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The Use of the Judicial System as a Device for Political Persecution Against Young People in Colombia

Uso del sistema judicial como dispositivo de persecución política a jóvenes en Colombia

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ABSTRACT
This article analyzes the criminalization of the student movement in Colombia during the 21st century from the perspective of the judicial system, within the framework of armed conflict and the implementation of transitional justice. From a legal and social perspective, it argues how the misuse of criminal law to construct an internal enemy consolidates a form of violence in a democratic context.

Keywords: Student movement, criminal law, terrorism, rebellion, transitional justice, political violence.

RESUMEN
Este artículo analiza la criminalización del movimiento estudiantil en Colombia durante el siglo XXI desde el sistema judicial, en el marco del conflicto armado y la implementación de la justicia transicional. Desde un enfoque jurídico y social, argumenta cómo el uso indebido del derecho penal para la construcción del enemigo interno consolida una forma de violencia en un contexto democrático.

Palabras clave: Movimiento estudiantil, derecho penal, terrorismo, rebelión, justicia transicional, violencia política.

1. Introduction

Since the signing of the 2016 Peace Agreement with the Revolutionary Armed Forces of Colombia (FARC), this country has adopted, in parallel with the ordinary justice system, a Comprehensive System of Truth, Justice, Reparation, and Non-Repetition (SIVJRNR), whose guiding principle is the recognition of the

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victims' right to truth, justice, reparation, and non-repetition (Administrative Department of Public Service, 2017).

The system is composed of the Special Jurisdiction for Peace (JEP), the body responsible for administering justice to ensure the transition to peace (JEP, 2017); the Special Unit for the Search for Missing Persons (UBPD); and the Commission for the Clarification of Truth, Coexistence, and Non-Repetition. The Commission is extrajudicial in nature, and "therefore, its activities will not be judicial in nature, nor will they serve for criminal prosecution before any jurisdictional authority" (Decree 588 of 2017).

Among the dialogue processes implemented by the Truth Commission, without legal consequences, was *The armed conflict in universities: generations that do not surrender* (2018), which confirmed to the university community that the State, in alliance with paramilitary groups, persecuted, disappeared, and murdered students involved in social and political activities in the 1990s and early 2000s.

The former Vice President of Colombia, General (ret.) Óscar Naranjo, director of the National Police between 2007 and 2012, acknowledged: "The university was stigmatized. When I was director of intelligence, I contributed to stigmatizing it because I considered it to be affiliated with armed groups. What a huge mistake" (Truth Commission, 2021, 1:23:19).

Then, former members of the United Self-Defense Forces of Colombia (AUC), which were formed in the 1990s as illegal anti-subversive armies, explained that, using lists provided by members of the National Army and the Administrative Department of Security (DAS)[2] , they persecuted and murdered students (Truth Commission, 2021, 3:19:35).

The affirmations highlight a larger pattern in which the student movement was categorized as a suspicious link in the conflict by several official structures, including the judicial system. It This link can be explained by the fact that, in the history of the Colombian armed conflict, universities "ended up being the scene of confrontation not only between direct agents of the state and paramilitaries on one side and university authorities on the other, but also between the different political-military currents operating within them" (Archila and Roncancio, 2021, p. 386)

Archila and Roncancio's assessment of the National University of Colombia—which can be extended to other universities in the country—is blunt: "on many occasions they have been victims, but also, on a few but significant occasions, actors in the country's long-standing contemporary violence" (2021, p. 386). Along these lines, Silva and Beltrán (2023, p. 21) indicate that student mobilization has historically included a repertoire of organizational forms and struggles, in which "non-pacifist expressions" take place, some of which are part of the armed struggle.

Consequently, student activism cannot be understood as a phenomenon isolated from Colombia's sociopolitical dynamics. On the contrary, it has maintained links with trade unions, peasants, indigenous, and human rights movements, as well as with political parties and, in some cases, with insurgent groups (Gómez Agudelo, 2018, 2019; Archila Neira and Roncancio, 2021; Beltrán and Silva Tovar, 2023).

This dual condition is central to understanding how the state has historically interpreted student collective action and how, consequently, it has acted in response to it. On the one hand, recurrent victimization

[2] The Administrative Department of Security (DAS) was Colombia's former state intelligence agency, which was dissolved in 2011 following allegations of illegal wiretapping and political persecution.

shows that university students have suffered surveillance, infiltration, persecution, threats, violence, judicial, disappearances, and murders, many committed by paramilitary groups in alliance with official forces, as demonstrated by the Truth Commission (2022). On the other hand, the presence of radicalized expressions within the student movement—albeit a minority—has been used as an argument to generalize the idea that universities are spaces prone to subversion.

