

Monitor of Use of Lethal Force in Latin America: A Comparative Study of Brazil, Colombia, El Salvador, Mexico and Venezuela (2019)

—Executive Summary—

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The authors of this document hold exclusive responsibility for the opinions and data contained therein, which do not represent the viewpoint of any of their affiliated institutions.

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Introduction

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The abuse of lethal force by the State’s public security agents –both police and military– is a problem in many Latin American countries. Frequently, the use of lethal force is presented as the inevitable downside of security. However, despite the significant number of people killed by the State, the vast majority of cases of use of lethal force are not investigated on the presumption that they occurred in a context that makes them legitimate. As a result, there is no accountability, responsibility, or incentive to curb the excessive use of lethal force. In several countries, however, human rights reports point to the existence of abuses of lethal force or extrajudicial executions by police and military officials.¹

According to international standards (the *Code of Conduct for Law Enforcement Officials*,² the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*,³ the *United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, and the *United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* –known as the Minnesota Protocol–), lethal force must only be used exceptionally. Furthermore, this use must always be carried out with due respect for human rights and the principles of legality, necessity, moderation and proportionality.

¹ The national chapters were produced by researchers from each country. The introduction, methodology and recommendations chapters were written by the project’s coordinators –Carlos Silva Forné, Catalina Pérez Correa and Ignacio Cano– in communication with the other researchers and attempting to reflect the consensus that arose during meetings and shared discussions. The chapter on regional analysis was written by Carlos Silva Forné, Catalina Pérez Correa and Ignacio Cano, with contributions from Keymer Ávila.

² United Nations General Assembly Resolution 34/169, approved December 17, 1979. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

³ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, September 7, 1990, Havana, Cuba. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOffForceAndFirearms.aspx>



The abusive use of lethal force has numerous negative effects, beyond and in addition to the victims it leaves behind. To start with, it hurts the image of security institutions –and of the State in general– and can bring about increased violence. For police and military officials, the abuse of lethal force can increase risks by encouraging dynamics of greater violence against their ranks.

This document shows the results of research on the use and abuse of lethal force in five Latin American countries: Brazil, Colombia, El Salvador, Mexico and Venezuela. For this purpose, the authors discussed, defined and developed a set of indicators to measure the use and abuse of lethal force. The objective was to build a shared methodology for monitoring the use and abuse of lethal force in the region, which could potentially be extended to other regions of the world. This document constitutes a first attempt to build tools that enable comparisons between different countries and institutions.

The current text is divided into four sections. The first explains the definitions used and the way the indicators are calculated. The following section has a chapter for each of the countries under study: Brazil, Colombia, El Salvador, Mexico and Venezuela. Each of the national chapters includes specific information on the construction of indicators in that country and their results. In addition, they offer information about regulations and the particular context for the use of force, as well as specific recommendations for the country. The third section presents a comparative regional analysis of the countries included in the study, and the final section includes a series of general recommendations.

Methodology

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The participating researchers from the five countries comprising this project –Brazil, Colombia, El Salvador, Mexico and Venezuela– agreed on the following:

Unified concepts for analyzing the use of lethal force

a) Events of interest: All those in which firearms were intentionally used by or against on-duty public security agents and which resulted in injury or death, excluding suicides and accidents. There are several reasons for selecting cases involving firearms. First, it is an easily applied homogenous criterion that contemplates –given the high degree of lethality of this kind of weapon– the vast majority of fatal victims in interventions by state agents (though not all of them). Second, there tend to be much more systematic and reliable records of cases involving the use of firearms than of those related to the use of non-lethal force. Limiting the cases to those in which agents were on duty stems from the lack of homogeneity in the way the various countries record cases in which off-duty police officers are involved in fatal incidents. These incidents are extremely varied and may include reactions to attempted robberies, participation in private security, episodes of domestic violence, conflicts with neighbors, participation in criminal activities, etc. In addition to the diverse ways in which they are recorded, there is no consensus regarding to what extent, in each of these cases, the police officer is intervening as an agent of the State or as a private individual. Based on all of this, it seemed simpler and more homogenous for the purposes of international comparison to consider only on-duty cases.



b) Public security agents: Included in this concept are: a) national, regional and local police; b) armies or national guards when they perform public security functions; and c) members of other public agencies that perform public security functions. In short, all the incidents in which the State's public security agents participate, regardless of their affiliation. In some countries, mem-

bers of military institutions are called on to perform public security functions occasionally, but not on a permanent basis, which complicates calculating the number of public security agents at any given time.

c) *Period*: 2017, which is the last full year before the project began. In addition, countries that had information from prior years included it to demonstrate the evolution of this phenomenon.

d) *Geographical area*: National territory. In very large countries or in federal ones, the possibility of analyzing subnational data by area was contemplated.

e) *Sources*: Two sources of information were used. The main sources are the official records of police and armed forces. These data were obtained from published official reports or through Freedom of Information Act requests to public institutions. In a complementary fashion and in countries where official data were non-existent or had serious problems in terms of validity and/or reliability, the press was used as a source of information, via a systematic search of the country's main media outlets. The fact that this source had to be resorted to was, in itself, an indicator of lack of transparency.

