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Causa Justa: a movement for reproductive freedom and autonomy





Heinrich Böll Foundation

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Introduction

By Luisa Rodríguez Gaitán¹

Green bandanas have colored the streets, squares, and various public spaces in Latin American countries over the past few years to accompany and represent the demands and claims for women's right to decide about their bodies, particularly the right to abortion. . The green bandanna revived the historical symbol inherited from the Mothers of the Plaza de Mayo in Argentina, who since 1977, began wearing the white bandanna while searching for their daughters and sons who disappeared in the civil-military dictatorship. Years later, during the 18th National Women's Encounter in the city of Rosario in 2003, the use of the green bandanna was promoted. Since 2005, the National Campaign for the Right to Legal, Safe, and Free Abortion² established its use and dissemination with the campaign's name printed on a white bandanna in the center, surrounded by the slogan "Sex education to decide, contraceptives to prevent abortion, legal abortion to avoid death."

With much greater force starting in 2018, in a regional context of mobilization and political advocacy to demand constitutional changes from Latin American States, the bandanna transcended borders and adopted the demands for the legalization and decriminalization of abortion in each country. In Colombia, various collectives, groups, activists, academics, platforms, and social organizations wore the bandanna to demand reproductive autonomy with slogans such as "Free abortion", "Legal abortion

now", "Free, safe and free abortion... 3 causes are not enough", among others, until reaching the bandanna with a slogan that would become historic: "Causa Justa, for the elimination of the crime of abortion".

Although the so-called "green tide" took place on a global scale, Latin America was at the forefront of the implosion of feminist and women's movements in the fight for their rights, particularly for sexual and reproductive rights. Movements from the Southern Cone to Colombia, Central America, and the Caribbean have managed to position or draw attention to abortion in public debate and political agendas. As controversial as it may be, the majority of society knows what it refers to, although misinformation about voluntary termination of pregnancy (VTP) remains to be one of the main challenges to be addressed. The mobilizations have allowed women, organizations, and feminist collectives not only to articulate themselves around specific demands on their sexual and reproductive rights but also to be heard and recognized in public spaces and decision-making scenarios.

Colombia emerges as a reference and leader in advances regarding the right to abortion in Latin America (and even in the world), with the Ruling C-055 of February 21, 2022, which establishes the decriminalization of abortion up to 24 weeks —the broadest gestational limit achieved so far—allowing women, girls, trans men, and non-binary people to terminate pregnancy according to their decisions without having to provide explanations. After this period, the three grounds established in the previous Ruling C-355 of 2006 apply (danger to the woman's life or integral health, fetal malformation, and rape or incest).

1 Coordinator of the Democracy and Human Rights Program of the Heinrich Böll Foundation, Bogotá - Colombia Office.

2 Felitti, K. y Ramírez Morales, R. (2020). Pañuelos verdes por el aborto legal: historia, significados y circulaciones en Argentina y México. *Encartes*, 3(5), 111-145

This historic achievement is the result of the Causa Justa (Just Cause) movement. Therefore, in recognition of such a colossal victory, this 38th edition of *Ideas Verdes* magazine is dedicated to Causa Justa, a movement for reproductive autonomy and freedom, and to the women who made history. Causa Justa emerged in 2017 on the initiative of la Mesa por la Vida y la Salud de las Mujeres (the Table for Women's Life and Health), which has been defending sexual and reproductive rights in the country for 25 years. In 2020, other women's, feminist, and human rights organizations, health service providers, academics, and think tanks joined Causa Justa, thus forming a movement that today comprises more than 100 organizations in over 20 territories in Colombia. Five organizations of Causa Justa (La Mesa por la Vida y la Salud de las Mujeres, Women's Link Worldwide, Católicas por el Derecho a Decidir, Grupo Médico por el Derecho a Decidir y Center for Reproductive Rights) filed a lawsuit before the Constitutional Court in September 2020 in order to eliminate the crime of abortion from the Penal Code.

This legal strategy (strengthened with 90 arguments) was accompanied by street mobilizations, advocacy and lobbying before the executive and legislative branches, networking and organizational strengthening, as well as a communication and media strategy. All this occurred during the more than 500 days that the lawsuit was before the Constitutional Court until achieving a favorable response in February 2022. In the texts that make up this

magazine, pioneers, founders, and members of Causa Justa share the history, strategies, achievements, and lessons learned from this movement in Colombia for struggles and processes in other parts of the world.

Likewise, throughout the different articles, there is a call for permanent planning, analysis, and collective action in different dimensions because the negative responses and rollback mechanisms of anti-rights groups (both from religious and political sectors) remind us that not everything is won. With the achievement of the historic ruling, Causa Justa has not lowered its guard and continues to strengthen its networking for the social decriminalization of abortion, the implementation and protection of the ruling, the construction of public policy and the comprehensive regulatory framework, advocacy, organizational and movement strengthening, the production of knowledge and information with arguments for different audiences and the production of messages together with a permanently active communications plan.

Ultimately, Causa Justa has a comprehensive strategy is an example and inspiration not only for other struggles and other women's and feminist movements, but also for the social movement in general that seeks profound social, political, and cultural transformations. This edition of the magazine carries in its pages what the members of Causa Justa always remind us: total decriminalization and the right to abortion are part of the recognition and guarantee of women's rights as a fundamental dimension of democracy.

3 Every year, Causa Justa has been mentioned in local, national and international media. Between 2020 and 2023, more than 100 press releases emerged regarding Causa Justa and its mission to eliminate the crime of abortion. In 2021, approximately 50 articles were published in the media and portals, which was a great prelude to the decision in the following year. Between 2022 and 2023, news and press releases highlighted titles such as "A year out of hiding: abortion saves lives" and "The most important legal change for women in the last 50 years."



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1. The Causa Justa movement: a path towards the decriminalization of abortion in Colombia

By Ana Cristina González⁴ Vélez and Laura Castro González⁵

La Mesa por la Vida y la Salud de las Mujeres

The Causa Justa (Just Cause) movement⁶ emerged in 2017 as an initiative of La Mesa por la Vida y la Salud de las Mujeres⁷ (The Table for Women's Life and Health hereafter referred as La Mesa), a feminist collective of organizations and people created in 1998 with the purpose of fighting for the total decriminalization of abortion, through arguments constructed from different disciplines and perspectives. Along this path, La Mesa significantly contributed to the implementation of the three grounds that allowed progress in decriminalizing

abortion in Colombia by identifying access barriers, influencing the health system to overcome them, and generating arguments for the effective application of the causes. This led to health ground becoming the primary cause for legal abortion in the country⁸.

After 15 years of implementing the Ruling C-355/2006, which decriminalized abortion under three grounds (risk to life or health, malformation incompatible with life, and rape or incest), thanks to a lawsuit led by Women's Link Worldwide⁹, the Causa Justa initiative became a feminist movement that sought the total decriminalization of abortion with a comprehensive strategy, which included a claim of unconstitutionality before the Constitutional Court, led by Causa Justa.

4 Medical doctor with a master's degree in Social Health Research and a doctor in Bioethics, Applied Ethics and Collective Health. Co-founder of The Table for Women's Life and Health. She was recognized by TIME magazine in 2022 as one of the 100 most influential people in the world in the pioneer category and was also person of the year in Colombia, according to the newspapers El Espectador and El Tiempo.

5 Political scientist and professional in Languages and Cultural Studies with a master's degree in Law Research from the Universidad de los Andes. Coordinator of La Mesa por la Vida y la Salud de las Mujeres.

6 See: <https://causajustaporelaborto.org/>

7 See: <https://despenalizaciondelaborto.org.co/>

8 González, A. C. (2012). "The health exception": A mean for expanding access to legal abortion. *Reproductive Health Matters*, 20(40), 1-8. | González, A. C. y Jaramillo, I. C. (2017). Legal knowledge as a tool for social change: La Mesa por la Vida y la Salud de las Mujeres as an expert on colombian abortion law. *Health and Human Rights Journal*, 19(1), 109-118.

9 Visit: <https://conectando.womenslinkworldwide.org/>

From its origins, Causa Justa had the purpose of establishing a public conversation about abortion in a way that centered on critiquing the use of criminal law to regulate this service. In this sense, the construction of arguments about the elimination of the crime of abortion from the Colombian Penal Code was an essential step to open the conversation. Thus, several feminist and human rights organizations came together to build 90 arguments¹⁰ that justified the need and relevance of eliminating this crime. Thanks to these organizations' expertise and track record, legal, political, public health, democracy, and peacebuilding arguments, among others, were compiled. In sum, these are arguments designed to engage with different audiences, from various standpoints and perspectives, about inequalities, about the lack of protection of women's rights that the crime of abortion entails, about the criminalization¹¹ or judicial persecution that some women face, and especially about how inconvenient the crime of abortion or the use of criminal law in regulating a health service, among other issues.

The document of the 90 arguments is divided into two main sections, which develop two types of arguments: i) context arguments to understand the situation of abortion in the country and the current terms of the conversation around women's right to decide about their body and reproduction; ii) arguments to support the reasons why for La Mesa and the organizations and individuals who promote Causa Justa consider the total decriminalization of abortion in Colombia is urgent and necessary.

It is essential to recognize that Causa Justa—which sought the involvement of diverse groups at the national level (health, human rights, academia, social organizations)—is the result of a political accumulation specific to the feminist movement in Colombia and beyond, which encompasses: 1) its multiple efforts to advance the decriminalization of abortion via the legislative scenario, 2) its experience and trajectory in accompanying women who faced access barriers to voluntary termination of pregnancy (VTP) under the grounds model, and

that nourished their understanding and categorization of these barriers¹²; 3) its collective work on previous productions about the interpretation of the legal framework provided by the grounds¹³; and 4) its tradition of exchange and articulated work with Latin American networks or platforms, which has allowed the sharing of strategies and actions, but also symbols such as the green bandanna, which represents the struggle for reproductive autonomy.

