ROUTLEDGE INTERNATIONAL HANDBOOK OF CRITICAL POLICING STUDIES

Edited by Nicole L. Asquith, Jess Rodgers, James Clover, Gary Cordner, Angela Dwyer, and Rishweena Ahmed

First published in 2025

ISBN: 978-1-032-51113-9 (hbk)
ISBN: 978-1-032-51114-6 (pbk)
ISBN: 978-1-003-40116-2 (ebk)

CHAPTER 37

PAIN COMPLIANCE, DISABILITY, AND STATE ACCOUNTABILITY

Lessons from Chile and Colombia on the form and function of less lethal weapons

Javier Velásquez Valenzuela and Lucía Guerrero Rivière

DOI: 10.4324/9781003401162-41

Routledge
Taylor & Francis Group
LONDON AND NEW YORK

37

PAIN COMPLIANCE, DISABILITY, AND STATE ACCOUNTABILITY

Lessons from Chile and Colombia on the form and function of less lethal weapons

Javier Velásquez Valenzuela and
Lucía Guerrero Rivière

Introduction

Recent social upheavals in Latin America have shone a spotlight on state practices of containment and management of citizens' bodies through police use of less-lethal weapons (LLWs). These elements of policing have garnered attention from local, regional, and international human rights mechanisms and NGOs, including the Interamerican Human Rights Court and Amnesty International (Inter American Commission on Human Rights 2021, Amnesty International et al. 2021). The progressive emergence of complaints about excessive use of force involving these weapons has increasingly raised concerns within the last three years. Even when the label of 'non-lethal' was later changed to 'less-lethal', this descriptor still does not reflect the potential for bodily harm inextricably linked to the principle of pain compliance that governs the design of these weapons. Regardless of whether the label comes from the manufacturer or the state that introduced them to their law enforcement bodies, the high rates of severe injuries and even deaths that have been linked to some of these weapons call into question the legitimacy of their use.

Bodily harm resulting from these weapons overwhelmingly develops into disabling conditions ranging from permanent vision loss to post-traumatic stress disorder (Haar et al. 2017, Velásquez et al. 2021). State violence-induced disability is therefore an issue that needs to be addressed by studies of weapons and policing, as well as disability studies. This chapter unpacks and problematises the design and use of these weapons by interrogating the principle of pain compliance from the perspectives of critical policing studies and critical disability studies. Following Whipple (1991, p. 181), we understand that pain compliance is a 'catch-all phrase used to categorise a variety of pain-inducing techniques available to officers to "persuade" an uncooperative arrestee to comply with their demands'. While these techniques were initially conceived to encompass different physical pain-inducing constraints, we explain how it is currently used as a paradigm for engineering LLWs.

We begin by outlining our case studies on the Chilean and Colombian social upheavals (in 2019 and 2021, respectively) and examining ocular trauma as an example of a recurring

DOI: 10.4324/9781003401162-41

outcome of LLW deployment and as a mass imposition of impairments with which states that employ these weapons must contend. While ocular trauma represents only one form of long-term bodily injury caused by LLWs, we have chosen to focus on it due to its prevalence in Colombia and Chile. Although a few cases of ocular injury resulted from the use of police batons and the misuse of tear gas launchers (with reports of wounds sustained by impacts from tear gas canisters), in both Colombia and Chile numerous cases were caused by different types of kinetic impact projectiles (KIPs). Thus, we have chosen to address this kind of LLW in particular, although the reflections outlined here could be extended to other types of LLWs.

We further reflect on the points of connection between LLWs and disability: on the one hand, the potentially disabling outcomes of these weapons and, on the other, their embeddedness within institutions and practices of controlling disabled people. Afterwards, we characterise the weapons classified as 'less-lethal' and identify the paradoxes involved in their design and deployment, particularly with regard to the uneasy relationship between pain compliance and torture. With this in mind, we urge for a disability perspective to be considered prior to the incorporation and deployment of these weapons, one that centres disabled people's possibility of exercising their rights to protest and confronts ableist stereotypes perpetuated by state-induced disability while providing justice and reparations for victims of state violence.

Thus, in the vein of critical policing studies, we examine current police practice as a first step to provoking questions and venturing alternatives for concerns regarding public safety, human rights violations, and disability equality (Carlen 2017). In so doing, we aim to question the implicit logic of the tools of crowd control and situate the latter within a broader continuum of policing. What is more, by considering the links between these weapons and the control and production of disability, we gesture towards broader questions about the relationships between violence, the state, and the bodies of the citizenry.

Chile and Colombia: LLWs used during social upheaval

In Latin America, particularly during the last five years, we have witnessed how the deployment of LLWs during demonstrations has been linked to severe cases of human rights violations, from the mass blinding of protesters in Chile in 2019 to maiming and deaths during the Colombian National Strike. These case studies show that instead of humanising police use of force in non-life-threatening situations, namely protests, the aftermath of their use has been the opposite: brutalisation and intensification of harm. Furthermore, both cases evidence a proximity between pain compliance and torture in practice, as well as the prolonged effects of injuries sustained by LLWs during protest.

Chile (2019–2020)

Political unrest in Chile grew steadily from 2003 in terms of the number and magnitude of protests per year, culminating in massive protests in 2019 (Somma and Medel 2017, Medel 2023, p. 106). However, this did not correlate with increased political engagement and voting. On the contrary, abstentionism also grew as protest and social movements increased (Medel et al. 2023). Thus, social unrest overwhelmed forms of political engagement, as evidenced by the diversity of claims and demands voiced in the 2019 protests. Moreover, recent research on the use of force against protesters in Chile during the last decades has

shown that protests led by high-school or university students and the ones led by indigenous people (such as Mapuche) were repressed by the police more often than those led by other groups, regardless of the sitting government's political alignment (Medel and Somma 2022).

The *estallido social* (roughly translated as 'social outburst') consisted of mass nationwide demonstrations staged in Chile from 18 October 2019 until late January 2020. Police reacted by deploying special forces with several LLWs, ranging from KIPs (rubber buckshot and bean bags) to chemical agents (CS and OC). Very quickly, there were different complaints of police brutality that varied in severity. Numerous people were injured, some of whom sustained lifelong injuries and disabilities, as was the case of Fabiola Campillai, who lost sight in both of her eyes after having been hit by a tear gas canister on her way to work in November 2019.