Indicators

In addition, a set of indicators to study the use of lethal force was agreed upon. These indicators can be divided into two types, according to what they measure: *Incidence* and *Abuse*. We present them in a summarized way below.

I. Indicators on incidence (I) of the use of lethal force:

- I-1. Absolute number of civilians killed by on-duty public security agents, by gunshot.
- I-2. Number of civilians killed by on-duty public security agents, by gunshot, for every 100,000 inhabitants (rate).
- I-3. Number of civilians killed by on-duty public security agents, by gunshot, for every 1,000 public security agents (rate).
- I-4. Number of civilians killed by on-duty public security agents, by gunshot, for every 1,000 people arrested (rate).
- I-5. Number of civilians killed by on-duty public security agents, by gunshot, for every 1,000 weapons seized (rate).

- I-6. Absolute number of on-duty public security agents killed in homicides, by gunshot.
- I-7. Number of on-duty public security agents killed in homicides, by gunshot, for every 1,000 public security agents (rate).

The *incidence indicators* try to measure the intensity of the phenomenon of the use of force against civilians; first, in absolute terms (I-1); then, weighted by the population (I-2) and the number of public security agents (I-3), based on the idea that one could expect a greater number of episodes of use of force as the population, and the size of police force, increases. Third, the indicators are weighted by events that pose a greater risk of public agents using lethal force, such as arrests (I-4) and weapons seizures (I-5). During arrests and weapons seizures, there is a greater likelihood of dynamics of resistance to authority than in other events, increasing the possibility of the use of force. Weighting the use of lethal force by the number of arrests or seizures enables better comparisons between the security forces that face a larger or smaller number of these kinds of situations. Because the use of lethal force is regulated by the principle of proportionality, as mentioned previously, the existence of firearms among civilians is a cardinal factor justifying the use of legitimate force, in cases where civilians pose an imminent threat to someone's life. In other words, the existence of firearms among the population is almost a necessary condition –although it is insufficient on its own– for legitimizing the use of lethal force by security agents.

Another obvious factor that could be used as a weight for the number of civilians killed in interventions by law enforcement officials would be the number of homicides; this would measure the degree of violence in a given country. However, this weighting was omitted here because the resulting index, from a substantive point of view, would be essentially redundant with the percentage of homicides that correspond to public agents' intervention –an indicator of the abuse of force that will be presented later.

Parallel to civilian victims, incidence indicators also contemplate the number of public security agents who are victims of homicide, both the absolute number (I-6) and as a rate for every 1,000 agents (I-7). The incidence of homicide victims among law enforcement officials is taken into account for two reasons. The first is that, obviously, these are extremely grave occurrences for society that should be reduced. The second is that this information is greatly relevant for understanding lethality against civilians, since in some countries these two phenomena are intimately linked.

As explained before in the section on the concepts used, all the indicators refer to deaths by firearm and to incidents in which public security agents are on duty.

II. Indicators on abuse (A) of lethal force:

- A-1. Proportion of total intentional homicides that correspond to homicides by gunshot caused by on-duty public security agents' interventions.
- A-2. Ratio between civilians killed by gunshot by on-duty public security agents and public security agents killed by gunshot in homicides while on duty.
- A-3. Lethality index: Ratio between the number of civilians killed by gunshot by on-duty public security agents and the number of civilians wounded by gunshot by on-duty public security agents.
- A-4. Ratio between the lethality index of civilians (civilians killed divided by civilians wounded) and the lethality index of public security agents (agents killed divided by agents wounded). All of these records correspond to people killed or wounded by gunshot in incidents involving the participation of on-duty public security agents.
- A-5. Average number of civilians killed by gunshot by on-duty public security agents per incident, taking into account all the incidents that caused deaths or injuries by gunshot.

The *indicators on abuse of lethal force* seek to measure to what degree patterns of excessive use of lethal force appear in a set of cases. In principle, a high level of incidence, while sounding alarms, does not necessarily mean that the use of force has been abusive. It is possible that lethal force has been elevated in response to a violent environment in which the lives of police officers, or of other people, have been threatened. For that reason, the incidence indicators must be complemented by others that specifically explore whether or not this use was justified.

The *proportion of intentional homicides that corresponds to the intervention of public security agents* (A-1) compares the lethality caused by public agents to the overall levels of lethal violence existing in a country. In a country where the homicide rate is low, high lethality caused by police would not be justified to the extent that officers can only make legitimate use of their firearms when there is an imminent threat to their lives or the life of others. In that sense, this indicator constitutes a test of proportionality in the use of force, as previously mentioned. In a study by Cano¹ in cities and countries where there was no reason to suspect abuses, the proportion of fatal cases due to police intervention was around 5%.

¹ Cano, *Letalidade da ação policial no Rio de Janeiro* (Rio de Janeiro: ISER, 1997).

When this percentage surpassed 10%, it was a clear indication of the abusive use of lethal force. In short, this proportion must remain below 10% and, when it does not, the result is incompatible with the moderate and legal use of lethal force.