Now, in addition to the collective and interdisciplinary construction of arguments to justify the total decriminalization of abortion, in its early years, the Causa Justa initiative focused on designing a comprehensive strategy with four other prioritized lines: 1) pedagogical work with different audiences to persuade them about the relevance of eliminating the crime of abortion (namely, opinion leaders, journalists, political leaders, health service providers, influencers, etc.), 2) conjunctural analysis and advocacy before strategic institutions (such as Congress, the Constitutional Court, the Ministry of Health, etc.), 3) communication campaigns and production of political messages, and social mobilization built on three pillars¹⁴ (political communication in traditional and virtual mass media, social networks and street mobilization), and 4) advocacy actions in legal scenarios (such as strategic litigation before high courts).

However, it was not until February 2020 that the Causa Justa movement first appeared on the public scene, proposing to the country an argued, honest, and respectful public debate to explain why the use of criminal law as a form of abortion regulation should be abandoned. As mentioned, its ultimate goal has been the elimination of the crime of abortion from the Penal Code and the paradigm shift in the way in which abortion has been socially and legally regulated, to advance in the protection of women's freedom of conscience and in total legal and social decriminalization; that is, in creating environments of legitimacy for their decisions so that motherhood isn't imposed, so that women's reasons are the only valid ones regarding the decision to continue or interrupt a

10 La Mesa por la Vida y la Salud de las Mujeres. (2019). *Causa Justa. Argumentos para el debate sobre la despenalización total del aborto en Colombia*.

11 La Mesa por la Vida y la Salud de las Mujeres. (2021). *La criminalización del aborto en Colombia*. https://despenalizaciondelaborto.org.co/wp-content/uploads/2021/08/La-criminalizaci3n-del-aborto-en-Colombia_LaMesa-1.pdf

12 González, A. C. y Castro, L. (2017). *Barreras de acceso a la interrupción voluntaria del embarazo en Colombia*. La Mesa por la Vida y la Salud de las Mujeres. https://despenalizaciondelaborto.org.co/wp-content/uploads/2019/02/12.-Barreras_IVE_vf_WEB.pdf

13 La Mesa por la Vida y la Salud de las Mujeres, FLASOG y ANDAR. (2008). *Causal salud: interrupción legal del embarazo, ética y derechos humano*.

14 Visit: <https://causajustaporelaborto.org/universo-causa-justa/>

pregnancy, and so that services are timely, respectful and quality¹⁵.

In 2020, Causa Justa not only became known as a broad, diverse, national, and inclusive movement made up of more than 100 organizations from different areas of the country, as well as activists, health providers, academics, research centers, and citizens in favor of women's right to choose, but it also filed a claim of unconstitutionality against the crime of abortion (Article 122 of the Penal Code¹⁶) before the Constitutional Court. This lawsuit, led by five organizations representing the movement (Católicas por el Derecho a Decidir¹⁷, Center for Reproductive Rights¹⁸, Global Doctors for Choice¹⁹, La Mesa, and Women's Link Worldwide), proposed to the Court and the country the elimination of the crime of abortion, considering it to be counterproductive, unjust, ineffective and discriminatory.

It was explained to the Constitutional Court and public opinion that the crime of abortion was based on discriminatory criteria towards the most vulnerable women, girls, and pregnant people. The collective argued that the crime of abortion deepened inequalities between women and generated inequalities since the criminalized women are the poorest, youngest, and, in general, those who have a structurally more complex and profound matrix of inequalities, such as women of rural areas. In fact, criminalization mainly affects minors, who are more persecuted and punished than women in other age groups for this crime: 12.5% of prosecuted cases involve underage women (14-17 years), and in 24% of the cases, the convicted women are minors (81 of the 335 convictions correspond to minors), that is, a quarter of the cases resolved negatively correspond to cases of minors²⁰.

Thus, the collective argued that the crime of abortion was counterproductive, unfair, and ineffective because it did not achieve its preventive purpose of stopping women and pregnant people from having abortions. Instead, it forced them to resort to unsafe abortions outside the health system, to continue with unwanted pregnancies and to individually assume more significant health risks and costs. In fact, as in the case of access to abortion services, punishment ended up deterring legal behavior (namely, access under the grounds model) at the margins of the conduct that the State tries to prohibit and which, in addition, leads to the emergence of clandestine and unsafe services²¹.

In addition to the legal argument about why to eliminate the crime of abortion, the Causa Justa movement held a public conversation in which, among others, it demonstrated that the perception of Colombian citizens was transforming regarding the criminalization of abortion. In 2021, in the context of the Constitutional Court's decision-making process on the movement's lawsuit, the results of a public opinion survey²² were released, which reflected that 80% of the people surveyed were "totally in disagreement" or "neither agree nor disagree" with women who voluntarily decide to interrupt their pregnancies going to jail. In other words, only 20% of the Colombian population would agree with prison as a state response to women's decision to abort.

In line with this, the survey revealed that 56.4% of the population "completely agreed" that abortion should cease to be a crime and be provided as a health service²³. In other words, the demand of the Causa Justa movement that rejected the use of criminal law in matters of abortion and demanded the provision of this health service like any other was legitimate and valid for a significant part of Colombian society.

Finally, after 523 days of discussion by the Constitutional Court and multiple procedural delays

15 González, A. C. (2023). Protecting our freedom: The struggle in Colombia to decriminalize abortion. *ReVista: Harvard Review of Latin America*. <https://revista.drclas.harvard.edu/author/ana-cristina-gonzalez-velez/>

16 The woman who causes her abortion or allows another to cause it, will incur a prison sentence of sixteen (16) to fifty-four (54) months. Whoever, with the consent of the woman, carries out the conduct provided for in the previous paragraph, will be subject to the same sanction.

17 See: <https://cddcolombia.org/>

18 See: <https://reproductiverights.org/es-hora-de-actuar/>

19 See: <https://globaldoctorsforchoice.org/es/colombia-2/>

20 Jaramillo, I. C., Santamaría, N. y Forero, W. (2021). *La criminalización del aborto en Colombia*. La Mesa por la Vida y la Salud de las Mujeres.

21 Husak, D. (2008). *Overcriminalization: the limits of the criminal law*. Oxford University Press.

22 La Mesa por la Vida y la Salud de las Mujeres. (2024). *¿Cómo ha cambiado la opinión pública frente a la interrupción voluntaria del embarazo en Colombia?* <https://despenalizaciondelaborto.org.co/wp-content/uploads/2024/04/Como-ha-cambiado-la-opinion-publica-frente-a-la-interrupcion-voluntaria-del-embarazo-en-Colombia-Cifras-y-Conceptos-y-La-Mesa-por-la-Vida.pdf>

23 Cifras y Conceptos y La Mesa por la Vida y la Salud de las Mujeres. (2021). *Polimétrica: módulo Mesa por la Vida*. <https://despenalizaciondelaborto.org.co/wp-content/uploads/2021/06/Modulo-Mesa-por-la-vida-17.06.2021-converted-min.pdf>

by anti-rights sectors, but also enormous pedagogical work, political and social mobilization, and strategic communications by Causa Justa, on February 21, 2022, Ruling C-055 of 2022 was announced. This ruling decriminalized abortion up to the 24th week of gestation, allowing women to terminate their pregnancy for their own reasons and without the threat of going to jail; after this period, the ground model known since Ruling C-355/2006 remained in effect, without limit on gestational age. In turn, this ruling urged the national government and Congress to design and implement a comprehensive public policy on sexual and reproductive rights as soon as possible.

This historic ruling put Colombia at the forefront of the region and the world regarding the recognition of women's reproductive freedom, as it is one of the decisions that most guarantee the human rights of all women, without distinction. Reproductive justice is defined as: "The set of social, political, and economic factors that allow people to have power and self-determination over their reproductive destiny."²⁴

Likewise, it made Colombia a fairer country with women, a country that discriminates less against them and recognizes them as free and equal human beings who enjoy freedom of conscience. Expressly, the ruling acknowledges that the decision to continue or not with pregnancy is part of the exercise of freedom of conscience of women, trans or non-binary people:

It is an intimate decision closely linked to the value system of the person who can gestate and constitutes one of the primary expressions of human nature, and both those who decide to assume motherhood and those who choose not to do so exercise their freedom and put their individual system of beliefs and values into practice. This clearly intimate decision constitutes a manifestation of reproductive autonomy, even of couples, closely linked to the system of personal values. (Sentence C-055 de 2022)

Now, it is necessary to highlight that the Causa Justa movement not only achieved an emblematic sentence for the Latin American feminist movement

and necessary for the life, health, and recognition of women as full citizens, but also managed to transform and dominate the national public conversation²⁵ with its own arguments and references, maintain its presence and positioning in the media, social networks, and streets, join and convince allies in different regions of the country about the importance of being part of this demand for justice and, finally, diversify the faces, voices and regions that took ownership of the movement and its purpose. However, its most intangible achievement is undoubtedly its commitment to a democratic, transparent, and sustained debate.

Like any great event, this change implies new challenges. The first is the implementation of the ruling and its immediate compliance, so that what the Court decided gives rise to the possibility of a country with desired and not forced motherhood, and for women to be able to terminate their pregnancies legally, safely, without barriers and discrimination. In this regard, although access barriers to legal abortion persist a year after the judicial decision, it seems clear that a vast majority of women (more than 93%) seek to terminate the pregnancy early—that is, before week 12—and among those who arrive after this period, only a tiny proportion do so after week 20, as seen in a report presented by La Mesa and the Fundación Oriéntame in 2022⁽²⁶⁾.

The second challenge is the political and legal protection of the demand. As seen in the United States, with the fall of *Roe vs. Wade*, judicial decisions are fragile. This extreme situation reiterated our decision to protect the ruling from the legal threats that hang over it, such as the multiple requests for annulment²⁷ that reached the Court after its promulgation or the threats to bring to a citizen consultation the recognition of acquired rights and a series of "counter-reaction" strategies proposed by anti-abortion groups²⁸. This protection, however, is much more complex since it involves taking care of

25 See: <https://causajustaporelaborto.org/prensa/>

26 González, A. C. (2023). Protecting our freedom: The struggle in Colombia to decriminalize abortion. *ReVista: Harvard Review of Latin America*. <https://revista.drclas.harvard.edu/author/ana-cristina-gonzalez-velez/>

27 Semana. (2022, 24 de junio). MinJusticia pide responder 20 solicitudes de nulidad contra el fallo que despenalizó el aborto hasta la semana 24. *Semana*.