According to a paper published by ophthalmologists specialising in ocular trauma at the Hospital del Salvador in Santiago de Chile, between 18 October and 30 November 2019, they treated 182 people with injuries caused by KIPs used by Carabineros (Rodriguez et al. 2021). In at least 85 cases, the ocular trauma was so severe that the victim was deemed legally blind. One of the limitations of this work is that the data only reports cases of victims treated in Santiago, but Carabineros managed to injure protesters across the country. Also, this report only recorded injured people treated up to 30 November 2019, when the unrest was still ongoing. Amnesty International (2020) and Human Rights Watch (2019) reported that the number of victims of KIPs was far greater than that reported by Rodriguez et al. (2021). Before its deployment in October 2019, Carabineros published a General Order that labelled KIPs as 'non-lethal'. However, a leaked internal Carabineros document—dated November 2019—revealed that the police had already carried out ballistics tests by 2012. More to the point, these tests were conducted because, in February 2012, they were used against fishermen in the south of Chile, leaving half a dozen of them with some form of ocular trauma. In those tests, Carabineros realised that the ammunition was: (1) lethal at short distances (less than 15 metres); (2) at any distance it could cause eye trauma; and (3) unlike rubber bullets, rubber buckshot fires several projectiles at the same time. In the case of this ammunition, it contained 12 hardened rubber projectiles. Due to the dispersion of the projectiles, at mid and long distances, they are highly inaccurate, and they were recommended to be used only at a distance of 20–30 metres (Carabineros de Chile 2012). Even at those distances, there was a high chance of impacting innocent bystanders due to the wide dispersion of the projectiles. Therefore, by 2012, Carabineros already knew the risk of using this ammunition, on the one hand, because they had already caused ocular trauma to protesters and, on the other hand, because their own ballistics test had displayed those risks. However, the ammunition was kept and deployed nationwide in 2019.

The human rights violations of the *Estallido* were preventable. The data from the 2012 report showed that the ammunition was unsuitable for crowd control (Carabineros de Chile 2012). The fact that police could only use them 'safely' within a specific range is already a problem. In crowd control situations, both the crowd and police are in constant movement, which makes it difficult for police to remain in a safe range. Moreover, at any distance, they can cause ocular trauma, as they did to at least 85 people in less than two months of first being used.

In spite of these known risks, the ammunition was allowed to be used against protestors whose behaviour was not life-threatening, even when they were involved in cases of vandalism (Carabineros de Chile 2019). Thus, there was clearly disproportionality in the

police reaction. As a result of these human rights violations, in 2020, Carabineros updated their regulation, labelling the rubber buckshot as 'less-lethal'. Police also informed of the replacement of the rubber buckshot containing 12 projectiles for ones with just three projectiles. Despite all the above, at the time of this writing, these kinds of KIPs have not been banned in Chile.

Colombia: lethal and disabling force

Like in Chile, most ocular injury cases in Colombia were reported during a wave of protests known as the National Strike of 2021, which was a reprise of earlier mass demonstrations that temporally coincided with part of Chile's *estallido*. These protests witnessed the outpouring of a dignified rage over socioeconomic inequalities that were exacerbated by the pandemic, widespread lack of educational and work opportunities, the systematic murder of human rights defenders, inadequate implementation of the Peace Agreements signed in 2016 with the FARC guerrilla, as well as mounting concerns over the guarantees for exercising the right to assembly itself.

The *Escuadrón Móvil Anti-Disturbios* (ESMAD), charged with containing disturbances and crowds and restoring the 'exercise of rights and public liberties', was deployed in force. As a vestige of the role that it played during the armed conflict, the police are constituted within the Ministry of Defence in Colombia, meaning that they do not operate as a civil force, which has shaped its response to social protest (Osorio-Rozo and Olarte-Cancino 2023). Investigations carried out by civil society groups have found the ESMAD responsible for numerous instances of excessive use of force since its inception in 1999, most often produced during responses to social protests. Activists and social leaders have since voiced demands for it to be dismantled, noting that the squad was originally only meant to operate temporarily as part of a bilateral collaboration strategy with the United States for the eradication of coca crops (Temblores 2019).

The first recorded case of ocular injury during social protest was in 2003, and the latest was reported in September 2023, after a timid yet ongoing reform of the ESMAD, to which most of these injuries are attributed (Amnesty International et al. 2021). Unlike Chile, where protests dissolved at least partly because of COVID-19 and its lockdowns, Colombia saw the rise of new repertoires of dissent and repression in 2021. Policing of bodies and routines intensified to ensure compliance with public health measures that restricted circulation and public gatherings, which began to be increasingly held in the peripheries of large cities (as opposed to symbolic centres, such as the Bolívar Square in Bogotá). These changes in the dynamics of protests seem to have also fed back into decision-making around the use of force: as clashes with the police happened outside of urban centres, their reduced 'visibility' often translated into more widespread aggression (Azuero 2023).

Even before the National Strike of 2021 broke out in April, LLWs featured heavily in scenarios of police violence. On 9 September 2020, Javier Ordóñez died in custody after having been repeatedly tasered following his arrest for breaking social distancing measures. Footage of his death sparked protests across Bogotá and other cities, culminating in what has since been dubbed a massacre: 14 deaths, of which 11 deaths were later found to be attributable to police action (Negret-Mosquera 2021). During the 2019 National Strike, Dilan Cruz died from injuries sustained by a bean bag round (a type of KIP) that struck his head after it was fired from a calibre 12 shotgun (CSPP 2021, Forensic Architecture 2023). Both cases involved the misuse of an LLW, resulting in death, and were catalysts for

further protests against police violence itself. Indeed, as the new strikes wore on, disabling violence—particularly ocular mutilation—began to take on a stronger role in the policing of protest than in previous strike periods, with at least 116 eye injuries reported between April and December of 2021 (CSPP et al. 2023).

In Colombia, Osorio-Rozo and Olarte-Cancino (2023) have traced the explicit use of the term *obediencia por dolor* (pain compliance) to the internal manuals of the ESMAD on the use of LLWs, where it appears as 'the legitimate mechanism to control a person or crowd that was endangering one's life, that of others, or public order' (Osorio-Rozo and Olarte-Cancino 2023, p. 152, translation our own). In their analysis of this principle in policing, they draw on Rita Segato (2018) to conclude that pain compliance operates as a 'pedagogy of cruelty' whereby individual bodies are marked and punished to warn and deter the social body from *dis*obedience. Furthermore, because disability is already culturally linked with the aftermath of violence in a post-conflict context like Colombia (PAIIS 2020), negative biases against disabled people operate alongside stigmatisation and criminalisation of social protest in the cases of people injured by state violence during demonstrations. This compounds the intimidating effect of LLWs that maim rather than kill, and in many cases has resulted in survivors of ocular injury stating in testimonies that they would rather have died from their injuries (Amnesty International et al. 2021).