The *ratio between civilians killed by gunshot by public security agents and public security agents killed by gunshot in homicides (A-2)* is an even more direct indicator of the principle of proportionality, in this case understood as the degree of force exercised by both sides, taking into account that law enforcement officials should act with moderation and only in response to an imminent risk to their lives or the life of others. If public security agents are never victimized and provoke a high number of victims among civilians, it is difficult to believe that the latter deaths occur exclusively to protect the lives of police officers. Instead, this scenario would point to the existence of summary executions in which public agents decide to kill civilians when they could arrest them.

Generally speaking, a higher number of fatal victims is expected among those who confront law enforcement officials (as opposed to among the officials themselves) for numerous reasons: police tend to operate in groups, they are trained, they often use bulletproof vests, etc. However, according to studies by professor Chevigny,² when the disproportion between death figures exceeds the ratio of 10 to 1, this constitutes a clear indication of excessive use of force. Therefore, the acceptable upper limit for this indicator would be 10.

The *ratio between civilians killed and civilians wounded in interventions by public security agents –also called the lethality index (A-3)–* is perhaps the clearest indicator of the abuse of force, insofar as it directly puts to test the principles of moderation and, to a lesser extent, of proportionality. Medical literature on armed conflicts systematically point to a greater number of wounded in relation to the number of dead. According to Coupland and Meddings,³ for example, the Vietnam War had a relationship of four wounded people for every person killed from 1964 to 1973, and the conflict between Israel and Lebanon had an index

² P. Chevigny, "Police Deadly Force as Social Control: Jamaica, Brazil and Argentina", *Criminal Law Forum*, 1(3), (1991): 389-425.

³ For example, see Coupland and Meddings, "Mortality Associated with Use of Weapons in Armed Conflicts, Wartime Atrocities, and Civilian Mass Shootings: Literature Review", *BMJ*, 319(7207), (1999): 407-410.

of 4.5⁴ people wounded for every person killed in 1982.⁵ According to the International Red Cross, “the ratio of dead to survivors in modern conflicts tends to be about 1:4”.⁶ This study also indicates that protective equipment, the type of weaponry and access to medical care are factors to take into consideration since they affect lethality. Military rifle bullets, for example, have 30% to 40% lethality (which would lead to a lethality index of between 0.4 and 0.66, respectively), grenades have between 5% and 10%, and explosives 22%.⁷ It is worth noting that these levels of lethality occur in scenarios in which the attacker’s intention is basically lethal, whereas in a context of public security, the principle of moderation and harm reduction is applied, which should tend to reduce the lethality index.⁸

On the other hand, there are diverse factors that have an impact on this indicator and that can produce some kind of bias. As Holcomb *et al.* indicate,⁹ figures regarding deaths in clashes change over time, because it is possible that people initially counted as wounded have later died.¹⁰ As a result, the indicators can underestimate the number of dead at any given point in time. In another text that analyzes the pertinence of using the number of people killed as evidence that armed conflicts are on the decline in the world, Fazal indi-

⁴ For the notation of decimal points in this document, a period will be used rather than a comma, since while the use of either one is correct in the various countries of Latin America, we will follow the advice of the Real Academia Española de la Lengua, which says that “with the aim of promoting a process tending toward unification, the use of the period as a decimal separator is recommended.” See: Real Academia Española, *Ortografía de la lengua española* (Spain: Ed. Planeta, 2010), 666.

⁵ Coupland *et al.*, “Mortality Associated” (1999), *Op. cit.*

⁶ See Giannou and Baldan, *War Surgery, Working with Limited Resources in Armed Conflicts and Other Situations of Violence* (Geneva: International Committee of the Red Cross (ICRC), 2010). Available at: <https://www.icrc.org/eng/assets/files/other/icrc-002-0973.pdf>

⁷ Giannou *et al.*, *War Surgery* (2010), *Op. cit.*

⁸ Some recent intentional shootings against the civilian population also show a similar pattern. For example, the shooting in 2017 in Las Vegas (U.S.) where a person fired from a building into a crowd of people attending a concert, resulted in 58 people dead and 869 wounded. See: Hernández, “We Make the Choice to Triumph Over Evil’: Las Vegas Marks One Year Since Shooting”, *The Guardian* (2018). Available at: <https://www.theguardian.com/us-news/2018/oct/01/las-vegas-route-91-shooting-anniversary>. Meanwhile, the incident in an Orlando bar in which a person shot indiscriminately at those inside also left more survivors than fatalities (49 killed, 53 wounded). See: Melville-Smith *et al.*, “A Shooting At A Gay Nightclub In Orlando Killed 49 People”, *BuzzFeed News* (2016). Available at: <https://www.buzzfeednews.com/article/aliciamelvillesmith/nightclub-shooting-orlando-florida>

⁹ Holcomb, Wade, Stansbury, Bellamy and Champion, “Understanding Combat Casualty Care Statistics”, *The Journal of Trauma, Inquiry, Infection and Critical Care*, 60(2), (2006): 397-401.

¹⁰ Holcomb, *et al.*, “Understanding Combat Casualty” (2006), *Op. cit.*

cates that, given medical advances, armed conflicts prompt ever fewer deaths and more injuries.¹¹

The lethality index is one of the most common indicators in the literature on the use of lethal force by police and military carrying out public security functions. Diverse researchers from several countries have managed to record very high values in contexts where there are frequent accusations of summary executions.¹²

In short, the lethality index should always be below 1. When the value exceeds that threshold –meaning that we record more dead than wounded– we are facing a scenario of excessive use of force and, possibly, summary executions.