28 Albarracín, M. (2022, 24 de febrero). ¿Cómo ayudar a hacer realidad la decisión de la Corte sobre el aborto? *La Silla Vacía*. <https://www.lasillavacia.com/historias/historias-silla-llena/como-ayudar-a-hacer-realidad-la-decision-de-la-corte-sobre-el-aborto/>

24 Grupo de Información en Reproducción Elegida (GIRE). (2020). *El camino hacia la justicia reproductiva: una década de avances y pendientes*. <https://unadecadajusticiareproductiva.gire.org.mx/#:~:text=Impulsar%20la%20justicia%20reproductiva%20implica,poder%20y%20la%20autodeterminaci%C3%B3n%20sobre>

the decisions from the risks of politics and politicians who have not understood that society has changed. (29).

Finally, the greatest challenge, the one we have to navigate with more strenght and without a doubt, is social decriminalization. History moves forward, and the conquests for full rights for women have grown – with ups and downs – in recent centuries, improving their life situation, as has happened with almost all aspects of life in the human history; this is magically demonstrated by Hans Rosling in his book *Factfulness*³⁰. And for this reason, the resistance of patriarchal men becomes ferocious, even violent and dangerous, as there are those who are willing to do anything prevent the alteration of the order that gives them privileges³¹. Ultimately, facing all these challenges requires the existence of a solid feminist movement that, while promoting advances, protects achievements and continues its work of social transformation.

To face these resistances, we have the method that we deployed from the Causa Justa movement in recent years; “a political method”³² from which perhaps other difficult or polarizing conversations can draw inspiration. A method based on ideas, on public argumentation, peaceful demonstrations, the construction of dialogues in the regions, between different actors, with diverse groups . A method based on transparency in ideas and arguments expressed out loud, publicly and honestly, generates trust. A trust that allows dialogues to open and changes to be promoted. Therefore, not remaining silent is our greatest defense, our most powerful weapon. It is one that does not take lives but instead serves to recover dignity and give women spaces to exist as they dream. Changing the mind and heart of people, of more and more people, keeping our voices raised, and adding allies will be the safeguard of our freedom.³³

29 González, A. C. (2023). Protecting our freedom: The struggle in Colombia to decriminalize abortion. *ReVista: Harvard Review of Latin America*. <https://revista.drclas.harvard.edu/author/ana-cristina-gonzalez-velez/>

30 Rosling, H. (2018). *Factfulness*. Deusto.

31 González, A. C. (2023). Protecting our freedom: The struggle in Colombia to decriminalize abortion. *ReVista: Harvard Review of Latin America*. <https://revista.drclas.harvard.edu/author/ana-cristina-gonzalez-velez/>

32 González, A. C. y Martínez, C. (2023, 21 de febrero). Causa Justa: un año histórico para la libertad y autonomía de las mujeres. *El País*. <https://elpais.com/america-colombia/2023-02-21/causa-justa-un-ano-historico-para-la-libertad-y-autonomia-de-las-mujeres.html>

33 González, A. C. (2023). Protecting our freedom: The struggle in Colombia to decriminalize abortion. *ReVista: Harvard Review of Latin America*. <https://revista.drclas.harvard.edu/author/ana-cristina-gonzalez-velez/>



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II. The historic ruling: the lawsuit and Sentence C-055 of 2022

By Women's Link Worldwide and Centro de Derechos Reproductivos

The lawsuit

Background

The movement for the right to abortion in Colombia had to travel a long road before achieving Ruling C-055 of 2022, also known as the Causa Justa Ruling. The first attempt to decriminalize abortion through a constitutional challenge came in 2005, when Women's Link Worldwide led a strategic litigation called LAICIA (Acronym in Spanish) or high impact litigation in Colombia: the unconstitutionality of abortion. Through this project, Women's Link Worldwide demanded the unconstitutionality of the crime of abortion before the Constitutional Court and implemented a

communications and social mobilization strategy to take this issue beyond the courts and involve citizens. This strategic litigation was accompanied by organizations that have historically been part of the movement for reproductive rights in the country: La Mesa por la Vida y la Salud de las Mujeres, Católicas por el Derecho a Decidir, Profamilia, el Centro de Derechos Reproductivos y el Grupo Médico por el Derecho a Decidir.

As a result of this litigation strategy, the Constitutional Court decided to decriminalize abortion on three grounds in Ruling C-355 of 2006: 1) when the pregnancy poses a risk to the woman's life or health ; 2) when the pregnancy is the result of sexual violence; and 3) when the fetus has an incompatibility with extrauterine life. Thus, Colombia went from being a country in which abortion was totally criminalized to one where women

who could prove they were in one of the mentioned circumstances had the right to access abortion.

Although Ruling C-355 of 2006 was considered a regional milestone for the recognition of reproductive rights, in practice, women faced different barriers to effectively access abortion services under these circumstances, including lack of knowledge of the legal framework, restrictive interpretation of the circumstances, and service failures by both health professionals and administrators. For this reason, women who were denied access to abortion or who faced obstacles began to file protection actions (a legal action called *tutela* in Spanish), and women's organizations that would later form the Causa Justa movement accompanied them in these processes.

Many of the rulings that resolved these *tutela* actions were reviewed by the Constitutional Court, as were other claims of unconstitutionality and protection actions promoted by institutions such as the Ombudsman's Office, by groups against the right to abortion, and by the same organizations who led the process of Ruling C-355 of 2006. This allowed for the construction of a jurisprudential line of more than 20 rulings over the years, in which the Constitutional Court established rules for the provision of voluntary termination of pregnancy (VTP) services and defined which practices are prohibited in VTP care. Likewise, in rulings such as T-388 of 2009 and SU-096 of 2018, the Constitutional Court called on other institutions, such as the Ministry of Health, the Ministry of Education, the Health Superintendence, and even Congress, to take measures and carry out campaigns aimed at guaranteeing effective access to the VTP service under the terms of Ruling C-355 of 2006.

The efforts to implement this ruling between 2006 and 2020 demonstrated that it was necessary to advance the legal framework that regulated abortion in Colombia. The litigated cases and the research work and documentation of barriers carried out by organizations such as La Mesa por la Vida y la Salud de las Mujeres showed that access to abortion was very limited and unequal, and that the main reason for this was that abortion was still considered a crime in the Colombian Penal Code. Therefore, since 2017, La Mesa por la Vida y la Salud de las Mujeres began to work on arguments and strategies to propose a conversation to the country about eliminating the crime of abortion. These arguments were built from different disciplines, such as public health, bioethics,

law, among others; however, there was no certainty about the strategy through which these arguments would be promoted, since it was unknown if they would take the form of a new unconstitutionality claim or if they would be presented to Congress through a bill.

The answer came unexpectedly: in 2020, the Constitutional Court decided on a constitutional challenge filed by a lawyer who is against the right to abortion in Ruling C-088. Her lawsuit sought to further restrict the legal framework that regulated abortion in Colombia and increase penalties for the crime. Still, the reporting magistrate who was assigned this case drafted a paper proposing to decriminalize abortion within the first 16 weeks of pregnancy. The Full Chamber of the Court did not accept this presentation and its ruling was finally inhibitory, since the claim was considered inept. However, this situation allowed the organizations that lead the Causa Justa movement to see again an opportunity to go to Court, as the decision of the lawsuit showed us that there were wills in this Court to advance towards the decriminalization of abortion and that there were undecided magistrates whom we could convince with our arguments.

The construction of the claim and the judicial process

Thus, in the midst of the COVID-19 quarantine, members of La Mesa por la Vida y la Salud de las Mujeres, Católicas por el Derecho a Decidir, el Grupo Médico por el Derecho a Decidir, el Centro de Derechos Reproductivos, and Women's Link Worldwide had conversations among ourselves and with external advisors about how to structure a new lawsuit against article 122 of the Penal Code, which criminalizes abortion.

As in 2006, the Constitutional Court had already ruled on the constitutionality of the crime of abortion, in 2020, we had to offer new arguments that justified reopening the discussion before this court. We decided to propose six charges or arguments about the unconstitutionality of the crime of abortion.

The first focused on demonstrating that maintaining the crime of abortion in the Penal Code, even if this penalty was partial, was the main barrier that prevented women from accessing the VTP under the grounds. For this, it was essential to provide evidence

of the access barriers that La Mesa por la Vida y la Salud de las Mujeres had documented since 2006.

The second charge was about the violation of the right to health. In this charge, drafted by the Centro de Derechos Reproductivos and Women's Link Worldwide, it was argued that since 2006, there have been advances at the national and international levels regarding the recognition of the right to health as an autonomous and fundamental right. Likewise, the collective demonstrated that the criminalization of abortion prevents women and people with the capacity to gestate from thoroughly enjoying their right to health.

The third charge focused on showing that the criminalization of abortion, even under system of grounds, violates the right to equality. This is because, in a context in which there are access barriers, women in vulnerable situations—such as those who live in rural areas, the youngest, or those who have been victims of violence—do not have the economic resources to access a safe abortion. On the initiative of Women's Link Worldwide, and due to this organization's experience in working with migrant women, this charge placed particular emphasis on migrant women in an irregular situation, who arrive in Colombia from Venezuela with unmet reproductive health needs due to the complex humanitarian emergency in their country of origin.

In the fourth charge, the plaintiff organizations focus on arguing that the criminalization of abortion violates the constitutional principle of the secular State since this prohibition has historically been based on religious morality. Likewise, it violates women's right to freedom of conscience, since it prevents them from deciding about their pregnancies and reproduction according to the reasons dictated by their own conscience. This charge was drafted by Católicas por el Derecho a Decidir.

The fifth charge, written based on research by the Global Doctors for Choice, introduced the perspective of VTP providers. In this novel position, we argued that the criminalization of abortion also affects providers, as it generates stigma and fear of carrying out their profession. Likewise, we argued that the criminalization of abortion causes an emotional and work overload on the few health providers who are willing to practice VTP.

Finally, the sixth argument focused on demonstrating that it is unconstitutional to use criminal law to regulate abortion, which is a health service and a

matter of public health. This last charge was the axis of the conversation that Causa Justa proposed to the Constitutional Court and the country. To convey this message, it was essential to demonstrate with figures and stories from real women that criminalization does not deter women from aborting, it only leads them to have abortions in unsafe conditions. In this sense, the crime of abortion does not fulfill its purpose, in addition to being a discriminatory crime that penalizes a health service that only women and people with the capacity to gestate require.

