF THE PRESIDENT TOWARDS PROTESTORS

Despite the concerns expressed in a joint statement in March 2023 by several United Nations Special Rapporteurs on the stigmatization by the Peruvian authorities of protesters as “terrorists”,<sup>267</sup> in addition to the concerns expressed by the Inter-American Commission on Human Rights in the same regard,<sup>268</sup> and by national and international human rights organizations, including Amnesty International,<sup>269</sup> the president continued to stigmatize protesters as “terrorists and criminals” and continues to do so even at the time of writing of this report, despite the fact that no evidence has been presented to substantiate her claims. Even if there were evidence confirming links between protesters and criminal networks, that link alone would not justify the unlawful use of lethal force against them.

Similarly, the president has failed to guarantee the right to peaceful assembly of relatives of people killed by police and military, and has extended her stigmatization to these groups.

According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and association, “States should cease acts of reprisal against activists promoting accountability. The rights of civil society, victims and victims’ groups to freedom of peaceful assembly and of association should be fully facilitated, respected and protected, as these rights provide an avenue for victims to participate in accountability processes and policy development to address the abuse, repair the harm and guarantee non-repetition.”<sup>270</sup>

Six months after the social crisis in which dozens of people died during police and military repression, a national day of protest was announced on 19 July, 2023, and several delegations from social movements from across the country travelled to the country's capital, Lima, to hold a public march. The day before the protests, the president delivered an address to the nation in which she declared:

“So now we don't understand why they are once again waving their war flags and announcing that they will arrive in Lima, from Voces, from the Vraem, [a part of the country traditionally associated with the former internal armed conflict and groups considered “terrorist” by the authorities], wanting to take the entire country from the centre. That is a threat to democracy, to the rule of law, to institutionality, and we as a democratic government, we are not going to allow or accept it.”<sup>271</sup>

The protests that took place in Lima in July 2023 were overwhelmingly peaceful. However, the security forces responded again with excessive use of force, contrary to international standards. In a particularly excessive episode, on July 29, police used tear gas in a public square against a group of between 50 and 100 people made up mostly of family members holding signs of their loved ones who were killed during protests in Juliaca on 9 January, 2023. The use of tear gas was unjustified, unnecessary and excessive, given the peaceful character of the demonstration.<sup>272</sup> Instead of calling on police forces to respect the right of victims and their

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266. Amnesty International, *Lethal Racism*, p. 52.

267. United Nations, Office of the High Commissioner for Human Rights, *Peru: UN experts call for an end to violence in demonstrations and urge respect for human rights*, 6 March 2023, available at: <https://www.ohchr.org/es/press-releases/2023/05/peru-un-expert-calls-accountability-and-political-reform-overcome-crisis>.

268. Inter-American Commission on Human Rights, *IACHR Publishes Report on the Human Rights Situation in Peru, May 3, 2023*, available at: <https://www.oas.org/es/cidh/jsForm?File=es/cidh/prensa/comunicados/2023/083.asp>.

269. Amnesty International, *Lethal Racism*, p. 70.

270. United Nations, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, report A/HRC/53/38, para. 69.

271. Presidency of the Republic, *Official Speech*, July 18, 2023, available at: <https://www.facebook.com/PresidenciaPeru/videos/1662587474210043>.

272. Amnesty International, Letter TIGO IOR 40/2023.4409 sent to the United Nations Special Rapporteurs on freedom of peaceful assembly

families to protest in the capital, the president stigmatized those who tried to make their voices and calls for justice heard, and participated in a military parade that same day through the streets of the city.

On 10 May, 2024, almost 18 months after the deaths in protests, the president continued to make statements without factual basis. On that day, the president labelled the social protests of 2022 and 2023 as “all violent,”<sup>273</sup> even though, by that date, there were ample reports showing that, even though there had been isolated acts of violence during the protests, they were mostly peaceful.<sup>274</sup>

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and of association, on freedom of opinion and expression, on human rights defenders, on counterterrorism, and on torture and other cruel, inhuman or degrading treatment or punishment, August 17, 2023.

273. Presidency of the Republic, *President Boluarte inaugurates seminar “Political Constitution, Democracy and Institutional Values”*, May 10, 2024, available at: [https://www.youtube.com/watch?v=C\\_PMUkEtSzs](https://www.youtube.com/watch?v=C_PMUkEtSzs).

274. See, for example, Ombudsman’s Office of Peru, *Ombudsman’s Report 190: Political Crisis and Social Protest: Ombudsman’s Balance Three Months After the Conflict Began (December 7, 2022 to March 6, 2023)*, March 6, 2023, available at: <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

# 8. THE ROLE OF MINISTERS

## 8.1 THE POSSIBLE RESPONSIBILITY OF THE PRESIDENT OF THE COUNCIL OF MINISTERS (PCM)

According to Peru's constitution, the president of the Council of Ministers (PCM), sometimes called Premier, is the government's spokesman after the president<sup>275</sup> and coordinates the functions of the other ministers.<sup>276</sup> In addition, if the president decides to appoint or renew the other ministers, he or she must do so in agreement with the president of the Council of Ministers.<sup>277</sup> Likewise, the laws and regulations that detail its functions specify that it is "the highest political authority of the Presidency of the Council of Ministers"<sup>278</sup> and the head of the budget and of the executive branch. It also has the responsibility of coordinating with other levels of government, including regional ones.<sup>279</sup> Taking into account those functions that give the PCM greater superiority in the function of government, it is relevant to recall the provisions of the Supreme Court in its ruling against former President Fujimori, which established, according to the doctrine of the indirect perpetrator, "the degree of criminal responsibility also differs for those who are in the highest upper echelon and will be much greater than that which should be attributed to those who are at an intermediate level."<sup>280</sup>

President Dina Boluarte appointed Pedro Angulo as president of the Council of Ministers, a position he held for 11 days. On 21 December, she replaced Pedro Angulo with Luis Alberto Otárola Peñaranda, until then the minister of Defense. Both officials were included in a preliminary investigation opened by the Public Prosecutor's Office in December 2022,<sup>281</sup> along with president Dina Boluarte, for aggravated homicide and serious injuries.

For his part, the role played by Luis Alberto Otárola Peñaranda in influencing the course of the government's response to social protests from December 21, 2022, and even before, cannot be underestimated. In this sense, there are several points that are relevant to analyse the possibility that this public servant was a mastermind of the events that unfolded in the following months.

First, Alberto Otárola had a track record that demonstrated an intimate knowledge of the workings of the government, as well as a close collaboration with President Dina Boluarte. Previously, he held the positions of deputy minister of Defense (2001 to 2006), deputy minister of the Interior (2011), and later minister of Defense (2011-2016).<sup>282</sup> Not only did he hold these positions, but he also had a career as a lawyer familiar with the constitutional framework, command responsibility in cases of human rights violations and the functioning of the armed forces.<sup>283</sup> In 2022, during her time as vice president, Dina Boluarte appointed him

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275. Political Constitution of Peru, Article 123 (i).

276. Political Constitution of Peru, Article 123 (ii).

277. Political Constitution of Peru, Article 122.

278. Organic Law of the Executive Branch Law No. 29158, Article 18.

279. Organic Law of the Executive Branch Law No. 29158, Article 19.

280. Supreme Court of Justice of the Republic, *Barrios Altos Judgment*, para. 731.

281. This criminal investigation was entered, via a complaint registered on December 16, 2022, and assigned to the Area of Illicit Enrichment and Constitutional Complaints, in charge of a Supreme Prosecutor.

282. BBC News Mundo, *Peru: Who is Alberto Otárola, the left-wing lawyer leading the government's controversial response to the protests*, January 17, 2023, available at: <https://www.bbc.com/mundo/noticias-america-latina-64300550>.