The *ratio between the lethality index of civilians and that of law enforcement officials* (A4) contrasts the two lethality indexes. It applies the principles of proportionality and, to a lesser extent, moderation. Although there is no specific threshold for acceptability in this case, among other things due to the lack of studies, it is clear that if the lethality against civilians is much higher than it is against officers– meaning, if the indicator’s value is much higher than 1 –this would point to an excessive use of force. It is common for authorities to explain the high levels of lethality caused by police as a function of the risk that agents run when they come up against heavily armed and highly dangerous criminals. In some countries in the region, there are cases of ambushes against law enforcement officials and plans to summarily execute them. To the extent that this scenario of risk is real, it should push the value of the A-4 indicator to levels close to or still below 1. When this value is very high, it is not possible to explain police lethality in terms of that supposed risk. Instead, a context of excessive use of force can be observed.

Finally, the *average number of civilians killed per incident* in which there are victims (dead or wounded civilians) (A-5) is an indirect way to detect the presence of massacres –episodes of multiple summary executions– in which a high number of deaths occur. When this happens, the indicator rises significantly above 1, while a value close to 1 (either above or below it) can be expected in situations of relative normality.

¹¹ Fazal, “Dead Wrong? Battle Deaths, Military Medicine and Exaggerated Reports of War’s Demise”, *International Security*, Vol. 39, No. 1 (2014): 95-125.

¹² Cano, *Letalidade da ação policial* (1997), *Op. cit.*; Chevigny, “Police Deadly Force” (1991), *Op. cit.*; Silva Forné, Pérez Correa and Gutiérrez, “Uso de la fuerza letal. Muertos, heridos y detenidos en enfrentamientos de las fuerzas federales con presuntos miembros de la delincuencia organizada”, *Desacatos: Revista de Antropología Social* 40 (2012): 47-64; Silva Forné, Pérez Correa and Gutiérrez, “Índice de letalidad 2008-2014: Menos enfrentamientos, misma letalidad, más opacidad”, *Perfiles Latinoamericanos* 25(50), (2017): 331-359.

In any case, the indicators on the abuse of force cannot determine if the use was excessive or illegal in one specific episode or another, because this would entail an analysis of the concrete circumstances of the case, which goes beyond the scope of these indicators. Only an investigation by the criminal justice system can determine and establish the legality of a concrete case, and this cannot be replaced by a system of indicators. However, the indicators do allow for determining if, in a set of cases, the use of lethal force has been abusive. In addition, the need for and relevance of indicators in this area arises precisely because of doubts in many countries surrounding the capacity of the criminal justice system, and of public security institutions' mechanisms for internal and external oversight, to properly investigate incidents involving the use of force and to sanction possible abuses.

Among the international principles that should govern the use of force by state agents, legality and necessity are very difficult to evaluate through indicators, precisely because they would require assessing the concrete circumstances in each case. For that reason, these indicators are focused mainly on the principles of moderation and, above all, proportionality. Proportionality can be understood in several ways:

- Proportionality with regard to the violence prevailing in the context in which security agents work, which can be measured by the homicide rate (indicator A-1);
- Proportionality with regard to the threat existing in clashes between public agents and suspects, which can be measured via the casualties incurred on both sides (indicators A-2 and A-4).

Meanwhile, moderation, as well as proportionality, is reflected in the indicators that compare the dead and wounded, such as A-3 and A-4.

Determining the limit between a legal result and one that is indicative of abuse, depends both on the logic governing each indicator as well as on the results of previous empirical studies in other countries or cities where there is a presence, or absence, of evidence of excessive use of force.¹³

¹³ Cano, *Letalidad da ação policial* (1997), *Op. cit.*; Cano, *La policía y su evaluación. Propuestas para la construcción de indicadores de evaluación en el trabajo policial* (Santiago, Chile: Centro de Estudios para el Desarrollo, Área Seguridad Ciudadana, 2003); Cano, "Racial Bias in Police Use of Lethal Force in Brazil", *Police Practice and Research*, 11(1), (2010): 31-43; Chevigny, *Police Abuse in Brazil: Summary Executions and Torture in Sao Paulo and Rio de Janeiro* (New York, NY: Americas Watch Committee, 1987); Chevigny, "Police Deadly Force" (1991), *Op. cit.*; Chevigny, "Urban Police Violence in Brazil: Torture and Police Killings in Sao Paulo and Rio de Janeiro after Five Years", *News From Americas Watch*, Americas Watch and

III. Context indicators

In addition to the indicators on incidence and abuse, researchers in each country looked for complementary data on victims and security agents to better understand the context of the use of force. It was not always possible to find this information and, therefore, it is not included in all of the national chapters. Examples of these data, when available, include:

1. Profile of civilian victims of intentional shots fired by on-duty public security agents. Sex and age were two of the central variables for this profile.
2. Profile of public security agents who were victims of intentional gunshots (excluding suicides), including sex and age when available.
3. Type of weaponry available to public security agencies.