The Causa Justa movement's lawsuit was filed in September 2020. It took more than 500 days for the Constitutional Court to reach a decision. During this period, the movement was focused on monitoring the judicial process, responding to nullity requests from anti-abortion groups, and requesting *amici curiae* from allied organizations at national and international levels, as well as experts who would support and strengthen the arguments of the lawsuit. In total, 114 briefs arrived at the Constitutional Court in support of the decriminalization of abortion in Colombia. At the same time, the movement focused on taking the arguments of the demand to the streets and the media through festivals, interviews, sit-ins, and marches. This way of approaching the litigation allowed us not only to advance on the legal level but also on the social and cultural ones.

Ruling C-055 of 2022

On February 21, 2022, the Constitutional Court took a historic step to guarantee the reproductive rights of women, girls, adolescents, and people with the capacity to gestate. It decriminalized abortion until the 24th week of gestation and, without a maximum time limit, for situations under the causes supported by Ruling C-355 of 2006. This precedent constituted a landmark ruling in terms of protecting reproductive rights in the country and the region.

In its ruling, the Court declares that, although the precedent of Ruling C-355 of 2006 exists, it has the possibility of ruling again given that 1) the lawsuit presented by Causa Justa exposed new charges not previously studied, 2) there was a modification in the material meaning of the Constitution and 3) there was a change in the normative context where the crime of abortion is inserted in the Penal Code. Thus,

it declared that there was no *res judicata* and that it was entitled to make a substantive decision.

Getting to the substance, the Court began by determining that, although the protection of unborn life can be taken as a constitutional purpose, the legal good of life is not a value or an absolute right, and this protection does not mean that there is a recognition of rights from conception. It reiterates that this protection must be gradual and incremental and that it must be carried out as a priority through public policies and only in a subsidiary manner with criminal provisions. The Court makes it clear that the legislator is subject to limits when establishing these provisions, given their seriousness and potential to restrict other constitutional guarantees. One of these limits is human dignity, which determines that if the only response of the State to protect life comes from criminal law, this response is clearly insufficient.

Regarding the charge of the right to health and reproductive rights, the Court establishes that the criminalization of abortion and the absence of a public policy that protects women, girls, adolescents, and people with the capacity to gestate, along with life in gestation, generates tension with the right to health and reproductive rights, which results in a normative obstacle to the enjoyment of these rights. In this way, sanctioning abortion with criminal law, even in the first weeks of pregnancy, is a serious interference by the State in the right to enjoy health, which increases the risk of unsafe abortions and jeopardizes the guarantee of other fundamental rights.

The Constitutional Court also recognized that the crime of abortion generates indirect discrimination that ends up affecting women who are in more vulnerable contexts, that is, rural women, women from lower socioeconomic strata, migrants, refugees, out-of-school women, among others that do not have easy access to sexual and reproductive health services, including the VTP procedure. The Court also recognizes that the criminalization of abortion does not have an impact on the reducing its practice, nor does it generate greater protection for life in gestation. Faced with the ineffectiveness of criminal law and the obvious discrimination it exerts on the most vulnerable women, the Court concludes that the crime of abortion violates the right to equality of women who face multiple discriminations.

Regarding the charge on freedom of conscience, the Court establishes that the decision to assume

motherhood or not corresponds to reproductive autonomy and is a very personal, individual, and non-transferable decision, and the State or individuals are prohibited from intervening in it, especially when it is done through coercion or violence. Whoever decides to conceive or not puts into practice their individual system of ethical, religious beliefs and values. Furthermore, due to the burdens of those who assume this motherhood, their individual and personal jurisdiction must be respected. When the State categorically coerces a woman or person with the capacity to carry a pregnancy to term under the threat of criminal sanctions, an evident constitutional tension is created. Thus, the Court concludes that the crime of abortion comes into tension with freedom of conscience, given that the state imposes a decision that violates the intimate convictions of the woman and person with the capacity to gestate, and substitutes their right to choose how they want to live and define their life plan.

Regarding the charge that abortion should not be regulated through criminal law, the Court declares that the crime of abortion comes into strong tension with the purpose of crimes preventing certain behaviors and, on the other hand, with the principle of using criminal law as a last resort to regulate behavior. The Court concludes that it is not clear that the crime of abortion was effective in protecting unborn life but that it had an intense impact on the rights to health and reproductive rights, equality, and freedom of conscience.

The Court identified that criminal law was not used as a last resort in the case of the crime of abortion, given that 1) its use was prioritized to regulate the issue, 2) it was omitted to regulate it with other measures, although there was a greater need for it after Ruling C-355 of 2006, 3) human dignity was a relevant criterion for this regulation, as well as the fact that it was directed particularly at women, which could constitute discrimination and 4) that there were alternative mechanisms less harmful to the rights to health, reproductive rights, equality and freedom of conscience that, at the same time, could protect unborn life.

However, the Court decided that there was a tension between life in gestation, which in its judgement deserves constitutional protection, and women's rights. Therefore, it decided to adopt an intermediate formula that gives relevance to each magnitude. Thus, it determined that the best formula would be the definition of a system of a term system and a public policy regulation that contemplates measures related to sexual and reproductive health and education.

Although through this decision, the Court did not respond to the Causa Justa request to eliminate the crime of abortion, there was very significant progress in the regulation of abortion in the country. As of Ruling C-055 of 2022 of the Constitutional Court, the right to legal abortion or VTP is recognized at the free decision of the woman, adolescent, girl, trans, or non-binary person who requires it until the 24th week of gestation. In this way, the request of the person requiring the procedure to an EPS (Health Provider Entity) or an IPS (Health Provider Institution) must be sufficient for the service to be provided. This sentence was issued on February 21, 2022, and, by order of the Constitutional Court, the application of the term model came into force immediately; that is, it was not conditional on the issuance of additional regulation or regulation by the executive or legislative branch. Consequently, the EPS had to adapt the provision of their services for the VTP in the shortest possible time under the conditions dictated in this ruling.

In the same decision, the Court issued an exhortation to Congress and the national Government so that, without prejudice to immediate compliance with the sentence, they formulate and implement a comprehensive public policy that contains:

(i) The clear disclosure of the available options for pregnant woman during and after pregnancy, (ii) the elimination of any obstacle to the exercise of the sexual and reproductive rights recognized in this ruling, (iii) the existence of pregnancy prevention and planning instruments, (iv) the development of education programs on sexual and reproductive education for all people, (v) support measures for pregnant mothers that include adoption options, among others, and (vi) measures that guarantee the rights of those born in circumstances of pregnant women who wanted to abort. r. (Sentencia C-055 de 2022)

Impacts

The ruling has meant a significant conquest for women, girls, and people with the capacity to gestate in the country, who, when faced with a pregnancy, they will be able to decide and act in accordance with their personal convictions more broadly, not taking into account a belief system foreign to them. Likewise, more health professionals will be able to practice their profession without fear of stigmatization and criminalization.

In the global scope, the trend of the last 25 years has been towards the liberalization of abortion laws; However, Latin America and the Caribbean remain one of the regions with the greatest restrictions on abortion in the world. With this ruling, Colombia joins the countries in Latin America that regulate abortion based on different gestational limits and achieves substantial liberalization against restrictive grounds. The term model is one that establishes abortion as legal up to a certain gestational age, usually 12 or 14 weeks. Colombia has gone beyond the most common time limit by liberalizing abortion up to week 24, a period in which it is not necessary to explain the reasons motivating an abortion.

With this decision, the achievement of the Causa Justa movement positioned Colombia in the current global trend of more than 75 countries, which regulates abortion in a more guaranteeing way to protect the sexual and reproductive rights of women, adolescents, girls, and trans and non-binary. Although this implies progress concerning Ruling C-355 of 2006, the Court should have contemplated total decriminalization, covering abortion from health regulations. Thus, under this scenario, the punitive system continues to be used outside of 24 weeks as a symbolic and patriarchal punishment for women's reproductive autonomy.

PRIMER AÑO DEL FALLO HISTÓRICO

¿CÓMO VA LA IMPLEMENTACIÓN DE LA SENTENCIA CAUSA JUSTA (C-055 DE 2022)?



CAUSA JUSTA
Por la eliminación del delito de aborto

Orientame
Para Decidir



Photo: Diana Ramírez Riaño©

III. First year of the historic ruling. How is the implementation of the Causa Justa Sentence (C-055 of 2022) going?

*By Fundación Oriéntame and La Mesa
por la Vida y la Salud de las Mujeres*

On February 21, 2022, the Constitutional Court, through Ruling C-055 of 2022³⁴, paved the way to a historic change for women in Colombia: it expanded the right to abortion, decriminalizing³⁵ the voluntary interruption of pregnancy (VTP) during the first 24 weeks of gestation and, after this period, under the three causes established in Ruling C-355 of 2006³⁶ without gestational age limit.

This advancement in the defense of women's reproductive autonomy was the result of the collective work, for more than two years, of the Causa Justa movement³⁷, an initiative of La Mesa por la Vida y

la Salud de las Mujeres³⁸ for the elimination of the crime of abortion. After the issuance of this ruling, it has become essential to identify the main advances and challenges in effectively guaranteeing this right during the first year of implementation of this historic ruling.

34 Constitutional Court of Colombia. Sentence C-055 of 2022. (MS: Antonio José Lizarazo Ocampo and Alberto Rojas Ríos; February 21, 2022).

35 Eliminating criminal sanctions, such as the threat of jail.

36 These causes are: (1) when the continuation of the pregnancy constitutes a danger to the woman's life or overall health; (2) when the fetus is nonviable outside the uterus; and (3) when the pregnancy is the product of rape or incest. (Constitutional Court of Colombia. Sentence C-355 of 2006. [MP: Jaime Araújo Rentería and Clara Inés Vargas Hernández; May 10, 2006]).