283. See, for example, the publications of Otárola: Supreme Chief of the Armed Forces and the National Police. In: AA. VV: *The Constitution commented*. Author of the book "Democratic Modernization of the Armed Forces" (Andean Commission of Jurists, Lima, 2002, 288 pages). Author of the book "Security, Defense and Armed Forces in Peru" (Peruvian Center for International Studies, Hugo Palma and Alejandro San Martín, Coordinators). Author of the book "The Constitution Explained" (ICS Editores, two editions, 135 pages). These references come from the personal Curriculum Vitae placed at the time on the Ministry of Defence website in 2011.

her personal lawyer.<sup>284</sup> These elements account not only for the knowledge that Alberto Otárola would have had of the laws, his duties and the possibilities that his position gave him to be able to intervene in the course of operations during social protests, but would also suggest the possibility of close coordination between the president of the Council of Ministers and the president.

**“As premier, I had a connection at all times with the president. Wherever I went, I had a satellite phone in the car. There is never a lack of communication.”**

Former civil servant who held the position of President of the Council of Ministers in recent years, interviewed by Amnesty International

*These statements provide context about the situation and not data verified by Amnesty International*

Second, there are multiple indications of Alberto Otárola's role in leading the government's discursive line during the social protests. In its May 2023 report, Amnesty International devoted specific analysis to the statements of the president and the president of the Council of Ministers.<sup>285</sup> From his first press conference as president of the PCM, Alberto Otárola ignored the deaths of demonstrators in protests, prioritizing at all times a discourse that claimed the police had been attacked, stigmatizing demonstrators, and even describing the police and the armed forces as “heroes.”<sup>286</sup> The premier's almost unconditional support for the security forces, even after international condemnation of the actions of Peruvian police and military, could be a relevant piece of information when investigating his possible criminal responsibility.

Thirdly, it is worth mentioning the possible role of the president of the Council of Ministers during the unfolding protests. Although, despite his statements before a prosecutor as part of the ongoing prosecutorial investigation where he is a defendant,<sup>287</sup> and where he said he had not given indications, nor had he been informed of the killings, the stipulations of the PNP's General Plan for Social Conflicts 2023 are relevant, which speaks of the obligation of the police to be “permanently reporting to the office of dialogue and social conflicts of the PCM.”<sup>288</sup> On the other hand, it is striking that, at 21:00 hours on 9 January, 2023, when police officers were still shooting at demonstrators and passers-by with firearms in the vicinity of the Juliaca airport, Alberto Otárola met with the director of the DINI, in charge of all national intelligence and a former police officer with 20 years in the service. Another revealing fact is that, in contrast, president Dina Boluarte did not meet with the director of the DINI, neither that same day nor the following day, 10 January, according to the official record of visits to the presidential office. This data raises questions about the information that the director of the DINI may have given to Alberto Otárola at that key moment. Undoubtedly, it remains to be investigated if in the meeting they held they talked about the events in Juliaca. In any case, it would have been a profound omission not to have known about the accumulation of deaths that at that time were already several.<sup>289</sup>

Alberto Otárola had the opportunity to resign after the events that took place in Juliaca on 9 January, 2023. According to Article 128 of the Constitution of Peru, “all ministers are jointly and severally liable for criminal acts or violations of the Constitution or laws incurred by the President of the Republic or that are agreed upon in Council, even if they save their vote, unless they resign immediately.” In addition, it establishes that “ministers are individually responsible for their own acts and for the presidential acts they endorse.” However, Alberto Otárola did not resign. Instead, he appeared the next day at the Congress of the Republic to receive his vote of confidence and give his investiture speech. In that 44-page speech, he took no opportunity to call for accountability for possible human rights violations committed just hours earlier in Juliaca. On the contrary, he said: “I express my deepest pain (...) and my most heartfelt condolences [to the deceased]”, but continued with a speech focused on emphasizing that “this new uprising (sic) does not weaken the government (...)

we fully support our police forces that are in charge of controlling public order (...) the police have already

284. BBC News Mundo, *Peru: Who is Alberto Otárola, the left-wing lawyer leading the government's controversial response to the protests*, January 17, 2023, available at: <https://www.bbc.com/mundo/noticias-america-latina-64300550>.

285. Amnesty International, *Lethal Racism*, pp. 59-61.

286. RPP Noticias, *Alberto Otárola on PNP bonus: “We cannot be indifferent to these heroes of the Homeland”*, January 26, 2023, available at: <https://rpp.pe/politica/gobierno/alberto-otarola-sobre-bono-ntp-no-podemos-ser-indiferentes-ante-estos-heroes-de-la-patria-noticia-1462602>.

287. Alberto Otárola made at least three statements before the supreme prosecutor, one on January 23, 2023, on page 728 of Folder 277-2022; and the second on February 16, 2023, on page 1477. Furthermore, he testified before the Prosecutor's Office on March 4, 2023, according to national media reports at the time.

288. Public Prosecutor's Office, *Andahuaylas Criminal File*, Volume 43

289. Portal of the Peruvian State, PCM Office, Registry of Visits of January 9, 2023.

identified dozens of people who have stirred up the protests. To be warned of the nefarious actions of these organized violent groups (...).<sup>290</sup>

**“In my experience, when the PNP receives the order to respect human rights, it does.”**

Former civil servant who held the position of President of the Council of Ministers in recent years, interviewed by Amnesty International

*These statements provide context about the situation and not data verified by Amnesty International*

## 8.2 THE MINISTER OF THE INTERIOR AND THE FAILURE TO SUPERVISE SECURITY AND THE NATIONAL POLICE OF PERU

### 8.2.1 THE MINISTER’S COORDINATION WITH THE PNP, AND HIS CONSEQUENT KNOWLEDGE OF THE FACTS

The Ministry of the Interior fell under three different people during the period of social crisis and protests between December 2022 and March 2023. To maintain that these ministers did not have intimate knowledge of the situation would not only overlook the legal framework that underpins the information that the minister of the Interior receives from the PNP but would also overlook the particularities of the people who held this position during that period. President Dina Boluarte appointed three Interior ministers, all former generals of Peru’s National Police. César Cervantes held the position between 10 and 21 December, 2022, to be replaced by Víctor Rojas Herreras, between 21 December and 13 January, 2023, when he presented his resignation. That day, the president appointed Vicente Romero Fernández.<sup>291</sup>

The minister of the Interior is part of the cabinet of ministers and has a relationship of control and superiority over the PNP and, in line with international standards, would have command responsibility. Legislative Decree 1266 regulates the role of the Ministry of the Interior. According to Article 3.2, it places it as the governing body for the protection of citizens, as well as being the institution that emits the guidelines on “policies on social conflict, within the scope of the mandate of the Interior Sector.” Specifically, its role regarding the PNP is clear, its function is “to supervise and evaluate that the performance of the Peruvian National Police is framed in the objectives of the national and sectoral policies under its responsibility”.

The minister of the Interior is legally mandated to have a role that involves close coordination with the PNP commander general.<sup>292</sup> According to Law 1267 of the PNP, the commander advises the minister and is obliged to “provide timely information to the minister” on “matters of social conflict and serious disturbances to internal order or public security.”<sup>293</sup>

Any information received by police intelligence may have been key in the declaration of a national emergency. The minutes of the session of the Council of Ministers on 14 December, 2022 are explicit in recording that the Supreme Decree that declared the state of emergency at the national level was proposed by the minister of the Interior.

290. Congress of the Republic, *Presentation of the President of the Council of Ministers Luis Alberto Otárola Peñaranda before the Congress of the Republic*, January 10, 2023, <https://cdn.www.gob.pe/uploads/document/file/4035316/DISCURSO%20DE%20INVESTIDURA%20PREMIER%20ALBERTO%20OT%C3%81ROLA.pdf.pdf?v=1673407556>.

291. La República, *Dina Boluarte swore in new ministers of the Interior, Women and Labor after resignations*, January 13, 2023, available at: <https://larepublica.pe/politica/gobierno/2023/01/13/dina-boluarte-en-vivo-presidenta-de-la-republica-toma-juramento-a-nuevos-ministros-tras-renuncias-al-gabinete-alberto-otarola-pcm>.