Policing disability, producing impairments

A disability justice perspective on LLW use by police is urgent, not only because they might produce disabilities, but because they have cultural impacts on the disabled population as a whole. To begin with, the principle of pain compliance introduces a false dichotomy by suggesting that the risk of collateral disablement is preferable to death. For survivors of ocular mutilation, however, the material and social conditions imposed by state violence perpetuate ideas of disabled life as not worth living, as is made clear in the abovementioned testimonies (Essa 2016, Amnesty International et al.2021). Almost 30 years after the adoption of the Convention on the Rights of Persons with Disabilities, the re-entrenchment of these ableist patterns of thought is alarming. However, existing literature that applies a disability studies lens to policing largely focuses on incarceration and vulnerabilities faced by disabled people during interactions with police (Asquith and Bartkowiak-Théron 2021, González 2022). Drawing on these developments as well as the framing of critical policing studies, we add to this line of inquiry by analysing the police's toolkit from the perspective of mass disablement through state violence.

In fact, pain compliance reveals a striking example of the continuum of policing as a social act as well as a social institution. First, its history is necessarily a history of disability (in)justice. The concept first emerged concerning the problem of 'disturbed behaviour' in mental health institutions, where the use of mechanical restraints for inpatients had been hotly debated regarding staff safety and compliance with therapeutic procedures (Paterson 2005). The later incorporation of pain compliance into mainstream policing points to the possible circulation of knowledge between institutions, as well as the connective tissue between public order policing and disability. Another case that reinforces this point is the technique of kettling, which was first used in a UK disability rights protest in 1995 before being more widely adopted as a technique for the management of protests (Asquith and Bartkowiak-Théron 2021).

This connection calls for a bridge between critical approaches to public order policing and critical disability studies, which has moved beyond a parochial focus on psychiatric institutionalisation and transcended well-known analogies between prisons and asylums, proposing instead a *continuity* between these 'total institutions' and their logics of behaviour control (Ben-Moshe 2013). Notably, the activities within these institutions indeed constitute a form of *policing* (Carlen 2017), that is, of defining and acting upon deviant behaviours. Furthermore, the field of critical disability studies has increasingly turned its attention to the violent production of impairments and the geopolitical inequalities involved therein. Scholars such as Soldatic (2013), Meekosha (2011), and Erevelles (2011) have mapped the limitations of disability rights frameworks to grant theoretical purchase on mass disablement caused by poverty, conflict, and environmental exposure, particularly in the Global South. Puar's (2017) theory of capacity and debility has taken these developments further by questioning the entanglements between disability and racial and geopolitical privilege. Her articulation of 'the right to maim' shows how depicting the use of LLWs as a benevolent alternative to lethal force conceals its capacity to produce disability and debilitate populations.

Following this thread, in the next section we expand on how this principle manifests in the design and logic of LLWs. However, we would like to dwell here on the deep-seated connections between pain-compliance and disability. Where it had been more linked to restraint, pain compliance has been recently incorporated as the principle of design for LLWs deployed mostly—though not exclusively—for crowd control purposes, where, as explained above, they have resulted in disabling injuries and shown a pattern of use against disabled persons. Pain compliance therefore reveals a cycle between how disabled people are controlled and how the state employs the 'weaponization of disability' (Ben-Moshe 2018) to control its citizenry.

Form and function of LLWs: non-lethality as an aim, pain compliance as its failure

In *Theory of the Drone*, Grégoire Chamayou argues that we must study weapons, not to achieve a purely technical understanding of these artefacts, but rather to reveal the political, legal, and criminological assumptions that underpin their design and the implications of their use. Critically, every weapon, ammunition, or related equipment 'not only makes it possible to take action but also *determine the form of that action*' (Chamayou 2015, p. 15, emphasis added) within the remit of the application of force. Thus, weapons are not simply 'neutral means' to a potentially justifiable end: they necessitate a technical and political analysis in and of themselves.

During the last decades of the twentieth century, the weapons market has rapidly developed weapons labelled 'non-lethal', 'less-than-lethal', or 'less-lethal' to meet a new need for alternatives to conventional weapons, particularly for crowd control purposes (Velásquez et al. 2022). Even the United Nations encouraged states to seek such alternatives (United Nations (UN) 2020). At first glance, the defining characteristic of LLWs seems to be their lower risk of producing death relative to firearms. However, in terms of design, more detail is needed: what are the technical characteristics and purposes of this 'non-lethal' effect that would make such a weapon desirable for police; what is the *function* and the *form* that allows them to achieve it? Thus, two design goals emerge: to develop weapons that can either disperse crowds or incapacitate specific individuals, depending on which of these is called for in each scenario.

In the case of KIPs, there is a 'small margin of safety between a high velocity, small cross-section impact which would throw off-balance or stun, and the infliction of permanent or deadly injury' (Coates 1972, p. 54–5, Rosenhead 1976). This constitutes a design failure: producing a weapon that could stun *without* killing was nearly impossible (Velásquez et al. 2022). The demand for a new 'sublethal' technology was therefore rerouted towards the aim of pain compliance (Dymond 2022, p. 43). Rather than seeking to stun unruly subjects without killing them, the objective became to inflict just enough pain that would coerce them to comply with law enforcement.

Pain compliance and state violence-induced disability

Yet no weapon can be reasonably said to be free of the risk of producing fatalities or disability. As Heal (2014) argues, unlike conventional weapons (which are evaluated only on their effectiveness) LLWs are 'judged on both effectiveness and safety' (p. 105). With 'pain compliance' as the aim, effectiveness is understood as the ability to cause temporary pain in the target and ensure that they comply with police orders. Safety means that the weapon does not generate serious, lasting injuries (Velásquez et al. 2021, p. 533). Therefore, there is a tension between safety and effectiveness: for example, if an LLW is 'too safe', it may be unable to generate sufficient pain to incapacitate or subdue the target and, therefore, may be deemed ineffective for police work. On the contrary, highly 'effective' LLWs—capable of causing enough pain to functionally incapacitate a person, at least momentarily—are usually ammunition that has a great capacity to generate serious, long-lasting injuries, effectively maiming rather than killing the target (Heal 2014, p. 105, Velásquez et al. 2021. p. 533).