The degree of access to this complementary information and its scope varied from country to country, which is why we opted not to present regional comparisons on this point.

the Center for the Study of Violence at the University of Sao Paulo 5(5), (1993): 1-30. Available at: <https://www.hrw.org/sites/default/files/reports/BRAZIL935.PDF>; Centro de Estudios Legales y Sociales (CELS), *Violencia y enfrentamientos policiales* (Buenos Aires, Argentina: Centro de Estudios Legales y Sociales, 2002); Sozzo, "Usos de la violencia y construcción de la actividad policial en la Argentina", in Gayol & Kessler (eds.), *Violencia, justicia y delito en la Argentina* (Argentina: Ediciones Manantial, 2002): 223-258; Aimar, González and Montero, "Política, policía y violencia en la provincia de Santa Fe", in Sozzo (ed.), *Policía, violencia, democracia: Ensayos sociológicos* (Argentina: Centro de Ediciones Universidad Nacional del Litoral, 2005): 15-85; Silva Forné *et al.*, "Uso de la fuerza letal" (2012), *Op. cit.*; Silva Forné *et al.*, "Índice de letalidad 2008-2014" (2017), *Op. cit.*

Bibliography

- Aimar, V., González, G. and Montero, A. “Política, policía y violencia en la provincia de Santa Fe”. In M. Sozzo (ed.). *Policía, violencia, democracia: Ensayos sociológicos*. Argentina: Centro de Ediciones Universidad Nacional del Litoral, 2005.
- Cano, I. *Letalidade da ação policial no Rio de Janeiro*. Rio de Janeiro: ISER, 1997.
- Cano, I. *La policía y su evaluación. Propuestas para la construcción de indicadores de evaluación en el trabajo policial*. Santiago, Chile: Centro de Estudios para el Desarrollo, Área Seguridad Ciudadana, 2003.
- Cano, I. “Racial Bias in Police Use of Lethal Force in Brazil”. *Police Practice and Research*, 11(1), (2010): 31-43.
- Chevigny, P., Chevigny, B. G., Karp, R. and Americas Watch Committee (U.S.). *Police Abuse in Brazil: Summary Executions and Torture in Sao Paulo and Rio de Janeiro*. New York, NY: Americas Watch Committee, 1987.
- Chevigny, P. “Police Deadly Force as Social Control: Jamaica, Brazil and Argentina”. *Criminal Law Forum*, 1(3), (1991).
- Chevigny, P. “Urban Police Violence in Brazil: Torture and Police Killings in Sao Paulo and Rio de Janeiro after Five Years”. *News From Americas Watch*, Americas Watch and the Center for the Study of Violence at the University of Sao Paulo 5(5), (1993): 1-30. Available at: <https://www.hrw.org/sites/default/files/reports/BRAZIL935.PDF>
- Centro de Estudios Legales y Sociales (CELS). *Violencia y enfrentamientos policiales*. Buenos Aires, Argentina: Centro de Estudios Legales y Sociales, 2002.
- Coupland, R. M. and Meddings, D. R. “Mortality Associated with Use of Weapons in Armed Conflicts, Wartime Atrocities, and Civilian Mass Shootings: Literature Review”. *British Medical Journal, BMJ*, 319(7207), (1999): 407-410.
- Fazal, T. M. “Dead Wrong? Battle Deaths, Military Medicine, and Exaggerated Reports of War’s Demise”. *International Security*, 39(1), (2014): 95-125.
- Giannou, C. and Balden, M. *War Surgery. Working with Limited Resources in Armed Conflict and Other Situations of Violence*. Switzerland: International Committee of the Red Cross (ICRC), 2010. Available at: <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0973.pdf>
- Hernández, D. “‘We Make the Choice to Triumph over Evil’: Las Vegas Marks One Year Since Shooting”, *The Guardian* (2018). Available at: <https://www.theguardian.com/us-news/2018/oct/01/las-vegas-route-91-shooting-anniversary>

- Holcomb, J. R., Wade, C., Stansbury, L. G., Bellamy, R. F. and Champion, H. R. "Understanding Combat Casualty Care Statistics". *The Journal of Trauma, Injury, Infection and Critical Care*, 60(2), (2006): 397-401.
- Melville-Smith, A., Mack, D., Georgantopoulos, M. A., O'Connor, E. and Griffin, T. "A Shooting At a Gay Nightclub in Orlando Killed 49 People", *BuzzFeed News* (2016). Available at: <https://www.buzzfeednews.com/article/aliciamelvillesmith/nightclub-shooting-orlando-florida>
- Real Academia Española. *Ortografía de la lengua española*. Spain: Ed. Planeta, 2010.
- Silva Forné, C., Pérez Correa, C. and Gutiérrez, R. "Uso de la fuerza letal. Muertos, heridos y detenidos en enfrentamientos de las fuerzas federales con presuntos miembros de la delincuencia organizada". *Desacatos: Revista de Antropología Social* 40, (2012): 47-64.
- Silva Forné, C., Pérez Correa, C. and Gutiérrez, R. "Índice de letalidad 2008-2014: Menos enfrentamientos, misma letalidad, más opacidad". *Perfiles Latinoamericanos*, 25(50), (2017): 331-359.
- Sozzo, M. "Usos de la violencia y construcción de la actividad policial en la Argentina". In S. Gayol and G. Kessler (eds.). *Violencia, justicia y delito en la Argentina*, 223-258. Argentina: Ediciones Manantial, 2002.
- United Nations. *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, September 7, 1990. Havana, Cuba. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>
- United Nations General Assembly. *Code of Conduct for Law Enforcement Officials*. Resolution 34/169, approved December 17, 1979. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