292. PNP Law, Legislative Decree No. 1267, Article 8, which stipulates the organic structure of the PNP, states: “The Director General [later renamed Commander General] reports to the Minister of the Interior.”

293. PNP Law, Legislative Decree No. 1267, Articles 9, XI and XII.

As for the police operations that followed in December 2022 and January 2023, having been PNP generals during their careers would give these Interior ministers intimate knowledge of the operational workings of the security forces to clearly identify their opportunities to influence their performance. As an example, in the case of Vicente Romero, during his time in the PNP, he personally signed the protocols for the use of Sig Sauer pistols, weapons that the police used in social protests.<sup>294</sup>

**“The Police cannot make any decision they want without allowing themselves to be supervised by the minister. The Peruvian police have their flaws, but they are not a Police force that kills every day.”**

Peru's former Interior minister, interviewed on condition of anonymity by Amnesty International  
*These statements provide context about the situation and not data verified by Amnesty International*

**“As minister of the Interior at the time, my monitoring was minute by minute, I had constant communication with the police commanders.”**

Interview with a former minister of the Interior, who reflected on the response to a social conflict several years ago, where there were also demonstrations at airports.  
*These statements provide context about the situation and not data verified by Amnesty International*

On 6 May 2024, Amnesty International asked the Ministry of the Interior for a copy of all the guidelines, letters or written instructions, sent between 7 December 2022 and 9 February 2023, from the office of the minister of the Interior to the commander general of the PNP, in relation to the social protests.<sup>295</sup> In response, the Ministry of the Interior provided<sup>296</sup> a copy of eight letters sent from the minister of the Interior Victor Rojas and the minister of the Interior Vicente Romero, between the dates of 9 and 23 January, 2023, the days after the tragic events in Juliaca where 18 people died. It is striking that in none of these letters does the minister call for accountability for the illegitimate use of force used by the PNP during the social protests. Within these eight letters, only two mention human rights, in a very generic way, but in no letter is mention made of the death of 18 people or the possible responsibility of police officers in this regard, nor does it ask for a change in the way police operations are carried out.

**“We always found absolute submission from the security forces to what they had to do.”**

A former public official of the Ministry of the Interior, who in the past coordinated the PNP's response during social conflicts.  
*These statements provide context about the situation and not data verified by Amnesty International*

## 8.2.2 POSSIBLE RESPONSIBILITY OF THE INTERNAL AFFAIRS OFFICE OF THE MINISTRY OF THE INTERIOR

Interior ministers oversee the police disciplinary process, so they have an important role to play in ensuring that there is no impunity for the improper actions of officers.

According to the Law that regulates the disciplinary regime of the PNP, the functions of the Office of Internal Affairs (OAI) of the Ministry of the Interior are: “To carry out investigations when generals of the Peruvian National Police are involved, as well as extraordinary investigations ex officio or by express order of the minister of the Interior and those indicated in the Regulations of Organization and Functions of the Ministry of the Interior.”<sup>297</sup> In addition, Legislative Decree 1266 stipulates that the OAI can get involved in administrative files where “the facts... constitute Serious or Very Serious Infractions.”

294. DPNP Directive No. 04-21-2016-DIRGEN-PNP/EMG-PNP-B. Rules and procedures for instruction regarding the use and handling of SigSauer brand handguns. Signed in July 2016 by Vicente Romero, at that time Director General of the PNP.

295. This request for public information was assigned with File No. 2024-0029780

296. Ministry of the Interior. Memorandum No. 000281-2024-IN-GA of 16 May 2024, addressed to Amnesty International

297. Law Regulating the Disciplinary Regime of the PNP, Article 29.

This mandate is relevant since the OAI of the Ministry of the Interior would have been ommissive in its follow-up of administrative files against senior commanders of police operations during social protests, also taking into account that the events that occurred may have been grave human rights violations and, therefore, would have to be considered as possible serious or very serious infractions.

As for the OAI's failure to ensure accountability, three missed opportunities documented by Amnesty International to investigate generals in charge of operations are relevant.

On 6 March 2024, Amnesty International requested<sup>298</sup> the Ministry of the Interior for the administrative disciplinary file of the PNP general in charge of COMASGEN during the social protests, if any had been opened. On 27 March 2024, the Ministry of Interior responded<sup>299</sup> with information about a previous complaint made against the general that was not relevant to this investigation into the period of the protests. Following a new letter of request on 5 April, 2024, the Ministry of the Interior<sup>300</sup> responded, on 11 April, 2024, that "there is no disciplinary administrative proceeding initiated by the Office of Internal Affairs against the PNP (R) General; on the aforementioned events, in relation to the social protests that occurred between December 2022 and March 2023".

Similarly, Amnesty International requested information in the case of the chief general of the Apurimac Police Front and general command of the operations during protests in that region. Through information obtained via a request for public information, Amnesty International had access to Administrative Resolution No. 02-2023-IN-OGII-OAI of June 2, 2022, where the OAI declared "there are no grounds" for the initiation of administrative disciplinary proceedings on File No. 148-12-2022 in relation to the deaths of Jhon Erik Enciso Arias and Wilfredo Lizarme Barboza that occurred on 12 December, 2022, against the aforementioned PNP general since "he was on vacation from 07 to 11DEC2023, joining on 12DEC2023, so he would not have any responsibility." This assertion is very concerning, since, as evidenced above in the section on the PNP, the most basic evidence regarding police operations in Apurimac, including his own statement to the Prosecutor's Office, shows that the general returned to active service since the morning of December 12, 2023 and supervised all operations that day.

For its part, Amnesty International obtained information from the OAI on the process regarding the general in the operational command of Operations Plan 047-2022 in Juliaca. The information includes the arguments of personal defense that the general prepared before the OAI. The policeman appears mistaken as to the concepts that exist in the law.<sup>301</sup> According to the general, the law would require "the need to have premeditated his actions and to have malice..." so that he could be sanctioned administratively. However, the Police Discipline Law says the opposite in its article 21: "The exercise of control and command is inalienable and implies personal responsibility for acts or omissions that constitute an infraction." That is to say, no malice is necessary and the mere omission on the part of the command is sufficient to sanction him administratively.

### **8.2.3 LACK OF ACTION BY THE MINISTER OF THE INTERIOR TO HOLD POLICE OFFICERS ACCOUNTABLE**

Given the law gives the minister the possibility to initiate extraordinary investigations and ex officio when he deems it appropriate, many questions arise as to why there was not greater accountability on the part of the minister of the Interior after the excessive use of force that resulted in arbitrary killings and possible extrajudicial executions, in addition to serious injuries during the protests. Although César Cervantes held this role for 11 days, he had the opportunity to demand some action after the events in Apurimac. For his part, it is not clear whether Víctor Rojas, who resigned on January 13 after the outcry of several sectors about the

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298. The first request in this regard was letter 009-2024/AIPE-SAIP of March 6, 2024 addressed to MININTER, managed with file number 2024-0015724, which included various requests for information, including the general's file. On March 27, 2024, the Ministry of the Interior sent information from the general that was not relevant to the events of the social protests. As a follow-up, on April 5, 2024, Amnesty International sent letter 015-2024/AIPE-SAIP to MININTER, specifically to request any EAD on the General of COMASGEN, managed with file number 2024-0022846.

299. On March 27, 2024, the Ministry of the Interior (file no.: 2024-0015724) responded with information regarding a complaint dated prior to the events of this investigation.

300. On April 5, 2024, Amnesty International sent letter 015-2024/AIPE-SAIP to MININTER, managed under file number 2024-0022846, specifically requesting a copy of the Disciplinary Administrative Files against the General in charge of COMASGEN that are in the Internal Affairs office of the Ministry of the Interior for events that occurred between December 2022 and March 2023 in relation to the social protests. It was managed with file number 2024-0022846. On April 11, 2024, the Ministry responded through memorandum No. 000036-2024-IN-OGII -OAI where they informed that "there is no disciplinary administrative procedure initiated by the Office of Internal Affairs against Lieutenant General PNP (R); on the aforementioned events, in relation to the social protests that occurred between December 2022 and March 2023."