Considering the phenomenon outlined above, one of the forms of violence that has received the least attention in the dialogue spaces and reports produced by the Truth Commission on university students is judicial fabrication, recognized as a strategy of criminalization by the judicial system. The concept of criminalization is used in this study under the meaning proposed by the Inter-American Commission on Human Rights (IACHR): "misuse of criminal law" (2015, p.18). In other words, it refers to the manipulation of the punitive power of the state with the aim of delegitimizing and stopping the actions of the accused individual, thereby halting or weakening their political causes and processes (2015, p.29).

Criminalization is recognized by the Truth Commission, in its report entitled *Universities and Armed Conflict in Colombia,* not only as an issue with a long history but also as a current phenomenon:

> In the years that have passed in the 21st century, violence by state institutions against the university sector gave preference to the development of judicial processes, in many cases based on fabrications or disregard for the procedural guarantees of the accused (Truth Commission, 2022, p.50).

This approach has been supported by various studies that have analyzed the criminalization of the student movement from sociological and memory perspectives, including Criminalization of Students in Colombia (Castellanos Díaz and León Borja, 2019, 2023); Universities under "S.O.S.pecha": State repression of students, teachers, and trade unionists in Colombia (2000-2019) (Beltrán et al., 2019); Colombia: Genocidal practices, criminalization of social protest, and the pandemic (Beltrán Villegas and Caruso, 2021).

Despite these advances in historical and testimonial clarification, a significant gap in the literature remains regarding the specific role played by the judicial system in the persecution of university students during the twenty-first century. Judicial framing cases have been only marginally acknowledged as a strategy of criminalization and have not been systematically examined from an empirical perspective capable of identifying their scope, patterns, and persistence over time. This absence is especially problematic in a context in which, even under mechanisms of transitional justice, the prosecution of students for conflict-related offenses continues to be a significant phenomenon.

To contribute to existing studies on the subject, this article analyzes the judicial persecution of students in Colombia in a context of armed conflict and the application of transitional justice processes, based on historical and theoretical reflection and a systematic descriptive analysis of criminal proceedings opened in the 21st century.

To this end, the article first presents an analysis of the configuration of the student body as an internal enemy in Colombia. Second, it proposes a theoretical discussion on violence in democracies and the role played by the judicial system in this regard. Third, the impact of transitional justice on the criminalization of students is examined. Fourth, a quantitative-descriptive study is presented of judicial proceedings for rebellion and terrorism, opened between 2000 and 2022, a period that encompasses both the intensification of security policies and the implementation of transitional justice models. Finally, the main conclusions are presented.

2. The student as an internal enemy in democracy

According to the work of Gómez Agudelo (2018; 2019), the construction of students as internal enemies began to gradually take hold throughout the 1960s, in a context marked by the growing links between the student movement and civic strikes and other forms of social mobilization.

This process is part of what Archila (2012), cited by Gómez Agudelo (2018, p. 77), calls the "radicalization against bipartisanship": a reaction to the system of power distribution between liberals and conservatives that, through exclusionary agreements, severely limited democratic participation between 1958 and 1974[3] . In this scenario, student protests were no longer perceived solely as an expression of discontent and began to be understood by state elites, security agencies, and the justice system as a political challenge to the established order.

According to Arango Restrepo (2023, p.8), to address the governance problems that social conflicts were causing, all the presidents of this period resorted to declaring a state of siege. "Colombia lived under a state of emergency for 206 months, or 17 years, representing 82% of the period under discussion" (García and Uprimny, 2000, in Arango Restrepo, 2023, p. 9).

In this context, the government of Julio César Turbay (1978-1982) consolidated the National Security Statute (Decree 1923 of 1978) in Colombia, a milestone in this matter. According to Burgos Gallegos "any individual, group, or organization that did not follow the guidelines provided by the government for the preservation of peace, coexistence, and order [was named] as an enemy of the state that should be prosecuted" (2023, p. 254).

The works of Perdomo (2012) Burgos Gallego (2023) and Arango Restrepo (2023) point out that this Statute represented the culmination of a series of previous decrees—33 of 1965, 1573 of 1974, and 2131 of 1976—aimed at expanding the legitimacy and scope of the Armed Forces. These regulations not only reinforced their role in defending against external threats but also enabled their intervention in internal conflicts and the expansion of their presence from rural areas to urban centers, under the justification of pursuing the so-called enemies of the country. Under this category, "they targeted a broad sector of militant individuals, trade unionists, social leaders, intellectuals, and university students" (Burgos Gallego, 2023, p. 259). "In this statute, the military gained a prominent role—to eliminate all forms of protest—that did not have such obvious references in previous governments" (Arango Restrepo, 2023, p. 16).