Regardless of the design and how the manufacturers label them, emerging weapons classed as 'less-lethal' can and often do produce severe injury and mutilation, such that the risk of seriously injuring any individual becomes a trade-off of pursuing these alternatives. By deploying them, states implicitly consent to this trade-off. In fact, Haar and colleagues' landmark study on mortality and morbidity associated with KIPs concluded that 'given the inherent inaccuracy of KIPs, risk of serious injury or death and potential for deliberate misuse, [findings] suggest that KIPs do not appear to be an appropriate means of force in crowd-control settings' (2017, p. 8).

This begs the question: for the aims sought by police when using LLWs, is it enough for the latter to maim rather than kill? These weapons are often authorised to be used in circumstances where lethal force is forbidden. Then, is maiming a proportionate use of force when police face non-life-threatening situations? Does this effectively *reduce* the use of force? On the contrary: Paul Rocher (2021) explains in his study of the politics of non-lethal weapons that their uptake as more 'humane' and 'ethical' ways of exercising violence have instead *encouraged* the use of force in new scenarios. The intent of minimising death has made the proliferation of injuries both possible and *permissible*. Emphasising the 'reduced' lethality of a weapon comes at the expense of an evaluation of its capacity for debilitation, that is, for producing disability and even leveraging ableist biases to dissuade the citizenry from certain conducts, including protest (Puar 2017, Ben-Moshe 2018). For just as the state implicitly consents to the risk of mutilating its citizenry in deploying these weapons, the citizenry is forced to decide whether protesting is worth the risk of being maimed, and living with disabilities in contexts where support for disabled lives is meagre.

Nowhere is this calculus of risk clearer than within the population of persons with disabilities. Although it should be noted that there is a rich history of disability protests worldwide (Taylor et al. 2016, Cohen et al. 2018, Brégain 2021), the (justified) fear of being unable to escape police violence due to impairments disproportionately limits disabled peoples' possibilities of exercising their right to protest. Guidance for police interventions in protests to maintain public order pays little, if any, attention to the specific vulnerabilities and accommodation needs of disabled protesters, resulting in an increased risk of injury in these procedures, where LLWs are routinely deployed (Asquith and Bartkowiak-Théron 2021). Similarly, Dymond (2022) gives examples of how people with visual impairments, sensory disabilities, and mental health challenges are more likely to have electric-shock projectile weapons used on them, presumably because of the affordances of these weapons as well as ableist stereotypes of abnormality and danger. As Hedva (2016, n.p.) puts it, 'the inevitability of violence at a demonstration (…) ensures that a certain amount of people won't, because they can't, show up'.

To complicate the issue further, it is evident that not all these weapons cause disability when used. Different weapons have different behaviours, and the risk of maiming or even killing is determined by the contexts in which they are deployed, the aims sought by police when using them and, of course, the way they are used. Then, what level of risk is acceptable when using these weapons? And which risks are unacceptable when law enforcement uses them? Looking back to several instances in which the deployment of these weapons had left state-induced disability, one needs to ask: are these injuries avoidable? Which measures can be used to prevent these outcomes? What lessons can be gleaned from the human rights violations committed precisely with these weapons in Chile (Rodriguez et al. 2021, Corral et al. 2024) and Colombia (Temblores et al. 2021, CSPP et al. 2023)? To solve some aspects of these problems—and particularly to meet effectiveness and safety standards—manufacturers aim to design KIPs that (1) do not penetrate the target; (2) transfer lower amounts of energy to the target; and (3) have predictable trajectories (Velásquez et al. 2021, pp. 533–4).

The main issue here is that we can confidently predict the risk of any KIPs before their deployment—granted, only if all technical specifications for the ammunition are known (Reynhout 2020, Velásquez et al. 2022; Reynhout et al. 2020). The problem is that most of the time, they are secret. Of course, several manufacturers publish technical sheets of their products on their websites or brochures. However, we have learned that in several cases, the behaviour outlined in manuals issued by manufacturers does not coincide with how the ammunition behaves when taken into the streets and under actual protest conditions. Therefore, the UN Guidelines on these weapons suggest that states test them before deployment.

Now, this poses the following question: were states aware of the risk of maiming or killing posed by these weapons *before* deploying them? Two alternatives: either the state was negligent (and thus they bought these weapons, never tested them, and then deployed them without knowing their consequences), or the state knew the risks and deployed them anyway. In both situations, states should be accountable for state-induced disability. However, how can we both ensure the enactment of good practices to prevent this kind of outcome and promote accountability? Before discussing our recommendations for practice on this matter, there is still one last problem we need to address: the relationship between LLWs and torture.

Pain compliance and torture

The design of any weapon focused on pain compliance opens a liminal space between the legal use of force and the risk of committing cruel and inhuman treatment or even torture.

This is so because the 'line' that separates it from corporeal punishment is exceedingly tenuous. Thus, in both cases, we have the deliberate infliction of pain on a person by the police to achieve compliance. When is such infliction of suffering legal, and when can it be deemed a cruel treatment or torture? The necessity of inflicting pain will determine a group of cases; if unnecessary, it could not be considered a legal use of force. The difficult cases are those when the police are required to use force, meaning they can legally inflict some suffering. Nevertheless, in those cases, if the suffering is disproportionate or it becomes clear that it was both unnecessary and disproportionate, we can say that it is cruel treatment or torture. Note that this is particularly the case whenever LLWs are used to punish people or, as it happens in protest when such suffering is used both to punish the target and deter the rest of the protesters.

Accordingly, both the previous (Melzer 2017) and the incumbent (Edwards 2023; 2024) UN Special Rapporteurs on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have warned that some of these weapons should be banned, and others be strictly regulated. Melzer (2017) remarks that:

> …although 'less-lethal' weapons are designed to incapacitate while avoiding lethal outcomes, *they are also specifically designed to inflict pain or suffering as a means of repelling or otherwise coercing the targeted persons*. For example, several bodies and specialized organizations have specifically highlighted the risk of cruel, inhuman or degrading treatment or punishment
>
> *(Melzer 2017, par. 54, emphasis added)*

Melzer's considerations include KIPs, insofar as they are able to inflict severe bodily pain, long-lasting injuries, and highly visible scars, as is the case of ocular injuries; we would, however, add to his statement that pain and suffering can have lasting and disabling physical and psychological consequences. To echo his concern over risks of cruel, inhuman, or degrading treatment, several reports on ocular mutilation of protesters by KIPs in Colombia characterise it as a form of torture, citing clear patterns across cases. These include the deployment of weapons under the cover of darkness and the targeting of demonstrators who were taking photos at the time they were injured (CSPP and CDLAT 2021, Temblores et al. 2021, CSPP et al. 2023).