301. Ministry of the Interior, Informative Letter No. 105-2023-C-G-PNP-7SECEJE-UNITRDOC. AREACIP, September 7, 2023 and Report No. 1058-2023-IGPNP/SEC-UNITIC.



deaths in Juliaca, took action on these events or the previous events that took place under his management. Finally, with regard to Vicente Romero, he held several working meetings with the commander general of the PNP and COMASGEN<sup>302</sup> on January 13, 16, and 23, which would have been good opportunities to take action in relation to any concerns he may have had regarding police action. Amnesty International did not receive a response to requests for the minutes of these meetings.<sup>303</sup>


## 8.3 THE POSSIBLE RESPONSIBILITY OF THE MINISTER OF DEFENSE

According to the Regulations of Organization and Functions (ROF) of the Ministry of Defense, it exercises the following functions:<sup>304</sup> “Direct, coordinate, execute, supervise and evaluate the National Security and Defense Policy, in accordance with the provisions of the President of the Republic in his capacity as Commander-in-Chief of the Armed Forces, as well as with the agreements adopted by the National Security and Defense Council and the regulations in force.”

On December 15, 2022, a few moments before the first death occurred in Ayacucho, Dina Boluarte was seated next to Alberto Otárola, the then minister of Defense. They attended the closing ceremony of the 2022 academic year of the Peruvian Air Force (FAP) Officer School and graduation of the “FAP Commander Michael Eduardo Quiroz Pleafke” class. Although the official commemoration activity and ceremony they attended was stipulated in the president’s agenda for 11:00 hours, the photo of the officials was published at 13:18 hours. The first death in Ayacucho was registered at 14:00 hours,<sup>305</sup> so any communication linked to the events that occurred in Ayacucho that took place between the then minister and the president while they were attending the ceremony, becomes relevant to determine if there is command responsibility.

In his three statements to the Public Prosecutor’s Office to date, Alberto Otárola has said that he did not issue



←  Photo of the then minister of Defense and the president together at a ceremony on the morning of December 15, 2022

302. Copy of the Agenda and the Minutes of the MEETING OF THE MINISTER OF THE INTERIOR WITH THE POLICE HIGH COMMAND: 1. POLICE GENERAL RAÚL ALFARO ALVARADO – COMMANDER GENERAL PNP 2. GENERAL PNP VICENTE ALVAREZ – PNP PROVINCE 3. PNP GENERAL JORGE ANGULO TEJADA – CHIEF OF STAFF, dated January 13, 2023, held in the Meeting Room of the Ministerial Office. Copy of the Agenda and Minutes of the MEETING OF THE MINISTER OF THE INTERIOR WITH THE POLICE HIGH COMMAND GENERAL PNP RAÚL ALFARO ALVARADO - COMMANDER GENERAL PNP; GEN. VICENTE ÁLVAREZ - PNP INSPECTOR GENERAL, GEN. JORGE ANGULO TEJADA - CHIEF OF STAFF; GEN. OSCAR ARRIOLA DELGADO – DIRINCRI AND HIGH COMMAND TEAM, dated January 16, 2023, held in the Meeting Room of the Ministerial Office. Copy of the Agenda and Minutes of the MEETING WITH POLICE GENERAL RAÚL ALFARO, COMMANDER GENERAL PNP, dated January 23, 2023, held in the Meeting Room of the Ministerial Office.

303. Amnesty International requested on 23 August 2023 (document code 033986, request 493) a copy of the agenda and minutes of meetings held between the Minister of the Interior and the police high command, including the meetings of 13, 16, 17 January (in which Minister Vicente Romero and various senior police officers participated), 23 January 2023 and 20 December 2022. In addition, it filed an appeal on September 26, 2023, due to the denial of public information, On December 22, 2023, the Ministry of the Interior responded with official letter No. D001264 delivering only partial information and attaching the agenda of the January 17 meeting.

304. Regulations of the Ministry of Defense, Supreme Decree 006-2016-DE, Article 7.1.

305. IDL Reporteros, *Ayacucho: Radiography of homicides*, February 12, 2023, available at: <https://www.idl-reporteros.pe/radiografia-de-homicidios/>

any guidelines or directives for the operations in Ayacucho because “those were already in force.”<sup>306</sup> Although this statement might seem like a way of avoiding responsibility, it could also be considered as a serious admission of omission by the minister, or at least an acknowledgment that he agreed with the guidelines that gave rise to the operation. Meanwhile, in an official letter<sup>307</sup> from the head of the Joint Command of the Armed Forces dated 20 January 2023 and analysed by Amnesty International, the armed forces responded to a request from the Public Prosecutor’s Office. The request asks for records of any official correspondence received by the Joint Command of the Armed Forces from the president, the minister of Defense, or the president of the Council of Ministers during operations in Andahuaylas on December 10 to 12, 2022, Ayacucho on December 15, 2022, and Juliaca on January 9, 2023. In its response, the Joint Command of the Armed Forces maintained that its institution had no record of official communication from any of these senior public officials. The absence of such communication, if not refuted by other hard evidence, could be an indicator that the president and other senior officials did not take the required actions to prevent human rights violations.

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306. Public Prosecutor’s Office, Criminal File 277-2022, p. 728. Interrogation of Alberto Otárola, January 23, 2023.

307. Public Prosecutor’s Office, Criminal File 277-2022, p. 718.

# 9. PARTIAL AND SLOW INVESTIGATIONS, DESPITE PROGRESS

According to the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths,<sup>308</sup> “the investigation must make it possible to determine whether there was a violation of the right to life. Investigations must be aimed at identifying not only the direct perpetrators, but also all others responsible for the death, including, for example, officials in the chain of command who were complicit in it.”

## 9.1 THE CRIMINAL INVESTIGATION PROCESS IN PERU

Investigations into possible crimes committed by the authorities during the protests are the responsibility of the Public Prosecutor’s Office (Fiscalía de la Nación). Staff at this institution began collecting information in the days and weeks following the deaths and injuries. The investigations were grouped into two categories: first, investigations involving members of the police and the army, which were assigned to a special team of prosecutors (to be detailed below). Second, the investigations related to the president and ministers, which, to be able to formulate accusations against them, must go through a procedure before Congress.<sup>309</sup>

The criminal process in Peru has three phases: Preparatory Investigation Stage, Intermediate Stage (where accusations are presented) and finally, the Trial Stage (which includes an oral trial).<sup>310</sup> To date, the investigations of the Public Prosecutor’s Office into human rights violations committed during the period of the protests are only in the first stage, that is, no public official of the State has yet been criminally charged. It is also important to mention that within the preparatory investigation stage there are two phases: first “Preliminary Proceedings” and then the “Preparatory Investigation” itself. Reaching the Preparatory Investigation phase means that the prosecutor must go through a “formalization” – that is, the moment where the prosecutor notifies a judge that he or she has formally identified potential suspects in the commission of a crime. After this moment, prosecutors cannot desist from the investigation against people who have been “formalized” without the express permission of a judge.<sup>311</sup> In short, “formalization” is the first important step in being able to proceed later with a criminal charge against a person.

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308. United Nations, Office of the High Commissioner for Human Rights, *Minnesota Protocol on the Investigation of Potentially Unlawful Deaths* (2016), para. 26.

309. Political Constitution of Peru, Article 99.

310. Code of Criminal Procedure of Peru, see articles 339, 343, 350 and 355. See also Public Prosecutor’s Office, Special Team of Prosecutors for cases with victims during social protests. Bulletin 1, May 2024, page 7

311. Code of Criminal Procedure of Peru, Article 29.

## 9.2 INVESTIGATIONS AGAINST MEMBERS OF THE POLICE AND THE ARMY: PARTIAL PROGRESS AND SENIOR COMMANDERS OVERLOOKED

According to the United Nations Special Rapporteur on the right to peaceful assembly, there is a global trend whereby where “prosecutions for crimes against activists or protesters have been brought, they have been against low-level perpetrators, while the so called “intellectual authors” of the crimes have rarely been brought to justice.”<sup>312</sup>

Investigations against members of the PNP and the armed forces are the work of the Special Team of Prosecutors for cases with victims during social protests (EFICAVIP), a team created in March 2023<sup>313</sup> to investigate police and military operations carried out in the different regions of the country. Prior to that date, investigations into police and military personnel were assigned to offices in the regions where the events occurred, allowing the investigative team to carry out proceedings more easily. With the creation of EFICAVIP, investigations were transferred to this centralized team in Lima.