37 Causa Justa emerged in 2017 as an initiative of La Mesa por la Vida y la Salud de las Mujeres, and became a movement thanks to the promotion of a large number of feminist organizations and human rights defenders in Colombia. Thus, in 2020, the movement

was consolidated with the objective of eliminating the crime of abortion from the Penal Code and creating an environment of legitimacy for women's decisions, advancing the recognition of their freedom and autonomy. On September 16, 2020, five organizations representing Causa Justa: La Mesa por la Vida y la Salud de las Mujeres, Women's Link Worldwide, Center for Reproductive Rights, Catholics for the Right to Decide, and Global Doctors for Choice, filed a claim of unconstitutionality before the Constitutional Court. The lawsuit was in Court for 523 days until a decision was reached on February 21, 2022 to decriminalize until week 24.

38 La Mesa por la Vida y la Salud de las Mujeres is a feminist collective made up of organizations and people. Since 1998, it has worked for the elimination of discrimination and the defense of women's rights in Colombia, especially the right to free choice of motherhood and the total decriminalization of abortion, through activism and the generation of knowledge, contributing to the construction of democracy. More information at <http://www.despenalizaciondelaborto.org.co/>

What did the Constitutional Court decide in Ruling C-055 of 2022?

In Ruling C-055 of 2022, the Constitutional Court recognized that the crime of consensual abortion (article 122 of the Penal Code) was ineffective, unfair, and discriminatory. It also acknowledged that it was a barrier to accessing VTP services, as it disproportionately impacted women who were in more vulnerable contexts, and it did not make women desist from having an abortion but forced them to do so unsafely.

Therefore, the Constitutional Court protected the fundamental rights of women (1) to access and timely enjoy quality sexual and reproductive health services; (2) to have their reproductive decisions respected and recognized as highly personal and non-transferable under their freedom of conscience; (3) to not disproportionately bear the impact of the criminalization of abortion; and (4) to not be discriminated against based on their sex, gender, origin, ethnicity or age. In this regard, the Court recognized all women in their diversity, trans men and non-binary people as holders of this right. Consequently, the Court decided to decriminalize abortion until the 24th week of gestation entirely and, after that gestational age, maintain the grounds established since Ruling C-355 of 2006. Furthermore, the Constitutional Court urged Congress and the Government to formulate and implement, as soon as possible, a comprehensive public policy on sexual and reproductive rights that, without causing setbacks, would protect women's rights and generate regulation outside the criminal sphere.

What has happened to the Constitutional Court's exhortation to the Congress of the Republic and the national government?

As part of the progress in complying with this order, the Ministry of Health and Social Protection issued Circular 044 of 2022³⁹ and Resolution 051 of 2023⁴⁰. Firstly, Circular 044 of 2022 established a series of instructions to all actors in the health system

to ensure the effective implementation of Ruling C-055 of 2022. It reiterated the decriminalization of abortion in the terms established by the Causa Justa Judgment and emphasized that access to this health service must be free of any type of barriers or delays.

Resolution 051 of 2023 compiled the standards of the Constitutional Court and the technical regulations for performing VTP in a safe, timely and quality manner, such as: 1) attention to the VTP must be **immediate** and only in justified cases, it may be extended up to five calendar days from the request to carry out the procedure; 2) VTP-related care and procedures are **free**; 3) the gestational age that will be taken into account must be **the one the woman has at the time of requesting the VTP**, not when the procedure is scheduled; 4) **Health professionals should not file any criminal report or complaint**; they must maintain professional secrecy; 5) **girls and adolescents have the right to VTP** without authorization from their parents or third parties; 6) foreign women, regardless of their migration status, **have the right to VTP exempt from charges**; 7) medical boards, third parties authorizations, collective conscientious objection, providing misleading information, among others, **are improper and prohibited practices**; 8) only the professional in charge of directly carrying out the VTP can **object conscientiously** in writing and expressing his reasons, and when attending to a case of VTP they must immediately refer the woman to a professional who can provide the service; 9) the IPS and EPS must guarantee timely and quality access to VTP, while the departmental, district and municipal health secretariats are obliged to inspect and control the former; 10) all the aforementioned entities, together with the National Health Superintendence, are obliged to fully comply with the current legal framework on the VTP.

Finally, although in Ruling C-055 of 2022, the Court urged Congress to formulate a public policy on sexual and reproductive rights, a bill with these characteristics has not been effectively processed in this first year of implementation.

39 Ministerio de Salud y Protección Social. Circular 044 (septiembre 28 de 2022). <https://www.cerlatam.com/normatividad/minsalud-circular-externa-44-de-2022/#:~:text=Se%20establecen%20lineamientos%20para%20fortalecer,instituciones%20promotoras%20prestadoras%20de%20salud>.

40 Ministerio de Salud y Protección Social. Resolución 051 (enero 12 de 2023). https://www.minsalud.gov.co/Normatividad_Nuevo/Resoluci%C3%B3n%20No.%20051%20de%202023.pdf

Challenges and achievements of access to the VTP during the first year of Ruling C-055 of 2022

The analysis of the impact of the Causa Justa Judgment in its first year of implementation was carried out based on the characterization of the cases attended by the Fundación Oriéntame in its work of providing legal and safe abortion services, and cases of women who faced barriers in their access to the VTP and were assisted by La Mesa.

The legal assistance provided by La Mesa consists of providing counseling, which means offering information about the access route to the VTP to the woman or person with the capacity to conceive who requires it. Secondly, it provides legal support to those women or people who face barriers in accessing VTP. This support may include: administrative management, activation of institutional routes, and preparation of documents required for access to VTP. La Mesa's assistance also involves following up on cases according to the woman's will and until she effectively accesses the procedure during the first year of the Causa Justa Sentence. Based on this information, it is possible to affirm that an important series of advances were made to guarantee the right to VTP. Next, we will delve deeper into the progress and challenges that must be resolved to consolidate the implementation of the VTP regulatory framework.

First

There was an increase of 14 percentage points in the number of women who came to La Mesa, mainly seeking information. This may indicate that the effects of the Causa Justa Sentence and its media coverage and exposure impacted the knowledge about the practice's legality and generated a greater search for information and consultations within the framework of the health system. It may also indicate that women are not obtaining sufficient information from the health system about the right to VTP and its access route, therefore, they approach alternative means such as the information provided by civil society organizations like La Mesa. This is also concluded because in the cases handled by La Mesa, one of the main barriers, even after Ruling C-055 of 2022, is the lack of information about IVE and its access route by the actors responsible for its implementation and for providing information about it.

It is pertinent to specify that, although La Mesa is an actor that contributes to the dissemination of this legal framework, the obligation to inform and train falls mainly on the State and, particularly, on the actors that are part of the health system. Regarding this point, we reiterate that, according to Resolution 051 of 2023, the EPS, IPS, and health secretaries are obliged to provide clear, timely, and sufficient information to women about the right to VTP and access routes. They may be subject to sanctions if they provide biased, misleading, and insufficient information. Therefore, it is a challenge for the implementation of the sentence that these actors fully comply with their obligation to provide truthful and timely information about the right to IVE.

In the case assistance figures by La Mesa, a decrease of 11 percentage points was also found in the percentage of women who required legal accompaniment through administrative or legal actions to access the VTP. This is because decriminalization up to the 24th week of pregnancy and the consequent elimination of access requirements may imply that it is easier for women to process their VTP requests directly.

Likewise, in the cases handled by La Mesa, an increase was identified in the percentage of women who consulted La Mesa during the first 12 weeks of pregnancy (27 percentage points), which confirms that, with the reduction in the use of criminal law, fewer requirements and more information, women try to obtain and request the VTP service as soon as possible. Given this situation, implementation is challenging since providers and EPS continue to impose access barriers and take longer than they should to guarantee them, even though women consult and request the service during the first weeks of pregnancy. It is therefore required that the entities with health inspection, control, and surveillance functions (district and departmental health secretariats and the National Health Superintendence) investigate and sanction these providers in the health sector who continue to impose access barriers and fail to comply with the legal framework on the right to VTP, as well as maintaining efforts to apply the decriminalized grounds after week 24.

Second

Las atThe care provided by Fundación Oriéntame did not increase from one period to another, and the percentage of women who requested care during the

first 12 weeks of gestation also remained constant. Contrary to what was stated by people who oppose the right to abortion, decriminalization until week 24 did not lead to women accessing it after week 24, and, in the experience of Fundación Oriéntame, it did not significantly increase the number of attentions⁴¹. Regarding the number of VTP services, the RIPS⁴² reports of the different providers have been monitored, identifying that some provide data that is inferior to their actual practice, ignoring that Law 715 of 2001 established that municipal and district health entities must “adopt, manage and implement the comprehensive health information system, as well as generate and report the information required by the system.” For example, the District Health Secretariat of Santiago de Cali reported that it would send the figures later, saying that the norm does not require mandatory RIPS reporting to the district territorial entity. On the other hand, the Bogotá Health Secretariat explained that in 2021, 1,684 interruptions were performed in this city, while, in 2022, as of November 15, there were 1,036⁴³. However, according to data from Fundación Oriéntame⁴⁴, under-registration occurs even in the capital, since between February 22, 2022, and February 1, 2023, Oriéntame provided the VTP service to 8,421⁴⁵ women, a figure higher than that reported by the secretariat, which in theory should add up the attention of all providers. The above highlights the need to have a robust and updated information system in this matter in the country so that it is possible to analyze the general behavior of the figures on access to the VTP and monitor the implementation of the sentence with the necessary accents from the differential and territorial approach.

41 Similar to what happened in other countries where the use of criminal law to regulate abortion has also decreased..

42 Individual health service provision records.

43 District Health Secretariat of Bogotá. Response to a request for information presented by La Mesa por la Vida y la Salud de las Mujeres. Filed 2023IE3477 (February 15, 2023).

44 One of the main providers of legal and safe abortion services in Bogotá and the country.

45 It is highlighted that of these 8,421 VTP care: 6,068 correspond to women who resided in Bogotá and accessed in-person or telemedicine at a location in Bogotá; 1262 to women who had to move from their municipality of residence to an Oriéntame headquarters in Bogotá; and 1,091 to women who resided in other municipalities, but accessed through telemedicine provided from a headquarters in Bogotá.