The judicial system engaged in criminalization processes that opened the door to discretion in the application of criminal law. Arango Restrepo indicates that the Supreme Court of Justice during that period was condescending toward the president's discretionary handling of public order. Therefore, it did not exercise rigorous control over the declaration of states of siege and the measures adopted in their implementation about the civil population. On the contrary, the Court took steps to validate provisions of a markedly restrictive and even authoritarian nature (2023, p. 10).

González Zapata and Moore Torres point out that in the country, "beyond actions against insurgent organizations, this regime...allowed governments to transform and use the security and justice apparatus to persecute and punish people involved in social processes (2019, p. 29), a strategy that had been imposed throughout much of the region.

[3] The National Front was a political agreement whereby the Liberal and Conservative parties agreed to alternate the presidency of the republic and the distribution of public office. The National Front remained in place between 1958 and 1974.

Indeed, in South America, the figure of the internal enemy emerged as one of the central transformations introduced by the National Security Doctrine (NSD) promoted by the United States during the Cold War. Leal Buitrago (2003, p. 75) explains that, beginning in the 1960s, the armed forces adopted a conception of the state in which security was guaranteed not only against external threats but especially through internal political control, transforming political opponents into legitimate targets of repression. In this doctrinal shift:

> Latin American states had to confront the internal enemy, embodied in supposed local agents of communism. In addition to guerrillas, the internal enemy could be any person, group, or national institution that held ideas opposed to those of the military governments (Leal Buitrago, 2003, p. 75).

The decline of the NSD came about because of changes in US policy, the diminishing strategic importance of Latin America, and the processes of redemocratization following long dictatorships in the region. However, this shift did not mean its complete disappearance, as doctrinal inertia persisted in various military institutions, especially where the category of the internal enemy had been incorporated as key to interpreting politics and social order (Leal Buitrago (2003, p. 81), as had happened in Colombia.

The 1991 Constitution raised high expectations for a change in this security strategy, as it "established guarantees for the exercise of political opposition and social organization" (González Zapata and Moore Torres, 2019, p. 30). However, "although the new constitutional text represented progress in terms of limiting the arbitrary use of power and promoted several judicial and procedural guarantees, the practice of prosecuting human rights defenders and political opponents has persisted to this day" (González Zapata and Moore Torres, 2019, p. 30). Indeed, among the strategies used by the Colombian state to maintain internal security in recent decades is the criminalization of students through the judicial system (Beltrán and Silva Tovar, 2023, p. 18). This issue will be explored in greater depth later.

The country, which has historically boasted of being one of the most solid democracies in the region, maintains violent security policies in its internal processes. Colombia therefore represents a paradigmatic case: although it did not experience military dictatorships in the style of Argentina, Chile, and Brazil, it did adopt, partially but continuously, under democratic governments, elements of the "new professionalism of internal security" (Leal Buitrago, 2003, p. 84), aimed at classifying and monitoring certain social sectors based on their supposed threat to institutional order, giving way to the criminalization of students as a form of judicial violence in the midst of democracy. According to Cruz Rodríguez, this constitutes a central feature of the Colombian political system, in which high levels of repression coexist with virtually uninterrupted electoral competition (Cruz Rodríguez, 2015, p. 48), a clear phenomenon of political violence in democracy.

3. The role of the judicial system in political violence in democracies

The discussion on violence in democracies has a fundamental starting point in Max Weber, who, when asking himself "What is politics?" in *The Politician and the Scientist* (1959), offered an analytical key that remains indispensable for understanding why, in a country that defines itself as democratic, practices of judicial criminalization against students persist under the logic of the internal enemy. "The modern state is only sociologically definable by reference to a specific means that it, like every political association, possesses violence." Under this theory, the goal is control, or in Weber's terms: the imposition of will.

The relevance of this discussion is reaffirmed by the prominent *Journal of Peace Research* in an issue dedicated to the tense relationship between violence and democratic states. Ruggeri et al. (2025, p. 1365) argue, in the introduction to the publication, that the expansion of democratic regimes was one of the most significant political transformations of the 20th century. However, this phenomenon received little academic attention until the collapse of the Soviet Union, which led to an analytical shift toward the study of the relationship between democracy and political violence, including judicial violence.