To date, the EFICAVIP has announced that it has 62 open investigations (called “folders” - *carpetas*), each involving multiple public servants. These 62 folders implicate 324 people under investigation, including 285 police officers and 39 military personnel.<sup>314</sup> Of these 62 folders, 11 have come to be formalized as investigations on specific people, sometimes with multiple people within the formalizations. Among these, a policeman has a preventive detention order in the Cusco region in relation to the death of a person by pellet shots.<sup>315</sup>

In the case of the investigations into the PNP, despite the progress made by EFICAVIP, it should be emphasized that as of the closing of this report, the information available to Amnesty International<sup>316</sup> suggests that, despite the fact that prosecutors have identified several members of the police as suspects of crimes, investigations appear to have overlooked key elements of the chain of command in relation to grave human rights violations committed during the protests, especially in relation to the most senior commanders. To date, there is little indication that prosecutors are looking into the possible responsibility of higher-ranking commanders. In the case of the police, based on the information available to the organization on the actions of the EFICAVIP, Amnesty International is not aware of any criminal investigation into the role of the commander general of the PNP, the PNP General Advisory Command (COMASGEN) or the Director of Special Operations (DIROPESP), all of whom are noted for their role in the operations described earlier in this report. As for middle ranking commanders, the organization is aware that some commanders at the regional level are being considered suspects by prosecutors, as in the case of Juliaca, where the EFICAVIP recently formalized investigations of 19 members of the police, including chiefs of the Macro Region of Puno, for the crimes of aggravated homicide and serious and minor injuries.<sup>317</sup> However, in the case of Andahuaylas, it is unclear whether neither the role of the generals in charge of the Apurimac Police Front, nor the generals and colonels of DIROPESP outlined in the previous sections of this report is being thoroughly analysed, or whether they have been considered suspects by the prosecutors in charge of the cases.<sup>318</sup> Similarly, representatives of the victims emphasized to Amnesty International that it would be important for the EFICAVIP to also consider investigating serious injuries as the crime of attempted homicide, under the criminal code.

In the case of the armed forces, during the month of June 2024, the prosecutor in charge of the investigation of the events that occurred in December 2022 in Ayacucho, formalized the investigation against 36 members of the armed forces,<sup>319</sup> and specified the entire chain of command as formalized suspects: that is, it included

312. United Nations, United Nations Special Rapporteur on the right to peaceful assembly, report A/HRC/53/38, para. 37

313. Official Gazette El Peruano, *Special Team of Prosecutors formed for cases with victims during social protests*, March 31, 2023.

314. Official gazette *El Peruano*, page 15, March 31, 2023.

315. RPP Noticias, *Judicial Branch issued preventive detention against police officer for death of demonstrator during protests in Cusco*, January 5, 2024, available at: <https://rpp.pe/politica/judiciales/poder-judicial-dicto-prision-preventiva-contra-policia-por-muerte-de-manifestante-durante-protestas-en-el-cusco-noticia-1525881>

316. Amnesty International analysed publicly available information, interviewed lawyers representing victims of human rights violations during the protests, and met several times with EFICAVIP prosecutors during the second half of 2023 and the first half of 2024.

317. *Prosecutor's Office formalizes preparatory investigation against police officers for deaths during protests in Puno* | Society | [La República \(larepublica.pe\)](https://larepublica.pe). Prosecutorial Provision 01-2024 – Juliaca, of the EFICAVIP.

318. According to EFICAVIP, there would be a formalized investigation in the Apurimac region, but Amnesty International does not know if it identifies the general in charge of the operations on December 12, 2022 and in charge of the Apurimac Police Front, mentioned in the previous chapters of this report. See Public Prosecutor's Office, *Special Team of Prosecutors for Cases with Victims during Social Protests*, Bulletin 1, May 2024, available at: <https://cdn.www.gob.pe/uploads/document/file/6408433/65234-boletin-eficavip-n-1.pdf>.

319. Public Prosecutor's Office, EFICAVIP, Provision 64-2024, June 8, 2024.

the head of the armed forces (CCFFAA), the Eastern Operational Command, and the head of the Second Infantry Brigade, in addition to the relevant members in charge of operations at the airport indicated above in this report. This progress, despite being important to proceed in the investigations, is still a partial advance. Lawyers representing victims of human rights violations committed during the protests said it is troubling that, for example, in the case of Juliaca, EFICAVIP has not included members of the military as part of the formalized suspects, despite their involvement in the operations.

Finally, it should be noted that, to move forward with the prosecution against members of the police and the army, the EFICAVIP prosecutors could face serious challenges that undermine the effectiveness of their work. From the beginning of the investigations, Amnesty International pointed out the lack of speed around ballistics tests that, in general, at the time were either not carried out, or were carried out too slowly. Similarly, it should be noted that, in the days following the protests, prosecutors seem to have failed to seize weapons from police and soldiers.<sup>320</sup> In addition, gunshot residue tests, which measure chemical and metal particles to determine if people had used a firearm, were not carried out in time when it came to police and military cases.<sup>321</sup> After more than a year, in May 2024, Amnesty International was able to confirm information that EFICAVIP had managed to integrate international ballistics forensics experts to support its investigations, following months of calls from several international organizations, including Amnesty International, about the need for technical assistance for EFICAVIP.

In addition, to date, despite having asked EFICAVIP representatives about this point, Amnesty International has no information that shows that EFICAVIP has asked a judge to lift the secrecy of communications<sup>322</sup> to review the telephone records of military and police commanders during the protests, and it remains to be seen whether prosecutors would be analysing other sources of possible evidence such as personal agendas, meeting minutes, travel itineraries and others, that the senior commanders may have had during the days in which grave human rights violations were committed. Similarly, it will be important for the EFICAVIP to be able to analyse the lack of investigation and accountability that the military and police commanders applied to their subordinates as important proof of the permissiveness they could have had about these events.

## 9.3 INVESTIGATIONS AGAINST THE PRESIDENT AND HER MINISTERS: SLOW AND SUPERFICIAL

The second line of investigation concerns the chain of command responsibility of seven senior officials, including president Dina Boluarte and cabinet ministers, for aggravated homicide and serious injuries.<sup>323</sup> This investigation was opened in December 2022 and assigned to Criminal File (“folder”) 277-2022, in charge of a supreme prosecutor within the Area on Illicit Enrichment of the Public Prosecutor’s Office. The “supreme” prosecutors are the only ones with the power to investigate senior officials who enjoy immunity under Article 99 of the Constitution. During the 18 months since the protests, this investigation has called several senior state officials to testify, including the president, the former president of the council of ministers and several state ministers. However, according to the information shared by representatives of the victims present during these hearings, in addition to investigative journalists who were able to reveal several details, these proceedings could have lacked rigor on the part of the prosecution team, omitting key points and limiting themselves to a series of superficial questions. For his part, the prosecutor assigned to the investigation resigned in December 2023<sup>324</sup> after being included as one of the officials investigated for possibly having been part of a criminal corruption network along with the former Attorney General.<sup>325</sup> In addition, according to information revealed by the media at the end of April 2024, the previous Attorney General, Patricia Benavides,

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320. Amnesty International confirmed with EFICAVIP that the weapons were never seized. Amnesty International interview with members of EFICAVIP, remotely, October 2023.