These same reports show that these injuries are not merely physical and individual; they have key psychosocial consequences beyond the person who receives the impact. In contrast to the short-lived discomfort promised by the principle of pain compliance, a glimpse at the occurrence of ocular mutilation reveals the permanence and pervasiveness of pain and injury from LLWs. The eye wound is experienced socially as a punishment for protest, and the scarred faces of demonstrators serve as an embodied warning of the risk of injury that demonstrations entail. It is no surprise that very few survivors decide to protest again. Beyond physical, social, and psychological struggles, they report experiences of social stigma because of their scars and impairments, sometimes as a result of biases against persons with disabilities and facial differences, sometimes due to moral panic around protest, and sometimes both. Therein lies the *systematicity* of ocular mutilation as torture: in the longevity of its effects. Furthermore, the spate of suicides among survivors of ocular injury in Chile calls into question the qualitative difference between lethal and 'less-lethal' force, as they can reasonably be interpreted as complications of mental health conditions stemming from the attack.

Put succinctly, the pain compliance paradigm for weapons design bears a close and dangerous proximity to torture. Therefore, signatory states on treaties of torture prevention have a legally binding obligation to enforce strict regulations of these weapons. On the contrary, it seems that some states had decided to continue promoting the deployment of some of these weapons—such as the rubber buckshot—despite the evidence of their indiscriminate effects.

Discussion and implications for practice

This chapter is based on the specificities of two Latin American cases and the prevalence of ocular injuries caused by KIPs; however, it is hoped that these reflections might provide a starting point for consideration of these issues in other contexts and regions where LLWs have been deployed. First, echoing numerous reports on the topic, we suggest that the use of these weapons be evaluated in terms of their capacity for injuring and potential for use as torture, rather than their alleged reduction of harms. Moreover, guidelines on use should also be informed by a disability rights perspective, that is, in line with the protection of the civil and political rights of disabled people who are disproportionately impacted by existing biases and the differentiated possibility of injury when participating in demonstrations (Asquith and Bartkowiak-Théron 2021). A crucial area for future work in this field is delving deeper into the shared history of these weapons and the tools used in inpatient settings, as it will allow for meaningful cross-pollination between fields, with a differential disability focus. As above, we also urge signatory states of torture prevention and disability rights treaties to act accordingly and regulate the use of these weapons.

In the second instance, we observe that intricate decisions regarding the use of LLWs are made well before considerations of necessity and proportionality are needed on the ground. Rather, merely making LLWs available or contemplating their incorporation into law enforcement's arsenal involves multiple stages of organisational processes. Thus, we propose a three-stage evaluation process based on questions that help characterise weapons, drawing on Orbone and Adang's 'Police Technology Assessment' framework (Adang et al. 2023). Ideally, these questions can serve as a guideline for how LLWs should be assessed before being introduced, although they can also be used to evaluate weapons already in use. It is not a one-size-fits-all algorithm, but an imaginative provocation of how these processes could be conducted and the types of measures that could be taken for accountability.

Stage 1: Evaluation of the weapon's design in accordance with the (less-lethal) purpose sought by the police with the incorporation of the weapon

This stage involves analysing the weapon with the available information the manufacturer provides (Figure 37.1).

Stage 2: Weapon testing

This stage involves the state's obligation to test any weapons they may introduce to the police force for use in situations that are not life-threatening. The behaviour exhibited by

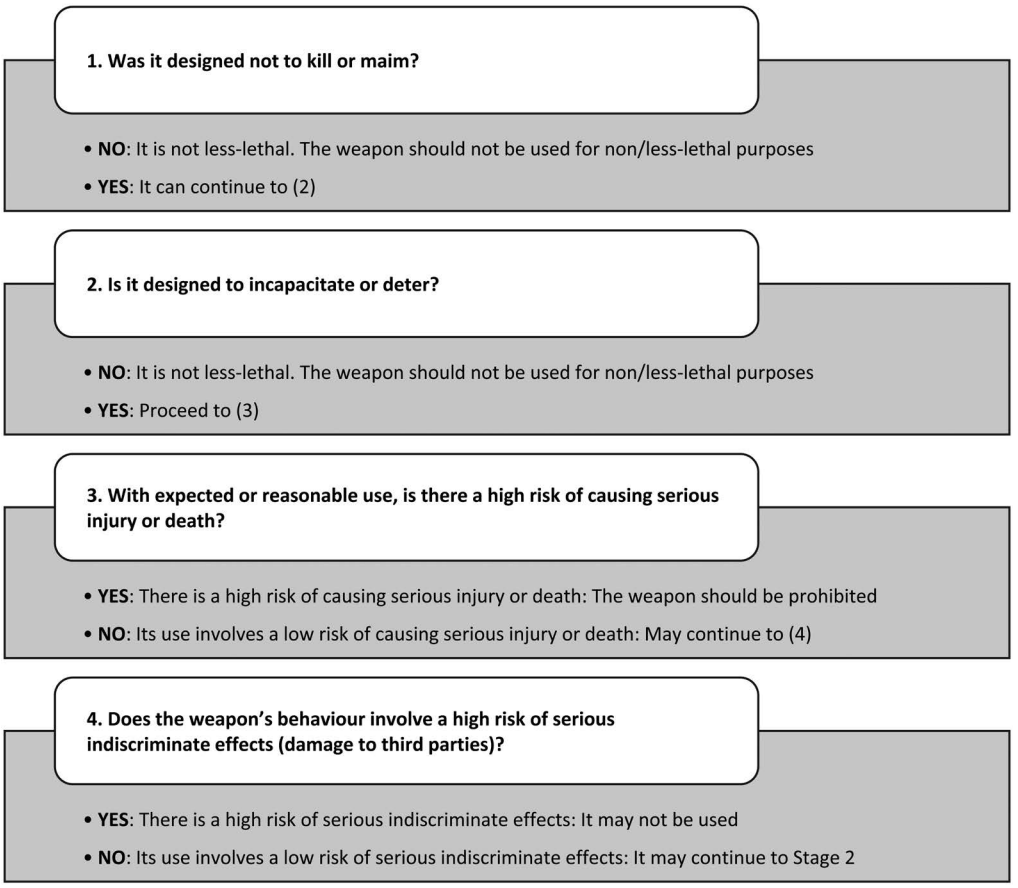

Figure 37.1 Stage 1—Evaluation of the Weapon's Design in Accordance with the (Less-Lethal) Purpose Sought by the Police with the Incorporation of the Weapon

weapons in these tests will allow for a characterisation of risks and a triangulation with the technical information offered by suppliers (Figure 37.2).