One of the most relevant findings of these studies is the confirmation of an absence: democratic regimes tend to significantly reduce the probability of wars and conflicts (Gleditsch and Ruggeri, 2010). "Paradoxically, however, this widely accepted fact has led scholars to overlook the existence of various forms of political violence *within* democracies" (Ruggeri et al. 2025, p. 1363).

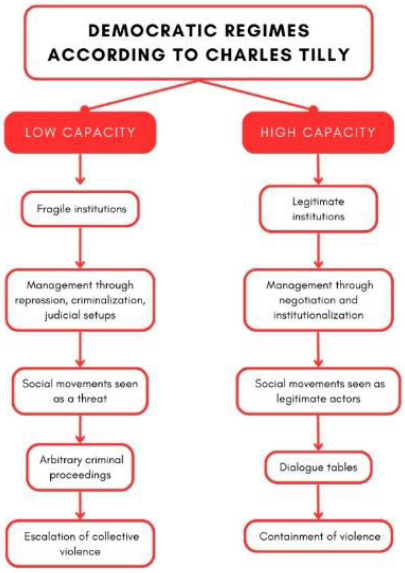
The authors argue that democratic states, which currently constitute the predominant form of political organization in the West, often act as central agents in the production of violence aimed at preserving or restoring order. This is not a practice exclusive to the state: various non-institutional actors also resort to violence as a strategy to transform existing power relations and challenge established authority within the framework of a democracy.

The approach outlined above places a key category at the center of the discussion: political violence. Costalli et al. understand this as "the use of collective violence aimed at achieving a political objective, which involves modifying (or maintaining) the institutional framework and existing power relations between the relevant political actors in a community" (2025, p.1598).

Charles Tilly, one of the theorists who has studied collective violence most extensively, explains it as "a form of political contestation" (2007, p. 25). It is understood as contestation because the participants demand something that affects their interests, and as political because it always involves the relationship that the participants have with the government. Based on this, Tilly argues that even democratic regimes can deploy systematic forms of coercion, in which the judicial system is decisive, and whose intensity depends on two key dimensions: the capacity of the government and democracy (2007, p. 40).

The first dimension refers to the degree to which government agents control resources, activities, and populations within the territory in which they operate: there is low capacity when there is an absence of control or high capacity when there is almost absolute control (Tilly, 2007, p. 40). The second dimension reflects the degree to which citizens have egalitarian relationships with government agents, exercise collective control over government personnel and resources, and are protected by the justice system against arbitrary government actions (Tilly, 2007, pp. 40-49).

Based on this framework, Tilly's proposal allows us to operationalize the relationship between democracy and political violence through two analytical dimensions—state capacity and democratic quality—that are particularly useful for interpreting the role of the judicial system. In this study, these dimensions are used to situate the judicial criminalization of students as a specific form of political violence exercised by the state in democratic contexts. The following diagram translates this theoretical approach into an analytical framework that allows us to visualize how judicial coercion is activated and intensified in regimes characterized by low state capacity and unequal democratic relations.



Source: Tilly, Charles (2007)
Own elaboration

The diagram shows that, in contexts where state capacity is limited and democratic relations are weak, the judicial system takes on a central role as a mechanism of political coercion. Thus, judicial criminalization does not respond to the exceptionality of the collapse of democratic order but rather is integrated as a regular strategy of control, aimed at managing political opposition and social protest.

4. Impact of transitional justice on the criminalization of students

So far in the 21st century, Colombia has made efforts to integrate some elements of the high-capacity democratic regime category, particularly dialogue processes with illegal armed groups on the extreme right and extreme left. Within the framework of these processes, it has established mechanisms to open political spaces for peace signatories and legal processes to recognize the violence suffered by victims and attempt to repair it, such as the 2005 transitional justice system Justicia y Paz (Law 975); the 2011 Victims and Land Restitution Law (Law 1448); and the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition (2016).

However, while these processes were underway, authoritarian tendencies reappeared in the executive branch with the aim of controlling social protest, which simultaneously meant controlling social movements such as the student movement. "This authoritarian tendency, which reappeared during the presidency of Álvaro Uribe in the context of the United States' war on terrorism, did not diminish during either of Juan Manuel Santos' two terms in office" (Archila, 2019, as cited in Arango Restrepo, 2023, p. 26).