321. Amnesty International, *Lethal Racism*, p. 65.

322. Code of Criminal Procedure of Peru, Article 230.

323. Public Prosecutor. Criminal File 277-2022, which has President Dina Boluarte, Alberto Otárola (in his capacity as Minister of Defense); Against César Augusto Cervantes (in his capacity as Minister of the Interior); Víctor Rojas (in his capacity as Minister of the Interior); Vicente Romero (in his capacity as Minister of the Interior) Jorge Angulo, as President of the Council of Ministers, and Jorge Luis Chávez Cresta, as Minister of Defense.

324. El Comercio, *Attorney General Juan Carlos Villena accepts the resignation of Marco Huamán, of the Specialized Area in Illicit Enrichment and Constitutional Complaints*, December 13, 2023, available at: *Prosecutor of the Nation Juan Carlos Villena accepts the resignation of Marco Huamán, of the Specialized Area in Illicit Enrichment and Constitutional Complaints Marita Barreto*

325. El Comercio, *Patricia Benavides: Prosecutor Marco Huamán acknowledged that he delivered resolutions and reports of cases against congressmen to Jaime Villanueva*, May 5, 2024, available in: <https://elcomercio.pe/politica/actualidad/patricia-benavides-fiscal-marco-huaman-reconocio-que-entregaba-resoluciones-e-informes-de-los-casos-contra-congresistas-a-jaime-villanueva-fiscal-suprema-fiscalia-de-la-nacion-jnj-noticia/>.

gave Dina Boluarte the questions in advance before her interrogation.<sup>326</sup> In her third and final statement to the Public Prosecutor's Office in September 2023, the president chose to remain silent, and her lawyer also filed a motion requesting to archive the investigation against her.<sup>327</sup>

Amnesty International requested an interview in early November 2023 with the then-supreme prosecutor but was not granted the meeting. The organization again requested a meeting with the official who replaced the dismissed prosecutor<sup>328</sup> in May 2024, a request that was also denied by his office.

On November 27, 2023, the then Attorney General, Patricia Benavides, filed a constitutional complaint<sup>329</sup> against President Dina Boluarte and her ministers, just hours after prosecutors accused her (Patricia Benavides) of running a criminal corruption network.<sup>330</sup> The constitutional complaint mechanism against the head of State is part of the first phase of a process before Peru's Congress, which would involve lifting the immunity of the president and her ministers to face criminal charges.<sup>331</sup> The constitutional complaint filed with Congress incorporated only part of the information from Criminal File 277-2022. Amnesty International was able to review the constitutional complaint and found that it did not include an analysis of the president's constitutional role as commander-in-chief of the armed forces and police, nor an analysis of the rationale for the states of emergency or the decisions taken by the president and her ministers during the period of the protests. Similarly, the constitutional complaint does not make an analysis of the stigmatizing discourse of the president and her ministers against protestors, which would have created an enabling environment for repression, praising at all times the actions of the armed forces and police.

To date, Congress has not advanced in the process stipulated in its internal regulations to analyse this constitutional complaint.<sup>332</sup> It is worth mentioning that, regardless of the quality or content of the constitutional complaint presented, it is important that legislators fulfil their role in processing the matters that are referred to them. It is also important to mention that there is no limit to the number of constitutional complaints that supreme prosecutors can file with Congress, and in this sense, the new supreme prosecutor, recently assigned to Criminal File 277-2022, has the opportunity to strengthen any complaint made so far, in addition to expanding its reach, since, to date, the constitutional complaint of November 2023 only refers to events that occurred in Ayacucho, Lima, Cusco, and Macusani, Puno, leaving out multiple localities where acts of excessive use of force occurred on a massive scale, including Andahuaylas, Juliaca, and Pichanaqui, among others. It is important that any complaint against the president and senior officials consider the widespread nature of the grave human rights violations that were repeated for months. According to the discourse analysis included in this report and in the previous report, the country's highest authorities would have encouraged these types of violations, endorsing and praising the work of law enforcement and offering erroneous information, possibly knowing its falsehood. This discourse would show not only the lack of will to end the repression, but also the deliberate intention to keep the strategy unchanged. The repeated pattern of illegitimate and improper actions by public servants means that the commanders of the PNP, the Army and their superiors may have deliberately (or at least negligently) omitted their responsibility to prevent damage to the life and physical integrity of people.

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326. El Comercio, *Witness affirms that Dina Boluarte's lawyers agreed to Patricia Benavides' questions before interrogation*, April 28, 2024, available at: <https://elcomercio.pe/politica/gobierno/dina-boluarte-testigo-afirma-que-abogados-de-la-presidenta-accidieron-a-preguntas-de-patricia-benavides-antes-de-interrogatorio-por-muertes-en-protestas-sociales-oscar-nieves-marco-huaman-emerson-campos-maldonado-ultimas-noticia/#:~:text=La%20presidenta%20Dina%20Boluarte%20accedi%C3%B3,conocer%20por%20%E2%80%9CCuarto%20Poder%E2%80%9D>.

327. Américo Zambrano, *Nuestros Muertos*, cited above, page 13.

328. Attorney General's Office, Resolution No. 3477-2023-MP-FN, December 15, 2023, regarding the Coordinator of the Specialized Area in Constitutional Complaints

329. EFE Noticias, *Peru's Attorney General denounces Boluarte for deaths in the 2022 and 2023 protests*, November 27, 2023, available at: <https://efe.com/mundo/2023-11-27/la-fiscal-general-de-peru-denuncia-a-la-presidenta-boluarte-por-las-muertes-en-las-protestas-de-2022>. Amnesty International was able to obtain a copy of the Constitutional Complaint and analysed it.

330. La República, *Patricia Benavides' Criminal Network: This was the prosecutor's raid on Jaime Villanueva's office*, November 29, 2023, available at: <https://larepublica.pe/politica/2023/11/29/red-criminal-de-patricia-benavides-asi-fue-el-allanamiento-fiscal-a-la-oficina-de-jaime-villanueva-ministerio-publico-487751>.

331. Article 89 of the Rules of Procedure of the Congress of the Republic explains the process for evaluating any constitutional complaint against the president and ministers of the state. This process is being followed to find the stipulations of Article 99 of the Constitution, which concerns the Accusation that Congress can make against high officials.

332. Regulations of the Congress of the Republic, Article 89

## 9.4 CHALLENGES AND OBSTACLES TO VICTIMS' ACCESS TO JUSTICE

In the first line of investigation, the EFICAVIP, established within the Public Prosecutor's Office specialized in human rights and interculturality based in the capital Lima, has advanced over more than a year with a team that has grown and currently has 33 prosecutors covering the different regions where the protests occurred.<sup>333</sup> While this team has made significant progress, shortcomings remain. In the first few months since case files were transferred to this special team in Lima, prosecutors made only a handful of visits to crime scenes in each town. In the case of the town of Andahuaylas, where police operations culminated in five deaths on 11 and 12 December, 2022, prosecutors appear to have only visited the city twice in the six months between April and October 2023. Lawyers for the affected families told Amnesty International that the Public Prosecutor's Office made its first visit to Andahuaylas airport, the site of the police crackdown, eight months after the deaths. The same happened in the city of Juliaca. The families and their lawyers denounced that prosecutors did not carry out a proper inspection of the scene at the Juliaca airport until October 2023. When EFICAVIP was established, the aim was for its staff to carry out regular fieldwork, according to information provided to Amnesty International. However, an EFICAVIP representative told Amnesty International that they had only made three or four visits to the Puno region in six months.

Despite these shortcomings, following the change in team coordination in early 2024, EFICAVIP has taken steps<sup>334</sup> to strengthen the course of investigations. Amnesty International received information contained in Report 000007-2024-MP-FN-EFICAVIT, of February 12, 2024, which indicates that there would be an intention to move several of the teams of prosecutors to the ground where the events took place. Likewise, during the month of February 2024, representatives of the EFICAVIP participated in a meeting of victims' relatives to listen to their concerns about the ongoing investigations, and to report on their progress.