Stage 3: Triangulation between the purpose sought and the weapon's technical behaviour

At this stage, an evaluation of the weapon needs to consider the technical data and the possible risks that its use involves, considering the contexts in which police will deploy the weapon. This must be accompanied by a legal assessment considering the national and the soft law of police use of force alongside the conventions against torture and other international instruments that might be relevant for this assessment (Figure 37.3).

The proposed stages aim to help policy-makers, practitioners, and human rights advocates clarify the different technical levels of assessment involved in any decision to introduce

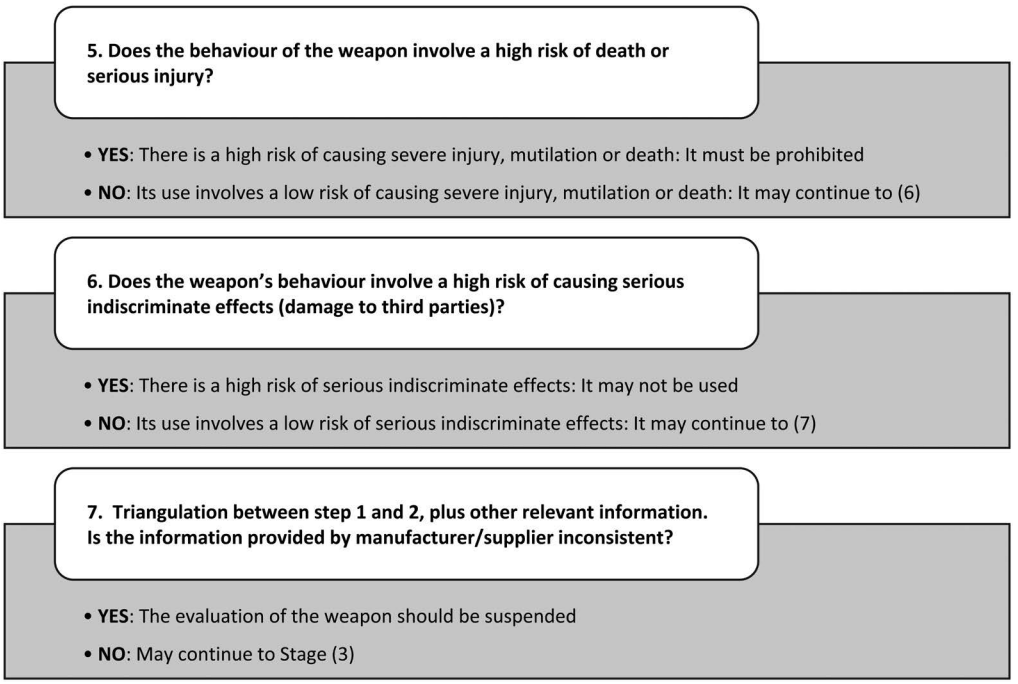

Figure 37.2 Stage 2—Weapon Testing

LLW to the police. It also aims to shed light on the organisational and institutional factors that affect how states approach these decisions.

Finally, the local specificities of Colombia and Chile—and Latin America, more broadly—offer salutary lessons to regions experiencing social upheaval as well as considering the use of LLWs in other scenarios. As Sánchez et al. (2022) suggest, processes of reparation are crucial not only to rectify state harms but also to provide guarantees of non-repetition of human rights violations, particularly for survivors of irreversible injuries and impairments. Fact-finding and testimonial processes help gather information about the circumstances surrounding state violence and, since Chile and Colombia have undergone transitional justice procedures to account for dictatorship and armed conflict, useful precedents exist in both cases to assist in this endeavour.

By providing insight into aspects of victims' experience, these procedures can also help identify avenues for reform in other areas. For instance, because of the mass disablement unleashed by the misuse of LLWs during the National Strike and the *estallido*, existing failures of inclusion of visually impaired persons in the justice system, schooling, and workplace sectors were highlighted. Thus, locating the use of LLWs within local practices, histories, and institutions can provide valuable information about the biases that might affect how they are wielded as well as the tools that can account for their harm. Intersectional perspectives on the motivations for protest, as well as the disabling effects of police violence (and how they interact with gender roles, be they in relation to traditional aesthetic expectations or economic roles and pressures) are therefore needed in the future formulation of alternatives to current practice in public order policing.