Comparative analysis

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In this chapter, we take up the indicators from the five countries and compare the results obtained while also trying to extract, to the extent possible, conclusions that are valid for the region as a whole.¹

As explained in the methodology section, the indicators are divided into two groups: indicators of incidence (I) and abuse (A) of force. The first indicators measure the intensity of the phenomenon of civilian deaths at the hands of state security agents, in absolute terms (I-1); weighted by the population (I-2); by the police contingent (I-3); by the number of arrests (I-4); and by the number of weapons seized (I-5). The first two weightings correspond to population, either the general population or the size of the security forces. The last two weightings relate to events in which the use of force is a possibility (arrests and weapons seizures), meaning that a greater incidence could be expected in contexts where these events are more frequent. We also measured the intensity of the phenomenon of homicides of on-duty public security agents, in absolute terms (I-6) and weighted by the number of agents (I-7).

Meanwhile, the indicators of abuse (A) attempt to measure the possibility of excessive use of lethal force by state agents. In some cases, the indicator has a threshold that, if exceeded, points to an abusive use of lethal force. For example, according to international data, the proportion of homicides caused by state agents (A-1) should not exceed 10%. Similarly, the ratio between civilians killed by state agents and state agents killed in homicides (A-2) should not exceed the value of 10, because, if it does, the lethality caused by these agents cannot be justified as being a function of the risks they encounter. Another strategic indicator is the lethality index (A-3): the ratio between the number of civilians killed and the number of civilians wounded

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as a result of interventions by state agents, which should always be below 1. In other words, there should be more people wounded than killed. The ratio between the lethality index of civilians and the lethality index of state agents (A-4), also called the “lethality ratio”, has no predefined threshold, but the higher the value, the greater the certainty that state abuses have occurred. When the value of this indicator is very elevated, the lethality produced by public agents cannot be explained as a function of the risks they are exposed to, in a similar vein to what was explained regarding the A-2 indicator. To some extent, A-2 and A-4 represent two alternative and complementary ways of evaluating the principle of proportionality: in one case, comparing the deaths on both sides; and in the other, taking into account the dead and wounded. Finally, the average number of civilians killed in those interventions by state agents that produce victims (A-5) has no predefined threshold either, but to the extent that the value is above 1, this points to the possible existence of massacres.

The following table presents the full set of indicators for the five countries under study, enabling a general overview of the phenomenon. The figures that are shaded indicate that the source of information is the press, while the figures against a white background correspond to official information. This distinction is important because comparing data from the two sources presents diverse problems in terms of validity.

The *information that comes from the press* tends to have various biases, including:

- a) An almost certain underestimation of the number of victims and incidents, since it is very likely that not all cases have been reported by the press or detected by the search. In the case of Mexico, for example, and as the respective chapter in the full report mentions, past studies show that only 15% of the clashes registered in official figures were covered by the national press. However, that 15% accounted for 50% of officially reported civilian deaths.² This points to the media’s selection of the most violent cases. In the case of Venezuela, press information corresponded to just 30% of officially recognized victims. It is clear that these biases depend on many factors, such as: the type of survey carried out, the number of press outlets included, if local or exclusively national media are considered; the degree of transparency of police or military operations; the federal, or non-federal, nature of the country; the degree to which the deaths are newsworthy, or not, in the national

² See: Silva Forné, C.; Pérez Correa, C. and Gutiérrez, R. “Índice de letalidad 2008-2014: Menos enfrentamientos, misma letalidad, más opacidad”, *Perfiles Latinoamericanos* 50 (2017).

context; the freedom of the press; the risk of violence against journalists, etc. In any case, even if there were ideal conditions for all these determining factors, it is unlikely that all cases would be reported by the press.

- b) The possibility that some kinds of victims are counted more easily than others. For example, it is more likely that the death of police or military officials would be reported than the death of civilians, perhaps because such deaths are less frequent and, therefore, tend to be more striking. This introduces a negative bias in many of the incidence indicators (I-1 to I-5), and an underestimation of the A-2 indicator.
- c) Difficulty obtaining information on the wounded. Generally speaking, events ending in death are more newsworthy than events involving wounded people. Furthermore, many press reports do not mention the wounded, not because there were none, but because this information has not reached the journalist or because it is not considered sufficiently relevant. As a result, a sharp underestimation of data on the wounded can be expected in comparison with the dead. Clear evidence to this effect comes from the studies in Mexico that reveal lethality indexes of the military forces that are lower when calculated based on official sources, in comparison with the indexes calculated based on press reports.³ Consequently, any lethality index (A-3) based on figures from the press will tend to be sharply overestimated. The same will happen with the A-5 indicator, to the extent that few cases involving only wounded people will be recorded.

Despite these biases, this type of monitoring of the press is important because, when official information is lacking or has been reduced, it serves as an input that allows an approximation to reality.