This reveals a central paradox of the Colombian case: although the country implements a robust model of transitional justice, the repertoires of violence against students have not ceased. This continuity challenges the traditional premises of transitional justice in South America, according to which these processes seek to address past human rights violations following periods of repression or armed conflict (Olsen et al., 2010, p. 21).

However, as the International Center for Transitional Justice (ICTJ) warns, transitional justice is a form of justice adapted to societies in transformation, processes that can be abrupt or extend over decades (cited in Olsen et al., 2010, p. 33). In Colombia, this transformation coexists with the persistence of state practices of stigmatization and criminalization of student actors, which highlights a structural tension: there is a desire to clarify and repair past violence while old forms of coercion continue to be reproduced in the present.

A striking example was the use of violent forms of containment by official forces, allowed by the then government of Iván Duque, to curb the social unrest that erupted in 2021 among thousands of young people who led the protests. Aguilar Forero (2022, p.10) states, citing reports from the organization Temblores, that in 2021 there were 5,808 cases of police violence, including 2,053 arbitrary arrests and 66 judicial setups related to social protest, in addition to other acts of violence. These data show that, along with the physical violence exercised by the official forces of law and order, there was a systematic judicialization of the protest.

From this perspective, transitional justice is far from putting an end to the use of criminal law and force as instruments for managing political conflict, among other things because it sidesteps the phenomenon. This situation forces us to rethink the scope of this transitional justice in democracies affected by prolonged conflicts and to question the extent to which it is possible to speak of non-repetition.

5. Rebellion, terrorism, and regulation of protest

The relevant question at this point is how violence operates from within the judicial system, in the context of a state that declares itself democratic and in the process of implementing transitional justice. González Zapata and Moore Torres explain, based on studies by the IACHR and the Committee of Solidarity with Political Prisoners in Colombia, that to give rise to these illegal processes, a type of primary and secondary criminalization occurs. Primary criminalization involves "formulating criminal offenses or crimes whose content is characterized by a lack of specificity or ambiguity, which opens the door to discretion in the application of criminal law by justice operators" (2019, p. 39).

Secondary criminalization occurs because of stigmatizing discourse typical of the semantics of the fight against terrorism[4] . These are used "in the arbitrary application of the law by justice operators, through a process of criminal selectivity based on criteria of political convenience and inadequate interpretations" (2019, p.39).

The authors cite as a compelling example crime associated in Colombia with the fight against terrorism and organized crime, which can be used arbitrarily within the criminal justice system: terrorism, rebellion, condoning crime, sabotage, and attacking or resisting public authority. The first two are of interest in this study because, until the early 21st century, the crimes of rebellion and terrorism constituted the most serious criminal proceedings brought against those who carried out actions against the established order.

According to the Colombian Penal Code (Art. 467), rebellion is committed by "those who, through the use of arms, seek to overthrow the National Government or suppress or modify the constitutional or legal

[4] Ana Catalina Arango Restrepo's work entitled Political Practices that Survive Constitutional Reforms: Limitation and Criminalization of Social Protest in Colombia (1958-2022) reflects on this strategy.

regime in force." This is a political crime whose criminality is not determined by the mere use of armed means, but by the political purpose behind such conduct.

In the case of terrorism, the Criminal Code (Art. 344) defines it as "anyone who causes or maintains a state of anxiety or terror among the population or a sector thereof, through acts that endanger the life, physical integrity, or freedom of persons or the buildings or means of communication, transportation, processing, or conduction of fluids or motive forces, using means capable of causing havoc."

In view of the above, this study seeks to contribute to the debate by analyzing official databases provided by the Attorney General's Office, obtained through requests for access to public information, on criminal proceedings opened throughout the country against young people between the ages of 15 and 25 for rebellion and/or terrorism between 2000 and 2022, a period marked by right-wing and center-right governments.

It should be noted that the information provided by the Attorney General's Office has a structural limitation: student status is not a mandatory criterion for inclusion in criminal records and, therefore, it is not possible to identify this status in all the cases analyzed. This absence is due to the institutional design of the data and not to an omission in the methodological design of the study. Consequently, the analysis focused on the 15-25 age group, recognized in the specialized literature as the period in which most of the university population is concentrated[5]. Consequently, based on this clarification, this section will discuss the criminalization of young people.

The study is based on data mining and document analysis techniques. In the first phase, information was extracted and cleaned from two official databases that together contained more than 12,000 records. Subsequently, a systematic review of the records was carried out using spreadsheet tools (Microsoft Excel) to verify the consistency of the information, eliminate duplications, and correct classification errors. The consolidated databases were then analyzed using the same tool, which allowed for descriptive analyses of the initiation of criminal proceedings for the crimes considered, the association made by the judicial system between young people and insurgent organizations, and the relationship between state policies on the armed conflict and the variation in the initiation of these proceedings.