Beyond the aforementioned points of both ongoing prosecutorial investigations, the procedural characteristics of the investigations have affected the victims and their families, as well as their right to access to justice. This is a constant within the investigations both from the EFICAVIP and from the Criminal File 277-2022. Meanwhile, in addition to delays in investigations, EFICAVIP's internal organization has undermined the progress of the investigation. For example, prosecutors and task force staff have rotated on several occasions, which has negatively affected the follow-up of cases and contact with those who legally represent victims. Victims and relatives have also reported obstacles to giving statements through video calls, due to limited internet access in rural areas, as well as problems in guaranteeing interpretation into indigenous languages. For their part, lawyers for the victims in the investigation against the president and other senior officials told Amnesty International that the scheduling of hearings in Lima has been chaotic and has sometimes forced relatives to travel to the capital at huge expense in long journeys by bus, only for the hearing to be canceled on the same day.

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333. Public Prosecutor's Office, *Special Team of Prosecutors for cases with victims during social protests. Bulletin 1, May 2024*, available at: <https://cdn.www.gob.pe/uploads/document/file/6408433/65234-boletin-eficavip-n-1.pdf>.

334. La República, *Raquel Cárdenas appointed as coordinator of the Special Team of Prosecutors investigating deaths in protests*, January 9, 2024, available at: <https://larepublica.pe/politica/2024/01/09/designan-a-raquel-cardenas-como-coordinadora-del-equipo-de-fiscales-que-investiga-muertes-en-protestas-dina-boluarte-ministerio-publico-745749>

# 10. CONCLUSION

The body of evidence presented in this report accounts for actions and omissions carried out by the highest levels of the Peruvian State that would have had lethal consequences for months and that could have been avoided. International human rights law contains clear criteria for assessing the responsibility of superiors in the chain of command, including those in the highest positions in organized hierarchies, and who knew or should have known that their subordinates were committing or were going to commit grave human rights violations. The report presents multiple examples of key orders and decisions by senior police and military commanders, the president and ministers, which opened the door to grave human rights violations. Faced with massive protests across the country, instead of seeking solutions that would reduce tension, the president and ministers chose to use an argument that labelled protestors as “terrorists” to declare a nationwide state of emergency. In this context, senior police and military commanders ordered the security forces to confront demonstrators as “adversaries,” supplying police and military with lethal weapons for that purpose.

Since the first days of the social protests, the numbers of killings and injuries increased without evidence that the protesters and bystanders affected were carrying weapons or posing a real threat to the security forces, beyond isolated incidents of violence during the protests. The use of force by the police and military was excessive, disproportionate, and often unnecessary, which is why international human rights organizations condemned the events from the outset. Despite these warnings, the evidence is overwhelming regarding the possible omission by police and military commanders as well as senior civilian officials to prevent any repetition of these repressive tactics. Far from condemning the unlawful acts committed by the security forces, which grew in magnitude every day and could be configured as crimes under international law, those higher up in the chain of command endorsed the operations during the protests.

In light of the above, Amnesty International urges the authorities in Peru to redouble their efforts to guarantee the rights to truth, justice, reparation and guarantees of non-repetition for the hundreds of victims of grave human rights violations during protests. It is urgent that any effort to account for these events analyse the role of the chain of command in its entirety, and not omit the highest ranks, including former PNP commanders general, the former general in charge of the PNP General Advisory Command, and the former PNP director of Special Operations, in addition to the former head of the Joint Command of the Armed Forces. This in addition to evaluating the president as commander-in-chief of the Armed Forces and the National Police, in addition to the ministers of State. Only in this way is it possible to begin to heal the wound of the deep pain experienced by hundreds of families, to put in place lasting measures that guarantee the non-repetition of these types of acts.



# 11. RECOMMENDATIONS

## TO THE PRESIDENT OF THE REPUBLIC:

- Publicly condemn impunity for human rights violations committed by police and military during the protests, as a way of demanding guarantees of non-repetition, in addition to offering a public apology for these events.
- Fully cooperate with the ongoing investigations of the Public Prosecutor's Office, without obstructing any effort to ensure the rights to truth, justice, and reparation of the victims of grave human rights violations committed in the protests.
- Suspend from their duties persons holding public office, including ministers, or police or military commanders suspected of having ordered or committed human rights violations, pending the conclusion of investigations.
- Take steps to proactively reverse any statements that stigmatize those who participated in protests, the victims, or their families as "criminals," "terrorists," or "vandals."
- Provide reparations for victims' families, including individual and community measures, such as compensation, rehabilitation, satisfaction measures, and guarantees of non-repetition.
- Refrain from deploying armed forces in public security tasks unless they can guarantee that such deployment will be done only in those exceptionally serious circumstances where it is impossible for authorities to rely solely on civilian agencies, establishing temporal and geographical restrictions, under strict civilian controls, and following the establishment of civilian accountability mechanisms.

## TO THE MINISTERS OF DEFENSE AND THE INTERIOR:

- Cooperate with the ongoing investigations of the Public Prosecutor's Office, providing it with any evidence requested.
- Immediately initiate investigation and accountability processes concerning the generals and commanders who may have been involved in ordering, permitting, or not preventing human rights violations during protests, including initiating or calling for disciplinary proceedings to be initiated against them.

## TO THE PUBLIC PROSECUTOR'S OFFICE:

- Ensure prompt, impartial, independent, and effective investigations into all grave human rights violations, including allegations of crimes under international law such as possible extrajudicial executions, and other grave human rights violations allegedly committed by members of the security forces.
- Where sufficient and admissible evidence exists, bring to trial persons who are reasonably suspected of individual criminal responsibility, including chain of command responsibility, in proceedings that meet international fair trial standards.
- Ensure that victims and their families do not face obstacles when participating in ongoing prosecutorial proceedings and ensure accountability to them for ongoing investigations.
- Provide the Special Team of Prosecutors for cases with victims during social protests with sufficient resources to carry out expert tasks appropriate to the type of investigation being carried out, in addition to avoiding the high turnover of prosecutors in charge of the cases.

- Expressly investigate those public servants who until now would not be considered suspects, namely:
  - The former commander general of the PNP who was in charge of the institution between December 2022 and March 2023;
  - The former general in charge of the PNP's General Advisory Command (COMASGEN) between December 2022 and March 2023, who later became commander general of the PNP in March 2023;
  - The general director of Special Operations of the PNP, (within the National Directorate of Order and Security), in charge of that position between December 2022 and March 2023;
  - The generals in charge of the Peruvian Army's operations in Juliaca in January 2023.

### **TO THE PERUVIAN NATIONAL POLICE:**

- Cooperate with ongoing investigations by the Public Prosecutor's Office, providing it with any evidence requested.
- Ensure that the PNP refrain from acts that violate international standards on the use of force and ensure that any police officers suspected of having engaged in such acts are immediately investigated and, if appropriate, promptly brought before disciplinary proceedings.
- Suspend any officer – regardless of rank – suspected of grave human rights violations, pending an impartial and independent investigation, and ensure that no public official found directly or indirectly responsible for grave human rights violations is employed in other public security, prosecutorial or judicial institutions.
- Abolish Directive 03-17-2015 as it allows for an inappropriate use of lethal force.

### **TO THE JOINT COMMAND OF THE ARMED FORCES, INCLUDING THE DIVISIONS OF THE PERUVIAN ARMY:**

- Cooperate with ongoing investigations by the Public Prosecutor's Office, providing it with any evidence requested.
- Suspend any officer – regardless of rank – suspected of involvement in grave human rights violations, pending an impartial and independent investigation, and ensure that no public official found directly or indirectly responsible for grave human rights violations is employed in other public security, prosecutorial or judicial institutions.
- Ensure that when, on an exceptional basis, armed forces are called upon to collaborate in public security tasks, their actions strictly adhere to international standards on the use of force under international human rights law.

### **TO THE CONGRESS OF THE REPUBLIC:**

- Repeal Law 31012, Law on Police Protection, and review current legislation to bring it into line with international standards on the use of force.
- Expedite due diligence in compliance with the Rules of Procedure of the Congress of the Republic, regarding any constitutional complaint filed against senior State officials during social protests, thus guaranteeing that victims' access to justice is fulfilled.