Third

We highlight that the increase in the percentage of women who accessed the VTP through their EPS during the first year of the ruling (15 percentage points among the women attended by La Mesa and seven points among the women who accessed through Oriéntame) suggests that the EPS are fulfilling to a greater extent their obligations regarding the VTP guarantee, in addition to what has already been said about the willingness of women to request the service as part of the benefits of the health system. The increase in this data is relevant in the case of La Mesa if it is taken into account that its advice and support specializes in access barriers. However, although we recognize that this increase is an advance, there is still a significant percentage of women who, despite being affiliated with the health system, continue to access VTP through their own resources or through subsidies (56% and 10% of the women who attended Oriéntame during the mentioned period, respectively).

The above evidences the lack of awareness that the VTP service is essential and urgent, that the Health Benefits Plan covers it, it is exempt from co-payments and moderator fees, and even women who are not affiliated with this system can access it through the emergency service of an IPS without having to assume any cost for it. Therefore, it is a challenge for EPSs to effectively ensure this service to all their users throughout the national territory, regardless of the affiliation regime they are in.

Fourth

We highlight that the of 19 percentage point decrease in Venezuelan migrant women who came to La Mesa after the ruling is related to the decrease in the care figures for women located in Norte de Santander, where there is still a high migratory flow from Venezuela⁴⁶, and, in turn, with a 13 percentage point decrease in women who required a transfer outside their place of residence to access the VTP service. This may be an indication of the impact of Ruling C-055 of 2022, which expressly recognizes the right to VTP orf migrant women and also the disproportionate barriers they face. The specific behavior in Norte de Santander may be related to the advocacy actions

46 The number of cases of women located in that department decreased by 17%.

carried out mainly by women's organizations that work in this department and also by other Causa Justa organizations. In this territorial entity, for example, La Mesa managed the installation of a technical table of the Regional Ombudsman's Office to guarantee the VTP and Women's Link Worldwide presented a popular action against the Government of Norte de Santander for the violation of the sexual and reproductive rights of the women who inhabit this territory. As an example, it is noteworthy that one of the leading health providers in the department increased the gestational age of care from 15 to 20 weeks.

Although the decrease in migrant women who required legal support from La Mesa to access the VTP after the ruling is progress, it is necessary to continue monitoring and implementing differentiated care actions that allow us to know with certainty how the implementation of the ruling to these groups of women who face specific barriers.

Fifth

It is important to remember that the Court's decision to eliminate the crime of abortion up to week 24 entails the application of the principle of favorability and retroactive effects in criminal proceedings initiated before the ruling, and a considerable disincentive to the use of criminal law. In this sense, we note that the Attorney General's Office issued Directive 009 of 2023, which indicated to judicial officials how they should approach the cases that they know of or arrive about abortion, taking into account rulings C-055 of 2022 and C-355 of 2006, and ordering respect for the reproductive autonomy and privacy of women and girls.

This document provides instructions in three senses: 1) how judicial officials should adapt the facts to the

criminal offense of abortion; 2) how officials should address cases that are already active or that could be investigated for the criminal offense of abortion; and 3) how officials should protect the information of women and girls who have had an abortion in processes related to the crime of Article 122 of the Penal Code. We emphasize that this Directive addresses the jurisprudential development of the right to abortion carried out by the Constitutional Court and orders the protection of the rights to privacy and private life of women who exercise their reproductive autonomy when accessing a VTP, by indicating to judicial operators that they must safeguard their private information and refrain from accessing their medical records unless it is absolutely necessary.

Sixth

The five-percentage point increase in women who accessed VTP through telemedicine and telexpertise in Oriéntame during the 2022-2023 period, is a sign that the elimination of requirements to access VTP has an impact on the use of these technologies and that it is an increasingly known form of access among women.

Finally, although we highlight the progress made in guaranteeing the right to VTP during the first year of implementation of the Causa Justa Judgment, we call on all actors and entities with jurisdiction in its guarantee and promotion to consolidate the positive impact of this ruling and the access barriers that persist are eliminated. For women to fully materialize freedom and autonomy, actions of different types and at various levels are required to encourage social decriminalization while implementing jurisprudence and regulation of the health sector and promoting a VTP perspective as a fundamental human right.



Photo: Victoria Holguín©

IV. Protection of the ruling: referendum initiatives

By Juliana Martínez Londoño, ex-technical secretary of Causa Justa, member of La Mesa por la Vida y la Salud de las Mujeres⁴⁷

As an introduction

In Colombia, referendums are part of the citizen participation mechanisms through which citizens can directly intervene in formulating, modifying, or eliminating the country's laws, including the Constitution. The process involves six phases: 1) registration of the promoting committee with the National Registry of Civil Status (RNEC); 2) collection of signatures or supports, presentation, and validation of the signatures in the RNEC; 3) filing and approval of a bill before Congress; 4) presidential sanction; 5) review of form and funding limits by the Constitutional Court; and 6) citizen voting.

Referendum initiatives must be collected and presented within six months(extendable for an additional three), a certain number of valid supports,

equivalent to 5% of the citizens of legal age authorized to vote (electoral census); for the year 2023, this amounted to 2,000,000 people. Once the forms with the signatures are submitted, the Registry Office technically verifies that they are valid, meaning they are not duplicated, have no amendments, and there are inconsistencies in the personal data, among other checks. If a vote is called, 25% of the citizens in the electoral census (almost 10,000,000 people) must participate in the voting day.

Three anti-abortion referendum initiatives

One day after massively celebrating the decriminalization of abortion in Colombia up to the 24th week of pregnancy, Sara Castellanos, former Bogotá councilor for the Liberal Party and leader of the International Charismatic Mission Church, filed a request with the RNEC to register a referendum

⁴⁷ To draft this text, inputs that were written at the time with Catalina Henao Correa, from Politeia, for Causa Justa were used.

initiative called “Referendum for life”. Its purpose was to modify Article 11 of the Constitution and recognize the right to life of any human life from conception. This way intended to affect the ability of women, trans men, and non-binary people to voluntarily and legally terminate a pregnancy.

The day’s distance between February 22, 2022, when the historic ruling was announced, and the 23rd of the same month, when this effort to reverse the gains was presented, seems like a simple anecdotal curiosity, but it is actually indicative of the challenges and characteristics of the political dispute that differentiate us from those seeking to limit women’s rights. Aware of the threats and risks surrounding sexual and reproductive rights, particularly the right to abortion, Causa Justa—the movement for the elimination of the crime of abortion in Colombia—quickly identified the *legal and political defense* of the ruling among the lines of work towards which it was reoriented in the new scenario. To put it explicitly: we knew that the attacks would not be long in coming.

In addition to this first initiative, on May 10 of the same year, a group of congressmen from various political parties—Centro Democrático, Colombia Justa Libres, with a former presidential candidate on board, and the Conservative Party—which can be classified within the spectrum of the political right, did the same: they presented a second referendum initiative, this time, called “Pro-life.” With this initiative, in addition to seeking recognition of the right to life from conception, the aim was to recognize the legal personality of the unborn and strengthen conscientious objection, all to the detriment of reproductive autonomy and seeking to throw away the progress achieved in the constitutional level.

A third referendum initiative, called “Against Gender Ideology” submitted its registration form on July 7, 2023. Among a diverse group of topics, which included banning sex education, marriage between same-sex couples, decriminalization of pedophilia and polyamory, it contemplated the inviolability of the right to life from conception to natural death, claims that would affect both the right to abortion and euthanasia.

In summary, in just over a year and a half, three referendum initiatives sought to generate setbacks in reproductive rights. Although voices close to the movement and renowned in the fields of law, citizen participation mechanisms, and politics agreed with

Causa Justa on the limited possibilities for any of these initiatives to prosper, the movement’s internal reflections led us to carry out an informed follow-up of its stages and developments.

With this follow up, we wanted to remain vigilant of potential threats, learn from a process to a certain extent unknown, given that electoral law and its authorities were not a field explored by the movement or its organizations until then, and think about response actions against potential effects that, while not seeming capable of eroding the legality of abortion, could harm its legitimacy, as well as the information and knowledge of citizens about it, generate confusion about the validity of Ruling C-055 of 2022 and distort the positions of the movement as a political reference actor on the issue in the country. In this internal deliberation, it was decided to form a team in charge of the issue and handle the legal, political, and communication follow-up in a silent manner so that it could be observed and acted upon without generating notoriety or giving focus to the initiatives and their spokespersons.

Use citizen participation mechanisms against women’s dignity

The first thing to explain about the criticism that a movement like Causa Justa formulates against these referendum initiatives starts by pointing out that we consider this mechanism of citizen participation legal and legitimate within our democratic design, since it allows direct participation and promotes political controversy on issues relevant for the shared destiny of the country.

Our main criticism lies in using the mechanism to attack fundamental rights, so that its promoters sought to subject rights that protect groups of special protection and historically discriminated against to a majority logic, which in theory should constitute a limit to the exercise of power. So no referendum should be instrumentalized to generate setbacks in terms of the fundamental rights to dignity, equality, and reproductive health of women. This, by the way, is counterproductive to the mechanism’s functioning and undermines the progressiveness of rights.

Because of the above, the criticism made by Causa Justa cannot be understood as a restrictive stance

on democracy. In fact, committed to the need for informed public deliberation, during the follow-up carried out, we were concerned about the care that the electoral authorities had to take with the principles of transparency, publicity, and proactive disclosure so that interested citizens could stay informed about the process, which evidently results in the participation that the mechanism seeks to promote.

Causa Justa denounces irregularities

The monitoring carried out by the movement identified three major irregularities related to the processing of the initiatives. The first concerns the aforementioned “violation of the principles of transparency and publicity.” There was a late publication of the resolutions authorizing the registration of the promoting committees and those that granted an extension in the deadline for collecting signatures for the first two initiatives (we will discuss this last point later). This lack of transparency created an environment of opacity that undermined trust in the institutions and negatively affected citizen oversight and control over public powers, given that the actions of the competent authorities (RNEC and National Electoral Council [CNE]) remain hidden from public scrutiny. This also prevents citizen participation, which is precisely the value that a mechanism like the referendum seeks to promote, since, due to the lack of transparency, it is impossible to know if it is functioning as it should.