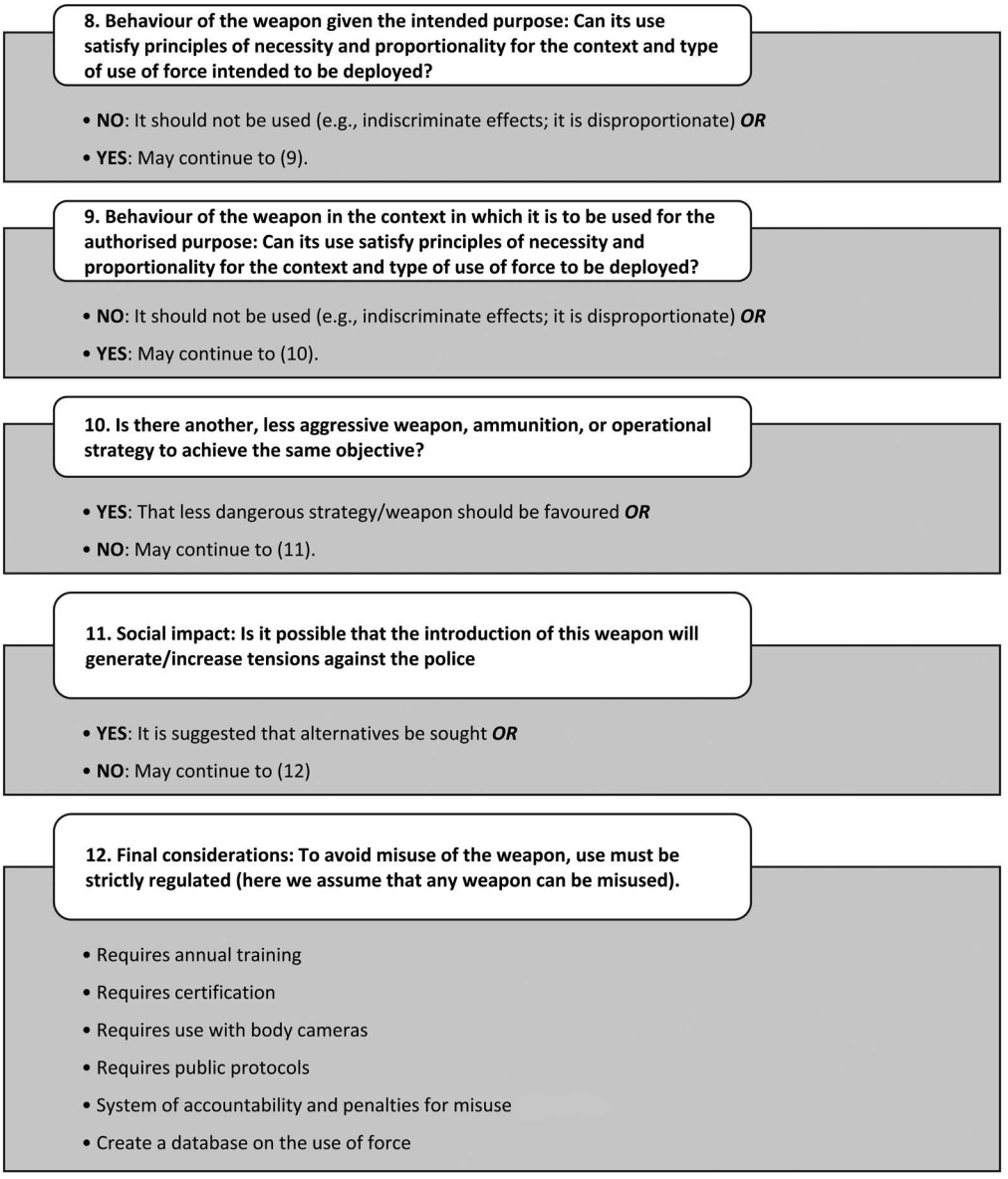

Figure 37.3 Stage 3—Triangulation between the Purpose Sought and the Weapon's Technical Behaviour

Acknowledgements

Lucía's research is funded by the Wellcome Trust [Grant number 203109/Z/16/Z]. We would like to thank Rhys Allardice and Natalia Cabrera for their feedback on drafts of this chapter.

References

Adang, O.M., Mali, B. and Vermeulen, K., 2023. A prospective police technology assessment of the use of non-penetrating projectiles for public order maintenance and riot control. *Policing: A Journal of Policy and Practice*, 17.

Amnesty International, 2020. *Ojos Sobre Chile*. Santiago: Amnesty.

Amnesty International, Temblores, and PAIIS, 2021. *Tiros A La Vista*. Index Number AMR 23/5005/2021.

Asquith, N.L. and Bartkowiak-Théron, I., 2021. Public order policing. In: *Policing practices and vulnerable people*. London: Palgrave Macmillan, 203–219.

Azuero, A., 2023. *El paro como teoría: historia del presente y estallido en Colombia*. Barcelona: Herder.

Ben-Moshe, L., 2013. Disabling incarceration: Connecting disability to divergent confinements in the USA. *Critical Sociology*, *39*(3), 385–403.

Ben-Moshe, L., 2018. Weaponizing disability. *Social Text Online* [Online]. Available from: https://socialtextjournal.org/periscope_article/weaponizing-disability/ [Accessed 5 February 2024].

Brégain, G., 2021. Historia y memorias de las manifestaciones callejeras de los "lisiados" a principios de los años 70 en el Cono Sur (Argentina, Chile, Uruguay). *Pasado Abierto*, 13, 56–95.

Carabineros de Chile, 2012. *Disparos con escopeta antidisturbios, con empleo de cartuchería de perdigón de goma y sus efectos en la superficie del cuerpo humano*. Santiago: Carabineros de Chile.

Carabineros de Chile, 2019. *Orden General 2635: Protocolos para el Mantenimiento del Orden Público*. Santiago: Carabineros de Chile.

Carlen, P, 2017. Alternative criminologies: An introduction. In: P. Carlen and L. Ayres França, eds. *Alternative criminologies*, 1st ed, London: Routledge, 3–16.

Chamayou, G., 2015. *A Theory of the Drone*. New York: The New Press.

Coates, Jospeh (1972). Non-lethal police weapons. *Technology Review*, 74 (7): 49–56.

Cohen, E.L., Forbis, M.M. and Misri, D., 2018. Introduction: Protest. *Women's Studies Quarterly*, 46, 14–27.

Corral Núñez, Camila, et al. (2024). Traumatic dental injuries sustained during Chile's civil unrest: A case series study. *Dental Traumatology*, 40 (3): 316–324. DOI: 10.1111/edt.12911.

CSPP and CDLAT, 2021. *Torturar y castigar a quien protesta* [Online]. Available from: https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:us:2d24d9ce-8cd8-4f46-83d8-1b5a90a4833d#pagenum=1 [Accessed 5 February 2024].

CSPP, CDLAT, MOCAO, and CAPS, 2023. *Represión En La Mira: Lesiones Oculares En El Marco De Las Protestas En Colombia*. ISBN: 978-958-53871-2-6. Available at: https://drive.google.com/drive/u/1/folders/1gCTiF1nj0GOJd-EEUE2wwue4proTDjJ2 [Accessed 5 February 2024].

Dymond, A., 2022. *Electric-shock weapons, taser and policing: Myths and realities*. London: Routledge.

Edwards, A., 2023. Thematic study on the global trade in weapons, equipment and devices used by law enforcement and other public authorities that are capable of inflicting torture and other cruel, inhuman or degrading treatment or punishment. United Nations General Assembly, UN doc. A/78/324. https://undocs.org/Home/Mobile?FinalSymbol=A%2F78%2F324&Language=E&DeviceType=Desktop&LangRequested=False

Edwards, A.J., 2024. Trade in torture tools threatens detainees and protestors everywhere–it must be banned. *Torture Journal*, 34(1), 44–47.

Erevelles, N., 2011. *Disability and difference in global contexts: Enabling a transformative body politic*. New York: Palgrave Macmillan.

Essa, A., 2016. The doctors treating Kahsmiris blinded by pellets. *Al Jazeera*. Available from: https://www.aljazeera.com/features/2016/10/9/the-doctors-treating-kashmiris-blinded-by-pellets [Accessed 5 February 2024].