Among the findings, it is noteworthy that between January 2000 and December 2022, 10,931 legal proceedings were initiated in Colombia against young people in the age range analyzed for rebellion and/or terrorism, of which 8,769 cases involved men and 2,161 involved women (one case did not contain a record of gender). Of the total number of proceedings, 9,486 were related to the crime of rebellion and 1,445 to terrorism[6].

In terms of procedural stages, 42% of cases remained in the preliminary investigation stage, 34% in the inquiry stage, 5% in the preliminary investigation stage, and only 4% advanced to the formal investigation stage. Taken together, these data show that most of the proceedings did not progress beyond the initial stages of criminal proceedings. Only 5% of cases went to trial, and an equivalent percentage reached the sentence enforcement phase. In 5% of cases, no information on the status of the proceedings was reported[7].

[5] Colombian law, Law 1885 of 2018, recognizes as young any person between the ages of 14 and 28.

[6] In March 2021, journalist Lizeth León and the Journalistic Research Unit of Politécnico Grancolombiano University presented the first section of this study to the Truth Commission of Colombia.

[7] It should be clarified that this study does not aim to evaluate the overall performance of the Colombian criminal justice system or compare rates of procedural effectiveness between different types of crimes. Its purpose is to identify structural and persistent patterns of prosecution for crimes of rebellion and terrorism against young people between 2000 and 2022, understood as politically charged criminal offenses.

This pattern suggests that, in judicial terms, the State had not, as of the date the databases were delivered, been able to prove criminal responsibility in 95% of the cases opened for the crimes of rebellion and terrorism. This group includes closed cases, cases still pending decision, and situations in which the defendants were acquitted or found not guilty. The disproportion between the volume of open cases and the small number of convictions suggests extensive use of the criminal justice system without sufficient evidence, raising important questions about the role of these prosecutions in the context of the armed conflict and state security policies.

It is significant that in 64% of cases, the databases analyzed did not record information about the armed group with which the Attorney General's Office allegedly linked the accused, a relevant omission in a country historically affected by the actions of illegal armed organizations of different ideological orientations.

However, in the records that do report this information, 25% of cases are associated with the Revolutionary Armed Forces of Colombia (FARC) and 8% with the National Liberation Army (ELN). There has also been an increase in the association with the latter group since the signing of the 2016 Peace Agreement, as well as a decrease in references to the FARC during the same period, consistent with its formal demobilization beginning in November of that year.

It is revealing that less than 1% of cases were related to right-wing paramilitary groups, even though in universities and other contexts, the leaders of these organizations also had the support of young people. The marked asymmetry in criminal attribution suggests a structural bias in prosecution patterns, in which certain expressions of political violence were systematically ignored or treated with greater leniency by the judicial system. The disproportionate number of criminal proceedings points to a punitive selectivity consistent with the logic of the internal enemy directed against political opponents identified with the left.

Finally, it is essential for this analysis to examine the different presidential terms, their security policies, and the relationship between these policies and the increase or decrease in the number of legal proceedings brought against young people for rebellion and/or terrorism. The data showed that between 2000 and 2005, 4,177 proceedings were initiated. This period covers the second half of Andrés Pastrana's administration, marked by a failed peace process with the FARC and the implementation of Plan Colombia, a US-funded program to combat insurgency and drug trafficking.

This same period includes the first years of Álvaro Uribe Vélez's term, characterized by the implementation of a Democratic Security policy that waged war on the guerrillas and negotiated disarmament with the AUC. Subsequently, during Uribe's second term (2006-2010) and the first year of Juan Manuel Santos' presidency (2010-2011), the trend continued with the opening of 4,039 judicial proceedings.

However, there was a decrease, with 2,225 proceedings between 2012 and 2018, coinciding with the peace negotiations between the Santos administration and the FARC. Similarly, between 2019 and 2022, during the administration of Iván Duque—a period marked by the COVID-19 pandemic and social unrest—the databases analyzed recorded 226 legal proceedings initiated for the crimes of rebellion and terrorism.