As an example, regarding the lack of transparency of Castellano’s initiative, the resolution authorizing the registration of the promoting committee was only published on the website five months after its issuance, which was not justified and prevented us from knowing who made up this committee and the question that would be consulted with the citizens. Likewise, there was a contradiction regarding the delivery of signatures for the first deadline, since, although in an official response to a request for information, it was reported that Castellanos did not deliver the forms, the minutes in which a previous delivery of the signatures had been recorded came to light, but without a list of the contents of the folders. It is worth noting that this inconsistency was not explained by the entity, which increased the size of our doubts about the opacity of the institutional procedure.

The second irregularity concerns the unjustified extensions granted by the CNE to the first two referendum initiatives – “Referendum for life” and “Pro-life” – in the deadline for collecting signatures. The promoting committees alleged that the La Niña phenomenon had prevented the collection of signatures; however, they did not prove that the effects of this natural phenomenon constituted force majeure, the requirement to grant the extension. They based their claim on climate predictions, not on events that actually occurred, without presenting plans to mitigate the effects and ignoring the warnings issued by the climate authorities about this phenomenon.

Faced with the administrative act by which the extension was granted to Sara Castellanos’ referendum initiative, a nullity action was filed; however, the CNE considered that this decision was procedural and, therefore, not subject to judicial control, which raised concerns about the control of this type of decisions adopted by the CNE.. Subsequently, a tutela action was filed for violation of the right to due process, a tutela that was known and selected for study by the Constitutional Court and is close to being decided.

The third irregularity is the *lack of clear accounts of the referendum initiative promoted by the political parties Centro Democrático, Conservador, and Colombia Justa Libres*, which collected only one million signatures, a number so low compared to the required support that it did not even pass to review by the RNEC. After the delivery of the signatures, the promoting committee had to present the campaign’s financial statements, which did not happen. According to the intervention of the initiative’s spokesperson in a public hearing in Congress, the campaign was austere, an assertion that has no basis since the initiative’s finances are unknown.

The Constitutional Court has stated that transparency in the financing of electoral contests and, in general, in debates involving direct citizen participation constitutes an unavoidable condition of democracy. In this context, Causa Justa requested the CNE to open an investigation into the promoting committee of the referendum initiative for evading an obligation connected to the postulates of transparency and which seeks to ensure that the campaign is conducted in this manner. The CNE decided to open a preliminary investigation for the alleged non-compliance with the obligation without having a definitive decision, but confirming the omission in the delivery of accounting information.

The sinking of the three anti-abortion referendum initiatives

None of the three referendum initiatives managed to advance beyond the second stage, which may be due to at least three factors: low citizen support for the proposal and its leaders; greater respect and legitimacy of the right to abortion and reproductive freedom; and the low effectiveness of the committees promoting the initiatives and strategies they designed. Although several initiatives sought signatures in public demonstrations, their demands were often lost in a mixture of demands without a clear political direction.

Sara Castellanos' initiative delivered almost 2,700,000 signatures, of which almost 40% were invalidated. This led to the Registry declaring in November 2023 that the requirements of the participation mechanism had not been met, meaning its processing was halted. Castellanos and the promoting committee showed unity in their messages, a clear graphic line, and intense work with young people from the Charismatic Mission.

As already mentioned, the political parties' initiative delivered one million signatures, which was insufficient. For this reason, the RNEC decided to archive it in June 2023. Although in the months of the extension, they had a boost thanks to the alliance achieved with the religious group Lazos de Amor Mariano, with a strong presence in the department of Antioquia, they were perceived as divided and with a multiplicity of messages.

In January 2023, the spokesperson for the third referendum initiative ("Against gender ideology") informed the Registry of the decision to desist and refrain from delivering any signature due to difficulties in completing the forms. In the monitoring carried out, Causa Justa learned of flyers with the initiative's intentions, which were handed out at demonstrations of opposition to the Government of Gustavo Petro in Bogotá. No activities were detected on social networks or media, which allowed us to conclude that the promoting committee had a meager capacity.

To the stated inadmissibility of using this mechanism of citizen participation to limit fundamental rights, we should add reflection on the results of its implementation. Although each committee's behavior was different, in some cases, one can conclude the lack of responsibility with the obligations assumed when registering the initiative, which harms the mechanism and democracy.

Final reflection

These anti-abortion referendum initiatives presented severe problems regarding the origin of the mechanism since they contradicted the decisions of the Constitutional Court and threatened women's fundamental rights. Although the initiatives failed, the threats they represented cannot be considered overcome. Groups that want to prevent women from choosing with autonomy and freedom about their reproduction, health, and life have tried to bring similar initiatives to the Congress of the Republic, even using the signatures collected as an argument, so that the threats are reformulated in different scenarios. This requires permanent resistance and defense from civil society, democratic institutions, and international cooperation.

Furthermore, other problems with these initiatives were seen in various situations that compromised the transparency of the process and eroded its credibility and trust in the institutions. The inconsistencies identified in the information provided by entities, the difficulty in accessing complete and timely information, and, in general, the institutional environment reluctant to citizen oversight are some examples that should be solved if we want more solid mechanisms.

Causa Justa has acted guided by the premise that the use of these mechanisms is desirable; what is not desirable and is highly risky for our democracy is that some groups of citizens and political powers are allowed to instrumentalize these mechanisms to ignore judicial decisions that protect human rights and, especially, those of historically discriminated populations.



Photo: Fundación Social Nakama©

V. The social decriminalization of abortion: a path toward the legitimate exercise of the right to decide

By Sandra Mazo⁴⁸ and Aura Cuasapud⁴⁹

Católicas por el Derecho a Decidir-Colombia (CDD-Colombia)⁵⁰

Talking about abortion in Colombia and anywhere in the world almost always leads us to think about how societies have historically constructed judgments and imaginaries about what this practice implies, and, likewise, prejudices and stigmas have been reproduced about those who today decide

freely and voluntarily to interrupt their pregnancy as a right recognized in the constitutional system and the regulations of our country. Therefore, despite achieving progress in the legal recognition of abortion as a right derived from the reproductive autonomy of women and pregnant people, we cannot ignore that this important achievement is insufficient if social and cultural changes that transform individual conscience and collective representations of what is understood as legitimate, just, and morally valid on this matter. Thus, when we talk about the importance of addressing the social decriminalization of abortion, we are referring exactly to those profound paradigm shifts and to generating those conversations, often uncomfortable but necessary, in different social spheres, such as the family, communities, education, churches, the media, work, among others.

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50 Feminist organization that defends women's rights, especially sexual and reproductive rights, from a feminist theological perspective, secularism and social justice within the framework of human rights. It is part of Causa Justa and is one of the five organizations that filed the lawsuit before the Constitutional Court that resulted in Sentence C-055 of 2022, which eliminated the crime of abortion from the Penal Code up to the 24th week of gestation and maintained the three causes decriminalized through Sentence C-355 of 2006.

We know that the path to this social and cultural transformation on abortion is challenging and complex. Here, it makes sense to bring up Miranda Fricker's⁵¹ concept of *discriminatory epistemic justice*, used to define the harm that can be generated towards a person in their status as an epistemic subject as a result of a structural and systematic power that oppresses and discredits them, since what it says or represents is considered to have less "value" due to their social identity, origin, thought, etc. This is precisely what happens when women in all their diversities are historically questioned for deciding to have an abortion as an option in the face of unwanted motherhood, whether exercising their citizenship or based on their individual opinions. In this way, it is understood that women's lives and decisions have been mediated by power relations, supported by a patriarchal system of those who have had the authority to create norms and theorize about them, based on supposed credibility or legitimacy to reproduce and impose practices and narratives based on prejudices and moral stigmas.

Those who think of abortion as a responsible, legal, legitimate, and ethical decision face the moral or criminal judgment of an action considered socially and culturally invalid or morally unacceptable by some sectors of the population that are usually permeated by conservative visions, in many cases based on religious criteria. Under the argument of protecting life at any stage, they deny that women are full subjects of rights with autonomy to decide about their bodies and whose lives also need to be protected. Thus, a collective imaginary is imposed that has been constructed to deny women's arguments and decisions, even if they are morally valid.

Given this, we must ask ourselves: why have women and organizations that defend abortion as a right been judged so harshly? Why have arguments about the right to decide been underestimated, thus imposing religious beliefs and social and cultural imaginaries under a supposedly single or objective morality?

Keeping this in mind, abortion is not a static issue or frozen in time; therefore, it cannot be limited or much less imposed only from a biological, philosophical,

or religious perspective on the beginning of life: it also needs to be observed from the social and cultural spheres, and the two-way influence it has had with the legal realm.

It is well known that throughout history, laws and regulations on abortion have reflected and shaped the needs, contexts, values, struggles, and attitudes of society toward this practice. Therefore as the legitimacy of laws has been questioned due to social transformations, these have evolved to recognize the right to abortion as part of women's reproductive rights; moreover, paths have been opened for significant changes in terms of its perception and social acceptance.

In Colombia, two moments stand out as catalysts for the normative and social transformation around abortion. The first occurred in 2006, when the Court, in a constitutional analysis of the Penal Code, introduced three grounds for decriminalization of the crime of abortion. This recognition established a direct relationship between abortion, the exercise of the right to human dignity, and the development of the rights to health and life. As a result, the Colombian State began to dismantle the criminalization of abortion, at least in three cases, recognizing it as an integral part of health services and granting women the possibility of accessing these services and claiming them if they are denied or hindered.

This decision marked a paradigm shift in the perspective of the narratives of the actors involved and who mainly influenced the debate. For example, while religious discourses condemning the Court's decision were revived, they also led to approaching the concept of human life from a rights-based perspective rather than from an immutable divine vision. Likewise, in women's organizations, this decision allowed a different space to position arguments based on human rights, social justice, gender equality, public health, and the secularity of the State, among others, thus encouraging the legitimacy of their struggles and making them more public and visible.