Forensic Architecture, 2023. The killing of Dylan Cruz. *Forensic Architecture*. Available At: https://forensic-architecture.org/investigation/the-killing-of-dilan-cruz [Accessed 5 February 2024].
González, V., 2022. Personas con discapacidad y uso de la fuerza policial en contexto del estallido social en Chile. *Revista Española de Discapacidad*, 10(2), 155–184.
Haar, R.J., Iacopino, V., Ranadive, N., Dandu, M., and Weiser, S.D., 2017. Death, injury and disability from kinetic impact projectiles in crowd-control settings: a systematic review. *BMJ Open*, *7*(12).
Heal, S., 2014. Less lethal impact munitions: The forensic testing model. In: R.T. Wyant and T. Burns, ed. *Risk management of less lethal options: evaluation, deployment, aftermath, and forensics*. Boca Raton: CRC Press, 103–142.
Hedva, J., 2016. Sick woman theory. *Mask Magazine*, *24*.
Human Rights Watch, 2019. *Chile: Police reforms needed in the wake of protests*. Https://www.hrw.org/news/2019/11/26/chile-police-reforms-needed-wake-protests [Accessed 5 February 2024].
Inter American Commission on Human Rights, 2021. *Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021*. Available at: https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf
Medel, R., 2023. Chile, la política y la calle. *Nueva Sociedad*, *305*(1).
Medel, R. and Somma, N., 2022. Represión policial y grupos de protesta en Chile: Un estudio longitudinal. *Revista de Sociología*, 37(1), 52–73.
Medel, R., Somma, N. and Donoso, S., 2023. The Nexus between protest and electoral participation: Explaining Chile's exceptionalism. *Journal of Latin American Studies*, *55*(4), 705–732.
Meekosha, H., 2011. Decolonising disability: Thinking and acting globally. *Disability & Society*, 26(6), 667–682.
Melzer, N., 2017. *Uso de la fuerza al margen de la detención y prohibición de la tortura y otros tratos o penas crueles, inhumanos o degradantes*. United Nations Document A/72/178,
Negret-Mosquera, C., 2021. *Relatoría para el esclarecimiento de los hechos ocurridos los días 9 y 10 de septiembre de 2020*. Available from https://www.colectivodeabogados.org/wp-content/uploads/2021/12/Informe-Final-Relatori%CC%81a-Esclarecimiento-9S-VF.pdf [Accessed 5 February 2024].
Osorio-Rozo, D.G. and Olarte-Cancino, H., 2023. Obedience through pain: State violence in the context of social protest (Bogotá, Colombia, 2019–2022). *Antipoda*, 2023(53), 135–160.
PAIIS, 2020. *Discapacidad Y Conflicto Armado: En Busca De Un Relato Ausente*. Available from: https://paiis.uniandes.edu.co/wp-content/uploads/web_Discapacidad-y-conflicto-armado-en-Colombia-en-busca-de-un-relato-ausente.pdf [Accessed 5 February 2024].
Paterson, B. (2005). Thinking the unthinkable: A role for pain compliance and mechanical restraint in the management of violence? *Mental Health Practice*, 8(7), 18–24.
Puar, J., 2017. *The right to maim: Debility, capacity, disability*. Durham: Duke University Press.
Reynhout, S., 2020. Propiedades balísticas de perdigones antidisturbios "menos letales" y su relación con trauma ocular severo en Chile. *Ars Medica*, 45(2), 46–54. DOI: 10.11565/arsmed.v45i2.1657.
Reynhout, S., Haar, R. and Heisler, M., 2020. Shot in the head. [Online] *Physicians For Human Rights*. Available from: https://phr.org/our-work/resources/shot-in-the-head/ [Accessed 5 February 2024].
Rocher, P., 2021. *Gasear, Mutilar, Someter: la política de las armas no letales*. Pamplona: Katacrak.
Rodriguez, Á., *et al*., 2021. Ocular trauma by kinetic impact projectiles during civil unrest in Chile. *Eye*, 35(6), 1666–1672.
Rosenhead, J., 1976. A new look at "Less Lethal" weapons. *New Scientist*, *16*, 672–674.
Sánchez, R., Sferrazza, P. and Severin, I. 2022. La urgente e insoslayable necesidad de reparar integralmente a las víctimas del estallido social. In: J. Velásquez, R. Sánchez, I. Severin, and P. Sferrazza, eds. *Estudios interdisciplinarios para investigar las violaciones a los derechos humanos por armas menos letales*. Valencia: Tirant Lo Blanch.
Segato, R., 2018. *Contra-Pedagogías De La Crueldad*. Buenos Aires: Prometeo.
Soldatic, K., 2013. The transnational sphere of justice: Disability praxis and the politics of impairment. *Disability and Society*, 28(6), 744–755.
Somma, N. and Medel, R., 2017. Shifting relationships between social movements and institutional politics. In S. Donoso and M. von Bülow, eds. *Social movements in Chile*. New York: Palgrave, 29–62.

Taylor, S., Hall, M., Lehman, J., Liebert, R., Nishida, A., and Stewart, J. *et al*., 2016. Krips, cops and occupy: Reflections from Oscar Grant Plaza. In: P. Block, D. Kasnitz, A. Nishida, and N. Pollard, eds. *Occupying disability: Critical approaches to community, justice, and decolonizing disability*. New York: Springer, 15–29.

Temblores. (2019). *Silencio Oficial*. Available at: https://en.temblores.org/silencio-oficial

United Nations (UN), 2020. *Guidance on less-lethal weapons in law enforcement*. Available from: https://www.ohchr.org/documents/hrbodies/ccpr/llw_guidance.pdf [Accessed 12 December 2023].

Velásquez, J., Cabrera, N. and Fernandez, A., 2022. Historia fragmentaria de los proyectiles de impacto de energía cinética: la relevancia de estudiar los medios. In: J. Velásquez, R. Sánchez, I. Severin, and P. Sferrazza, eds. *Estudios interdisciplinarios para investigar las violaciones a los derechos humanos por armas menos letales*. Valencia: Tirant Lo Blanch.

Velásquez, J., Fernandez, C. and Reynhout, S., 2021. ¿No letales? Un análisis criminológico, criminalístico y jurídico sobre los peligros de los proyectiles de impacto de energía cinética. *Política Criminal*, 16(32), 524–556.

Whipple, B.I., 1991. Fourth amendment and the police use of pain compliance techniques on nonviolent arrestees. *San Diego Law Review*, 28, 177.