According to an investigation by the Committee for Solidarity with Political Prisoners, the World Organization Against Torture, and the Social Corporation for Community Advice and Training (2019, p. 48), since 2011, criminalization did not disappear but has been reconfigured using alternative criminal charges. In fact, in 2011, Congress passed Law 1453 of 2011, known as the Citizen Security Law:

> "It classifies acts of social protest as crimes, such as 'fraudulent usurpation of property' (Article 9); and the use or throwing of dangerous substances or objects 'against persons, buildings, or means of transportation'—without specifying what is meant by dangerous objects— (Article 10). Additionally, the penalty is increased "when the conduct is carried out for terrorist purposes or against members of the security forces" (Article 10). (Arango Restrepo, 2023, p. 27).

Furthermore, since 2016, Colombian law has included the concept of administrative detention, known as protective transfer (Article 155 of Law 1801 of 2016). This measure may only be applied when there is a clear risk to the life or physical integrity of the person involved or of third parties, and it must be used exceptionally, as a last resort.

> "However, making use of erroneous interpretations, police officers detain protesters without legal basis, do not apply the procedure established by law, and subject them to arbitrary deprivation of liberty, without there being any risk or need for real protection of the individual, as established by the rule governing the procedure" (González Zapata and Moore Torres, 2019, p. 50).

In the study, González Zapata and Moore Torres show that, prior to the pandemic, during the student strike that took place between November and December 2018 in Colombia, there were approximately 224 arrests, most of them under the guise of transfers for protection, which is equivalent to an average of nearly four students arrested per day. Of that total, 23 people were deprived of their liberty for prosecution, mainly for the crimes of violence against public servants and damage to property. However, most of these arrests resulted in immediate release when it became clear that the procedures did not comply with the required legal guarantees (2019, p. 48).

"Specifically, these were mass arrests without due process of individualization and without adequate support in relation to the reports presented by the police" (2019, p. 48). These actions are carried out under the argument of alleged arrests in caught in the act, even when the legal requirements for this are not met and an adequate process of individualization of the detained persons is not guaranteed.

This coincides with Beltrán and Caruso's study on the criminalization of social unrest, in which they point out that, in parallel with expressions of social resistance, the use of state violence against organizations and communities intensified to weaken their capacity for mobilization. This process resulted in the reinforcement of repressive strategies, including the expansion of judicial setups and the use of the state's armed forces. Even in the context of the pandemic, government priorities favored the strengthening of the coercive apparatus through significant investments aimed at its modernization (2021, p. 15).

This reorientation in the legal figures employed suggests a modification in the repertoires of judicialization, through which the state continues to manage social protest and political opposition by young people through the ambiguities of the criminal apparatus. To expand on this, Table 1 presents a disaggregated analysis of the most relevant legal articles, together with the main objections they have raised.

Table 1: Legal provisions associated with the control of social protest between 2001 and 2022

Government	Regulation	Article	Regulated measure or conduct	Main legal criticisms
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 9	Fraudulent usurpation of real estate	Broad criminal classification; risk of criminalization of symbolic occupations typical of social protest.
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 10	Use or throwing of dangerous objects or substances	Indeterminacy of the concept of dangerous objects; expansion of police and judicial discretion.
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 15	Disruption of official acts	Ambiguous wording that allows for the punishment of peaceful protest actions.
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 43	Violence against public servants	Potential criminalization of legitimate defense against police abuse.
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 44	Obstruction of public roads	Criminalization of classic forms of social mobilization.
Juan Manuel Santos (2010–2018)	Law 1453 of 2011	Art. 45	Disruption of public transportation	Broad criminal classification; possible disproportionate impact on the right to protest.
Juan Manuel Santos (2010–2018)	Law 1801 of 2016	Art. 155	Transfer for protection	Administrative measures used as deprivation of liberty without immediate judicial review.
Iván Duque (2018–2022)	Law 2197 of 2022	Art. 20	Obstruction of public service	Transfer of social conflict to the criminal sphere; deepening of the security approach.
Iván Duque (2018–2022)	Law 2197 of 2022	Art. 16	Punitive aggravation of obstruction of roads	Intensification of criminal punishment following cycles of social protest.

Source: Law 1453 of 2011; Law 1801 of 2016; Law 2197 of 2022.
Own elaboration.

Table 1 clearly shows the use of the judicial system to repress and criminalize student movements, which have been important protagonists in the increase in social protests over the last two decades. According to Cruz Rodríguez, this can be explained because:

> In a context of armed conflict, in which counterinsurgency doctrine takes center stage in the state and society, it is not surprising that the institutional arrangements or regulatory frameworks governing the containment of protest are primarily oriented toward a punitive logic, which views protest from the perspective of national security and public order, rather than conceiving of it as a right subject to protection. This translates into a criminal treatment of protest that reduces it to a violation of the law (2015, p. 56).