It is therefore recommended that only those figures from the same source be compared with each other, whether from official sources or the press. Thus, the indicators from Mexico constructed from the press are only comparable to the indicators from Venezuela constructed from the same source, while their comparison with official data can lead to erroneous results.

³ Silva Forné, C.; Pérez Correa, C. and Gutiérrez, R., "Uso de la fuerza letal. Muertos, heridos y detenidos en enfrentamientos de las fuerzas federales con presuntos miembros de la delincuencia organizada", *Desacatos: Revista de Antropología Social* 40 (2012): 47-64.

Table 1. Comparison of indicators by country, 2017

Indicators	Brazil	Colombia	El Salvador	Mexico	Venezuela
I-1. Civilians killed (CK)	4,670	169	407	371	4,998
I-2. CK per 100,000 inhabitants	2.3	0.3	6.18	0.3	15.9
I-3. CK per 1000 agents	7.8	0.4	9.9	0.7	28.6
I-4. CK per 1000 arrests	-	0.7	9.78	-	-
I-5. CK per 1000 weapons seized	39.3	7.1	154.2	-	-
I-6. Agents killed (AK)	81	143	4	251	57
I-7. AK per 1000 agents	0.1	0.3	0.1	0.5	0.3
A-1. % homicides due to state intervention	7.3	1.5	10.3	1.2	25.8
A-2. Ratio between CK and AK	57.7	1.2	101.8	4.6*	26.3*
A-3. Civilian lethality index	-	-	-	4.6	16.3
A-4. Lethality ratio	-	-	-	10	5.7
A-5. Average of civilians killed per incident	-	-	-	2.5	1.5

(*) In the cases of Mexico and Venezuela, exceptionally and to preserve the same source in the numerator and denominator of this indicator, the number of deaths used to calculate this indicator, both for civilians and state agents, come from press reports and not official statistics. Thus, exceptionally, Mexico's denominator for the A-2 indicator does not correspond to the I-6 indicator, and Venezuela's numerator does not correspond to the I-1 indicator.

The first observation that can be made upon examining Table 1 is the existence of numerous cells that are blank, showing a lack of information. In Mexico and Venezuela, the majority of the data had to be sought from the press. In Venezuela, it was possible to obtain the number of civilians killed, but only based on public officials' occasional disclosures, not the regular publication of this information. In Mexico, official information was even scarcer than in Venezuela, since only the official figures on state agents killed were published. This is true even though in previous years Mexican military sources provided data on civilians who were killed; however, that information was later discontinued.

The lethality index could only be calculated in the region on the basis of press data (in Venezuela and Mexico), since there is no official record of the wounded in law-enforcement interventions in most of the countries. The same

thing occurs with the indicator of the average number of deaths per incident, which also suffers from a lack of records regarding cases with wounded people.

This confirms the lack of transparency exhibited by States in the region with regard to this issue, which international bodies have denounced.

The second observation is that the incidence of civilian deaths is extremely high in Venezuela, followed by El Salvador. In Venezuela, the absolute number of people killed by the State is even higher than in Brazil, despite the fact that its population is nearly seven times smaller in absolute terms. The rate of civilians killed exceeds 15 civilians for every 100,000 inhabitants, a figure that is higher than the homicide rate in the vast majority of countries in the world. El Salvador, meanwhile, has a rate of more than 6 civilians killed by the State, and Brazil has more than 2. Only Colombia has values below 1. The case of Mexico is difficult to evaluate because the source of information is the press and, as explained previously, this often implies underestimations.

The pattern is the same for the rate of civilians killed for every 1,000 state agents, with the same order of countries and comparable magnitudes. It was only possible to calculate the indicators weighted by arrests and seized weapons for some countries. The results in these cases dovetail with those of the prior indicators. El Salvador has an extreme value for this last indicator, since 154 civilians are killed for every 1,000 weapons seized. In other words, for every 10 weapons seized, more than one person dies. In the case of Brazil, we also see that, on average, 39 people are killed for every 1,000 weapons seized.

Regarding state agents who are made victims of homicide while carrying out their duties (I-6), the panorama is very different. Colombia is the country with the highest absolute number of victims, and it is second in terms of the rate for every 1,000 agents (0.3) after Mexico (0.5), tying with Venezuela (0.3), although in this last case the source was the press. Brazil and El Salvador have a lower incidence.

The indicators of abuse of force reveal a worrisome scenario in several of the countries studied. The most extreme case is Venezuela, where more than one fourth of homicides is due to the intervention of state agents. El Salvador also exceeds the limit of 10% that is associated with the abuse of force. Brazil has a more moderate indicator, but it is still high (7.3%). Only Colombia has low levels (1.5%). In the Mexican case, as mentioned previously, the use of press sources does not allow for comparison with the other countries.

The ratio between civilians and public agents killed soars to alarming heights in El Salvador, where more than 100 civilians die for every agent killed. In Brazil, the value is lower but still very high: 58 civilians for every agent. Meanwhile, Colombia has a very low value (1.2), which indicates the the number of deaths is nearly equal in both groups. The number is so low that it contrasts sharply with

those presented in the international literature and breeds doubts about the degree of coverage and the reliability of the information on which it was calculated. Venezuela has very high values (26) for this indicator, but, like Mexico, the data source is the press.