# TIMELINE OF STATE REPRESSION (1/2)

7 DEC 2022



Dina Boluarte takes office as president

Protests commence throughout the country

Address to the nation by Dina Boluarte:  
She emphasized "the legal and legitimate exercise of authorities to maintain public order and social peace."  
"Responsibility, peace and tranquility is possible with everyone's effort."



10 DEC 2022

First person to die afterwards from fatal injuries: Cristián Rojas in Andahuaylas

Two adolescents die in Andahuaylas airport due to excessive use of force by the PNP

President meets with ministers of Defense and the Interior

11 DEC 2022

9 DEC 2022

PNP General signs PNP Operational Plan 088-2022 for Apurimac region, allowing for use of lethal weapons

National Intelligence Director (DINI) advises president not to deploy armed forces in protests and says protesters have no ties to terrorists

AFTER THE PNP SIGNS PLAN, SIX PEOPLE DIE IN APURIMAC REGION IN THREE DAYS

DESPITE DEATHS IN PROTESTS, THE PRESIDENT AND MINISTERS DECIDE TO INCREASE THE DEPLOYMENT OF FORCE, AND BRING IN THE MILITARY

President meets with minister of Defense

12 DEC 2022

Calls for reestablishing internal order peacefully, without affecting fundamental rights

Laments the death of her fellow countrymen in Apurimac

FAILS TO CALL POLICE TO ACCOUNT

3 more deaths in Andahuaylas and Chincheros

76 injured

10 PEOPLE KILLED IN A SINGLE DAY BY AMMUNITION USED BY THE ARMY; COMMANDERS FAIL TO CONDEMN THESE ACTS

President and ministers consider protesters as "terrorists" and declare national state of emergency

14 DEC 2022

Dina Boluarte declares: "This is no longer protest, this is terrorism".

171 people injured to date, according to the MINSA (Ministry of health)

The president meets with the Commander of the Armed Forces

The president attends another military ceremony

16 DEC 2022

Three people die in protests in Pichanaqui;

To date 19 deaths and more than 210 wounded in protests.

15 DEC 2022

"Violentists disguised as protesters have tried to endanger our country"  
- Dina Boluarte, speech at public ceremony



11am: At a military ceremony, the president and Defense Minister Alberto Otárola sit together.

17:00 to 18:00: Ombudsman calls the Minister of Defense and the Commander of the Armed Forces to ask for a ceasefire in Ayacucho.

17:00 to 20:00: Armed Forces continue shooting in Ayacucho and deaths continue to increase

14:00: first death in Ayacucho

Members of the army shot at least 1,200 bullets during this day

18 DEC 2022

President fires Wilson Barrantes, DINI director

Three days after the deaths in Ayacucho, the president sends a WhatsApp message to her defense minister asking to avoid deaths

Deaths in protests increase to 20

17 DEC 2022



Commander of the armed forces: Protestors are "bad Peruvians"

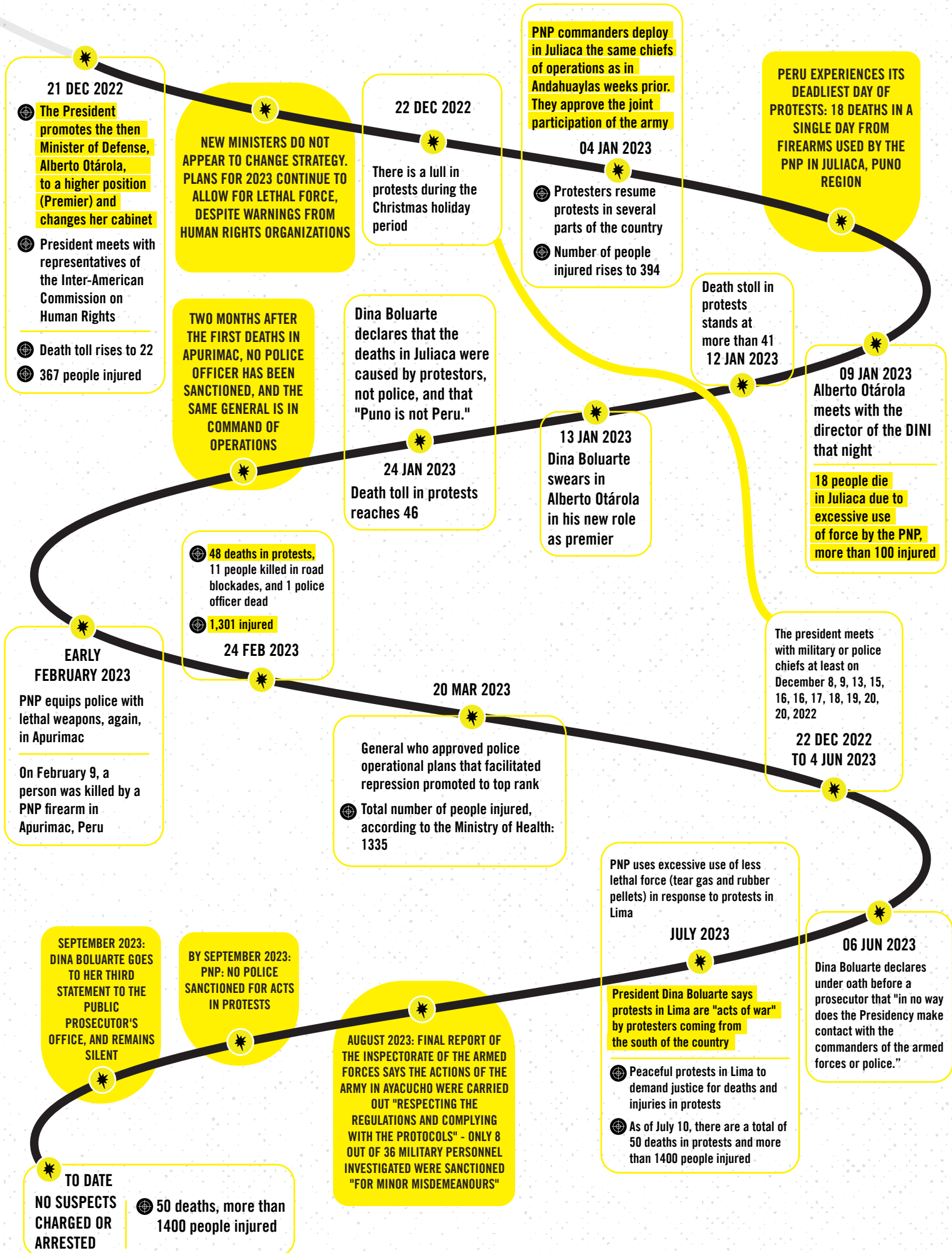
Head of the PNP: protests create "panic in the population"

Dina Boluarte: "The intervention of the armed forces has fallen within the legal framework."

The President sends two letters to the minister of the Interior and the minister of Defense. They seem to be the only letters sent from the presidential office to her ministries during the period of social protests

19 DEC 2022

# TIMELINE OF STATE REPRESSION (2/2)






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# WHO CALLED THE SHOTS?

## CHAIN OF COMMAND RESPONSIBILITY FOR KILLINGS AND INJURIES IN PROTESTS IN PERU

The body of evidence presented in this report reveals a series of actions and omissions from the highest levels of the Peruvian State that appear to have had lethal consequences over a prolonged period during protests from December 2022 to March 2023.

International human rights law contains clear criteria for assessing the responsibility of superiors in the chain of command, including those in the highest positions of hierarchical institutions, and who knew or should have known that grave human rights violations were being committed or were about to be committed. Similarly, the report presents multiple examples of a possible omission on the part of police and military commanders and senior civilian officials to prevent or punish any repetition of repressive tactics. Far from condemning the illegitimate acts committed by security forces, which grew in magnitude every day and could be configured as crimes under international law, superiors in the chain of command endorsed the actions committed during operations in protests. As such, it is more urgent than ever that authorities tasked with ensuring justice for victims prioritize the analysis of the chain of command in its entirety.