It is also imperative to recognize how civil society actions have pressured institutions, after acknowledging abuses of power, to establish regulations that protect the right to protest and what is inherent to it, such as freedom of expression, association, and assembly. A key case in Colombia occurred in 2023, when the

Constitutional Court ruled on several writs of protection filed by social organizations[8] in the context of the 2021 social unrest, which denounced the degradation of internet service and the alleged use of signal inhibitors during the youth protests in the city of Cali.

After analyzing the case, the Constitutional Court concluded that the national government violated fundamental rights by failing to provide clear, sufficient, and verifiable information about the failures in internet connectivity or about the alleged use of blocking technologies by the security forces. Consequently, the Court ordered the State, through ruling T-372/23, to adopt transparency measures and establish clear protocols on the use of technologies that may affect internet access, recognizing it as an essential enabler of social protest.

6. Conclusions

The judicial setups targeting young people in Colombia between 2000 and 2022 cannot be interpreted as isolated processes, consolidated in specific contexts marked by waves of protests. On the contrary, they are part of a historical framework of criminalization in which "the legal system has been used as an instrument of war, which is expressed in the opening of judicial proceedings without the slightest guarantees" (Beltrán and Caruso, 2021, p. 6). This systematic pattern is part of security policies aimed at combating left-wing guerrilla groups and the participation of some members of the student movement in them, who, as a result, have been considered part of the internal enemy, even in recent periods of peace negotiations and post-agreements.

Indeed, analysis of judicial databases between 2000 and 2022 reveals that the massive opening of proceedings for rebellion and terrorism operated, in many cases, as a political control mechanism aimed at monitoring, intimidating, and weakening forms of youth activism associated—either real or alleged—with left-wing movements rather than with armed far-right movements. Furthermore, the overwhelming proportion of cases that did not progress beyond the initial stages and the low conviction rate suggest extensive use of the criminal justice system without sufficient evidence, reinforcing the hypothesis of judicialization with functions that exceed effective criminal punishment.

From a theoretical point of view, the results support the idea that political violence is not an element external to democracies, but rather a practice that can be deployed within them as a mechanism for regulating order, as analyzed by Ruggeri et al. (2025). In the case under study, one of these forms of violence operated in Colombia not only through the judicial system, but also through a network of discourse against young people, and against the student movement, which came from the official forces of law and order. This even led to the persecution and murder of student leaders by paramilitary groups in alliance with the state, as evidenced by the Truth Commission.

Consequently, Colombia is configured as a low-capacity democracy, in which the production of ambiguous crimes and the adoption of transitional justice institutions coexist with persistent repertoires of coercion. In this scenario, the criminalization of young people—first through charges of rebellion and terrorism, and later through alternative criminal offenses associated with "public order"—appears to be a strategy to limit collective opposition, especially when it challenges entrenched power arrangements. In other words,

[8] The following organizations filed a lawsuit against the Ministry of Defense and other official institutions: El Veinte (a collective of lawyers working for the legal defense of freedom of expression); Fundación Karisma; Centro de Internet y Sociedad de la Universidad del Rosario; Fundación para la Libertad de Prensa (FLIP).

the use of criminal law to deal with protest carries the risk of criminalization, both in the classification of legitimate acts through ambiguous or disproportionate criminal offenses and in their abusive application by police and judicial authorities (Uprimny and Sánchez, 2010).

Despite this, the country has also made significant progress in protecting the digital rights necessary for social protest. Ruling T-372 of 2023 not only remedies specific violations that occurred during the social protests of 2021 but also sets an important precedent by recognizing digital connectivity as a necessary condition for the democratic exercise of protest. This decision places Colombia at the center of a key international debate: that of digital rights as determinants of freedom of association and political opposition in democratic states.

Finally, the Colombian case forces us to rethink the scope of transitional justice in societies affected by prolonged conflicts. Evidence suggests that when mechanisms for truth, justice, and reparation are not linked to substantive changes in security and judicial practices, they can coexist with contemporary forms of state violence rather than ending them. This is fundamental to understanding the Colombian case, in which criminalization has not, to date, established a reparation process, because it is not included in the list of victimizing acts of the armed conflict (RUV, 2026). This lack of reparation is an issue that victims of criminalization are demanding be addressed, but which has not been the subject of the official debate it deserves.

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IA Declaration

The enhanced editions of Deepl.com and Grammarly.com were used throughout the translation and correction stages (proofreading) of this article.