As indicated before, the calculation of the lethality index was only possible in Mexico and Venezuela, and in both cases based on press information. Both of these indexes are above 1, which is the acceptable limit. In the case of Venezuela, the figure was 16, while in Mexico it was 4.6, but one must not forget that press sources tend to overestimate this indicator. The lethality ratio, which has similar methodological problems, shows Mexico in a worse place (10) than Venezuela (5.7). Taking into account the validity problems mentioned when using information from the press, this would mean that the lethality caused by state agents is 10 times higher than what is prompted by their opponents in Mexico, and nearly 6 times higher in the case of Venezuela. This means that there is no proportionality between the risks for law-enforcement agents and their use of lethal force.

In short, the information obtained by this study allows us to reach two highly relevant conclusions. The first is that transparency around the use of lethal force in Latin America is limited, and, consequently, there is a need to demand the regular, public dissemination of relevant data that permits the monitoring of this phenomenon. The opacity existing in several countries made it impossible to calculate or study several of the indicators. The second conclusion is that the data points to an excessive use of force in several countries in the region, with Venezuela in the most dramatic position followed by El Salvador. All the countries analyzed, with the exception of Colombia, exceed the acceptable thresholds for at least one of the indicators of abuse of force. It is therefore urgent that governments and civil society seek to change this grave scenario.

Bibliography

- Silva Forné, C., Pérez Correa, C. and Gutiérrez, R. "Uso de la fuerza letal. Muertos, heridos y detenidos en enfrentamientos de las fuerzas federales con presuntos miembros de la delincuencia organizada". *Desacatos: Revista de Antropología Social* 40, (2012): 47-64.
- Silva Forné, C., Pérez Correa, C. and Gutiérrez, R. "Índice de letalidad 2008-2014: Menos enfrentamientos, misma letalidad, más opacidad". *Perfiles Latinoamericanos*, 25(50), (2017).

General recommendations

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The authors of the national chapters produced a list of recommendations for each country based on their own national contexts and results. In a complementary way, we present a series of general recommendations of a broad nature, which are valid for the full set of countries studied, beyond their local variations.

Transparency

An accurate record of the people killed and wounded –in incidents in which members of the state security forces participate– should exist at a national and subnational level. It is indispensable as well that these data be released regularly, so that it becomes possible to monitor the phenomenon and take preventive or corrective measures as needed. The information recorded and released must include sufficient detail regarding the context of the incident, its location and timing, whether the agents were on or off duty, the type of weapons used, the forces to which the agents belonged, and the victim toll, both among state agents and civilians.

Regulation of the use of force

The national regulation of the use of force must be inscribed in a specific and widely disseminated legal instrument that incorporates international standards on doctrine, equipment, instruction and training. As explained in the introduction, international norms are based on various documents (the *Code of Conduct for Law Enforcement Officials*; the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*; the *United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*; and the *United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*). These instruments mandate that the use of lethal force be of an exceptional nature and respect the principles of legality, necessity and proportionality.



Currently, in many of the region's countries, there is either no specific regulation of this issue or, on the contrary, there is a scattering of regulations that leads to different security forces being governed by different rules. In the case of Brazil, for example, there are federal regulations on the use of force, but compliance with them is not mandatory for state or municipal police. In the case of Colombia, there are different regulations for civilian corps and for the military. Venezuela has regulations aligned with international principles, but they are not applied, which demonstrates that it is not enough to have good legislation.

Investigation of incidents involving the use of lethal force

Each incident involving the use of lethal force that results in victims must be properly recorded and investigated both from an administrative and from a criminal perspective. This guarantees that the use of force has respected the legal principles mentioned in the previous section. Deaths at the hands of state agents should be initially classified as homicides, regardless of whether or not they were legally justified. In other words, the action's legality should be established *ex post facto*, as a result of the investigation. The investigation of what occurred must be carried out by members of a different institution or, at least, by units different from those that participated in the action, in order to ensure the independence of the investigation, in accordance with the Inter-American Court of Human Rights' existing jurisprudence.

Officials suspected of participating in summary executions or abuses related to the use of lethal force must be temporarily suspended from their duties, without this entailing any sort of punishment until their responsibility is determined. The investigation must contemplate not only the direct perpetrators of the possible human rights violations, but also the responsibilities along the chain of command. Meanwhile, possible victims, their family members and witnesses must receive state protection and, in cases where the crime is proven, they must receive adequate compensation.

Currently, the cases of deaths amid state security force interventions are not usually investigated in depth, and the agents' initial version of events is taken to be true. This lack of investigation serves as an incentive for abuse.

Monitoring and preventive measures

In addition to the investigation of possible abuses mentioned in the previous section, States must create administrative mechanisms for monitoring and pre-

venting the abusive use of lethal force. In accordance with international principles, the use of lethal force must be minimized. Public security institutions should create internal committees, of a technical rather than disciplinary nature, to monitor the use of force, which allow for preventive measures to avert fatal outcomes for civilians and state agents. These measures must contemplate all relevant aspects, including: doctrine, operational procedures, training, adequate materials and weaponry that include less lethal options, and internal mechanisms for oversight and control.

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