Executive Summary

"Se están metiendo en el perfil de al lado" (They Are Getting into the Profile Next Door)

Fundación Karisma | Funded by Rights & Security International (RSI), 2025

Overview

Fundación Karisma's new report, *"Se están metiendo en el perfil de al lado*", presents research – funded by RSI – analysing how Colombia's Attorney General's Office (Fiscalía General de la Nación, 'FGN') adopted technological tools and institutional discourses that contributed to the criminalisation of social protest, particularly during the national strikes of 2019 and 2021.

In the opinion of the authors, the research shows how cyber-patrolling, digital evidence collection, and internal directives within the Attorney General's Office led to a punitive approach that equates protest with terrorism.

Methodology

Conducted between 2023 and 2025, the research employed a mixed-method approach combining:

- Review of regulations and criminal policy related to protest and criminal law.
- Discursive analysis of statements by the Attorney General and the Ministry of Defence (2019–2021).
- Formal requests for information from the FGN and the Superior Council of the Judiciary.
- Semi-structured interviews with human rights organisations (CAJAR and CSPP).
- Case studies of individuals prosecuted during the national strikes

General context

The 2019 and 2021 national strikes in Colombia were a manifestation of the widespread social discontent with government policies. During these mobilisations:

- Social media became a key space for reporting and documenting human rights abuses.
- The Colombian state implemented digital surveillance and cyber-patrolling strategies, which it sought to justify under the rhetoric of "digital terrorism."
- Under President Iván Duque, the government enacted exceptional measures, including curfews considered constitutionally questionable, while security forces committed serious abuses documented by both national and international organisations.

In response to growing social mobilisation, the FGN and the Ministry of Defence adopted security and public order narratives portraying protests as terrorist threats or movements infiltrated by armed groups.

Regulatory Framework

The right to protest is guaranteed by the Colombian Constitution (Articles 20, 37, and 56) and by international human rights treaties.

However, laws such as Law 1453 of 2011 (Citizen Security) and Law 2197 of 2022 introduced ambiguous offenses, including "obstruction of public functions" and "obstruction of public roads," that are frequently used to criminalise demonstrators.

Together with the FGN's internal directives, these norms created a punitive legal framework that facilitates the criminal prosecution of protest.

Main findings

1. Shift in criminal law and policy (Directive 0002 of 2021)

The FGN's Directive 0002 of 2021 replaced Directive 0008 of 2016, which explicitly prohibited the use of terrorism charges in protest contexts.
The new directive authorised charging protesters with serious crimes, thus institutionalising a structural change in criminal law and policy that resulted in greater judicialisation and stigmatisation of social mobilisation.

2. Criminalisation using technology

During the strikes, the Prosecutor's Office expanded its use of:

- Cyber-patrolling and OSINT (open-source intelligence) to monitor social media, live streams, and WhatsApp chats.
- Digital evidence obtained without strict judicial control, often based on anonymous or unverified material.
- Monitoring of private accounts and communications without judicial authorization, violating the right to privacy.

These practices were framed as "investigative techniques" used in terrorism or organised crime cases, despite targeting unarmed demonstrators.

3. Macro-charges and the "internal enemy" discourse

Authorities frequently imposed macro-charges—such as terrorism, conspiracy, or kidnapping—for minor acts such as property damage or roadblocks.
Institutional rhetoric reinforced the image of protesters as threats to national security, reviving the harmful counterinsurgency logic of the "internal enemy."

4. Problematic use of digital evidence

Social media content was incorporated into criminal investigations and trials through:

- Testimonies from investigators or anonymous sources.
- Screenshots and videos lacking technical authentication.

- Material received anonymously.

These **practices violated due process rights,** as defence attorneys could not verify the authenticity or origin of the evidence or question the intentions of the anonymous source that provided the evidence.

5. Institutional narrative of fear

The Ministry of Defence and the FGN disseminated a narrative depicting protests as generating "zozobra" (public anxiety and chaos), justifying terrorism-related accusations, in their view. This narrative, amplified by media coverage, shaped public opinion against social protest and normalized the criminalisation of dissent.

Quantitative findings

Prosecutions Related to the Protests (2019–2021) across major cities Bogotá, Cali, Medellín, Bucaramanga and Pasto

- 2019 Strikes: The FGN reported 47 open cases, 4 people investigated and no convictions.
- 2021 Strikes: The FGN recorded 1,690 cases.
    - 583 individuals were formally investigated; 259 were charged.
    - The most common charges were terrorism, conspiracy, violence against public officials, and property damage.
- Most cases remain in the investigation phase, indicating prolonged judicial processes.

These figures highlight a discrepancy between the massive scale of the protests and the limited, often opaque, prosecutorial response.

Conclusions

1. **Selective prosecution:** The state employed the criminal justice system to deter and punish participation in social protest.
2. **Excessive use of criminal law:** Its protective function was distorted, transforming it into a tool of political repression.
3. **Lack of judicial oversight:** Digital evidence and covert online operations lacked proper constitutional control. The use of this evidence violates the accused people's right of defence.
4. **Chilling effect:** The combination of mass accusations and media narratives instilled fear among citizens, discouraging collective action.
5. **New Directive 0001 of 2024 a positive step, but not enough:** In September 2024, the new Colombian Attorney General issued a directive that replaced Directive 0002 of 2021. This new directive aims to protect peaceful protest and restrict the criminalisation of demonstrators. It states that non-violent acts**,** symbolic expressions, and minor disruptions should not be punished, while only violent actions may lead to prosecution. It prohibits prosecuting people for organising or participating in protests and grants special protection to journalists and human rights defenders.

The directive also regulates the use of social media and open-source material in investigations, requiring verification before such content is used as evidence. However, it does not apply retroactively and depends on prosecutorial discretion, making it vulnerable to reversal by future administrations. Permanent legal protections are still necessary.

Recommendations

- Strengthening the training of prosecutors and the judiciary so they recognise social protest as a democratic right rather than a threat.

- Ensure that investigations into protests are free of stigma and avoid using investigative methods meant for serious crimes.

- Establish clear protocols for public prosecutors aimed at ensuring that investigations of social media activity are carried out without violating the right to privacy or wrongly assuming associations between individuals.

- Regulate digital surveillance, ensuring that any intrusion into private life is justified and legitimate.

- Guarantee that the judiciary apply international standards on freedom of expression, avoiding the criminalisation of political or ideological views.

- Adopt a human-rights–based approach that guarantees freedom of expression, privacy, and protest, both online and offline.