So, there was a legitimate normative basis to support the claims for the right to decide on the interruption of pregnancy, at least on those three grounds. In this sense, for women who opted for abortion, this decision provided a security framework to not be prosecuted or criminally persecuted and to access medical care, instead of being forced to

51 Fricker, M. y Bernabéu, C. (2021). Conceptos de injusticia epistémica en evolución. *Las Torres de Lucca. Revista Internacional de Filosofía Política*, 10(19), 97-103. <https://dialnet.unirioja.es/servlet/articulo?codigo=8022184>

resort to unsafe and clandestine abortions. On their part, health professionals were allowed to perform abortions without fear of criminalization, and even in cases of conscientious objection, they had the option of not performing the procedure, with due argumentation for each situation. For the judicial system, claims through constitutional protection action allowed the creation of jurisprudential guidelines that reinforced the framework of abortion as a right. Despite multiple obstacles and legal barriers in the health system and sociocultural context, having this legal framework undoubtedly made it possible to scale the conversation about abortion beyond the moral and religious framework to situate it from other perspectives and other contexts closer to the field of rights.

It's worth noting that this normative progress gradually motivated broader social changes. Without a doubt, it challenged social and cultural patterns and inspired more social movements to broaden the vision on sexual rights, reproductive justice, and gender equality.

This process subsequently influenced the significant step towards the second milestone regarding abortion in Colombia and the most important in terms of reproductive autonomy for women and pregnant people: the promulgation by the Constitutional Court of the historic Ruling C-055 of 2022, promoted by the **Causa Justa** movement, in which eliminated the crime of abortion from the Penal Code up to 24 weeks of gestation.

This decriminalization represented a substantial change in the social perception and acceptance of abortion, even concerning decriminalization in the three causes contained in Ruling C-355 of 2006, as public opinion regarding the Court's decision to legally allow abortion until the 24th week of gestation began to be expressed with greater benevolence towards the acceptance of the three grounds of 2006. Thus, conservative groups were at a point of no return and ended up implicitly accepting that abortion was acceptable only if framed in the three cases that the Court had proposed. Isn't this perhaps a change in the social imaginary?

With the 2022 ruling, the social landscape around abortion is different. It was repositioned as a current issue in social and political spheres, and the right of women to make decisions about their own freedom, health, and body was established with a

regulatory framework that protects and supports this fundamental right.

From this perspective, regulatory advances on abortion have been fundamental as support in the quest to transform social consciousness regarding this issue, which is in itself so polarized and controversial. When a country promotes normative changes to decriminalize abortion, it is sending a clear message that it recognizes women's right to make decisions about their own reproductive health. This legal recognition not only protects individual rights but also challenges long-held social and cultural norms and stigmas surrounding abortion. This is what we can call social decriminalization.

As more people become familiar with the regulations supporting the right to abortion and understand the circumstances under which it is permitted, there is a gradual change in social perception. Thus, the public conversation about abortion becomes more informed and nuanced, leading to a greater understanding of the complexities and realities surrounding this practice.

However, it may be that in this social transformation, ideas and positions that are more strongly rooted in fundamentalisms persist. An example of this is that with the decriminalization until week 24, abortion became the center of attention of anti-rights politicians, since it was their purpose to oppose the provisions of the Court without beating around the bush or disguising it. Right in March 2022, during the legislative elections to inaugurate the new Congress for 2022-2026 period, one of the main objectives of Catholic and evangelical citizen movements was to promote the election of "pro-life" congressmen. With the inauguration of the new Congress in July 2022, the implementation of the anti-rights agenda was accelerated, and with it, some hate speeches loaded with violent symbolism against women's decisions.

It is worth mentioning that women's decisions are not constructed under an idea of isolated individuals, but from an identity that interacts in a context and from a place as a society that has been strengthened, among other elements, from a type of morality in which what is right and what is wrong is established, what should be accepted or what should not.

Thus, the decriminalization of abortion and its categorization as a right allow us to see this issue not only as the protection of the legal good of a woman's life but as a social good that belongs to all people who have the capacity to gestate. Consequently, the

fact that legislation advance towards the recognition of the right, as happened in Colombia in 2006 and 2022, not only transcends normative but also the idea of how a society should be built and how cultural changes should be processed on an issue that has attempted to polarize from fundamentalist visions that only conceive the conversation about abortion from a perspective between good and evil.

A society that is open to changes in sociocultural imaginaries and representations begins to question the roots of discrimination and the sources of inequality that have perpetuated the false idea that a woman's value and reward lie in her capacity and willingness to have children, and that she is to be blamed if she aborts or doesn't have the "maternal instinct."

Changes in social perceptions and attitudes have gradually led us to increase the level of social acceptance and respect for women's decisions regarding whether to be a mother or not, increasingly recognizing the moral and social value of their decisions about their body, life projects and freedom of conscience. Likewise, there is a growing social discontent with the criminalization or judicialization of women and pregnant people for deciding to have an abortion.

As abortion becomes normalized within the legal framework and recognized as a legitimate right, people may become more understanding and supportive of women who make this decision. This can lead to greater empathy and support for women who decide to abort, instead of judgment and stigmatization. Thus, normative advances on abortion not only have a direct normative impact but also play a crucial role in social transformation. As laws evolve to recognize and protect the right to abortion, new opportunities aopen up for a more respectful, understanding, and close dialogue on this issue that, without a doubt, is important in our society and on the agenda of democracy.

It is essential to continue reflecting on the issue of abortion from a comprehensive perspective that takes into account the social, cultural, legal, and ethical aspects with the aim of building a society that is more just and respectful of everyone's rights. Abortion and the exercise of motherhood coincide in the right to decide. Therefore, they should not be questioned or judged by society.

Consequently, the social decriminalization of abortion presents us with enormous challenges and great opportunities, which involve cultural and social transformations to redefine the value of sexuality and reproduction from areas of respect and recognition for autonomy and the right to decide freely.

As a movement for reproductive autonomy and from this Causa Justa that has brought us together in multiple ways, we are here with the right that assists us to care for and defend what we have gained, and to celebrate the feast of autonomy and freedom. We will continue here and everywhere challenging fundamentalisms, defending our rights in all possible forms and contents, walking the talk of social justice and the legitimacy of abortion, and working for its urgent social and cultural decriminalization.

Defending what we have earned with so much effort within the framework of this democracy must continue to bring us together, encourage and strengthen us so that this green tide continues to rise, continues to grow with more strength, with more arguments, more joy, more creativity, rebellion, and irreverence... Remember that social and cultural change is not easy. Therefore, this wave of change that invades us today and calls us to the right to decide must echo to continue walking for justice, freedom, and equality.



VI. We are Causa Justa

By Cedesocial, Red Huilense de Defensa y Acompañamiento en Derechos Sexuales y Reproductivos, Sororidad Activista and Aquelarre

Considering the process of decentralization and territorialization of the Causa Justa movement, some regional organizations that have implemented pedagogical, advocacy, and visibility actions related to Ruling C-055 of 2022 and, in general, this political commitment to legal abortion answered two questions.

The organizations that responded were:

- **Cedesocial.** Anon-profit entity that promotes sexual and reproductive rights, gender equality, and social development in the Caribbean region. It has offices in Barranquilla and Santa Marta (Colombia).
- **Red Huilense de Defensa y Acompañamiento en Derechos Sexuales y Reproductivos (RHUDA).** An organization that works for the construction of full citizenship for Huila residents, from a comprehensive view of sexual and reproductive rights, seeking to put them at the center of the public conversation from the different scenarios of the region and providing comprehensive advice and support to those who encounter barriers in the exercise of these.
- **Sororidad Activista.** A feminist collective whose main objective is to participate in the prevention and eradication of gender-based violence, the promotion of sexual and reproductive rights, the fight for safe and free legal abortion, and the call for women's vocation of power of in historically denied spaces. It does all this through social, academic,

and political activism with an intersectional feminist approach that promotes the elimination of stereotypes and gender roles, mainly in the district of Santa Marta (Colombia).

- **Aquelarre.** Feminist design and visual communication laboratory, located in the department of Cauca (Colombia). For more than eight years, it has been working on developing strategies, narratives, and concepts for the execution of educational, artistic, and business projects. The experience addresses the design of didactic materials with rural institutions, women's collectives, feminists, and social organizations to promote spaces for dialogue, reflection, and learning between families, teachers, and, above all, youth and children.

What has changed in your municipality after the historic ruling? What do you think should be learned elsewhere about what Causa Justa has achieved?

Cedesocial (Barranquilla)

Ruling C-055 of 2022, together with Resolution 051 of 2023⁵² from the Ministry of Health, has given greater legitimacy to abortion as a right. Although Barranquilla does not appear to be such an open city when talking about abortion, it is a fact that after the historic ruling, sociocultural barriers have decreased. On March 13, 2024, as part of International Women's Day, Cedesocial participated in the panel "My body, my decision" at the Autonomous University of the Caribbean. We were able to verify that the vast majority of young women attending the affirmation were enjoying the right to decide and/or to live the effective enjoyment of their rights.

Work against stigma throughout the Caribbean must be constant in all sectors. Some public servants, despite the law, may try to persuade decisions already made, especially in cases of adolescents. Publications on social media play an essential role in providing timely and adequate information. Although women

feel freer and more informed and are making more inquiries, it is necessary to study and monitor the guarantee of this right, mainly in other territories of the department of Atlántico. It is positive to learn that in the Paths (Medical Care Centers) of the District Public Network, cases of users who request this assistance or service are reported and attended to. This is how clandestinity is collapsing, and the quality and safety of women's care are protected. Regarding the learnings that Causa Justa can share, we point out:

- The creation of a movement with key alliances and their expansion throughout the national territory.
- Feminism as an emancipatory movement and inspiration for this cause.
- Having spokespersons by regions.
- The capacity to argue in each and every step prior to and post-sentence.
- Having public and political figures from different voices and careers as allies of Causa Justa.
- Devise a communication and production strategy with key aspects.
- Achieve recognition that position abortion on the public and international agenda.
- Having a sentence supported by a directive from the Ministry of Health and Social Protection.
- Not betting on useless debates (in which there is no possibility of consensus).

RHUDA (Neiva)

In Huila, there were three main changes. Firstly, while in other cities health institutions simply adapted existing care routes by removing the requirement for grounds, in our department it became evident that these requirements operated as barriers since many institutions did not have care routes for VTP procedures or were only on paper. Following the Causa Justa Ruling, they were forced to have updated and socialized routes that would allow for effective care. Although barriers still exist in the form of discrimination or administrative bureaucracy, at this time, the ruling provides for a different enforceability when the route is not properly applied.

Likewise, the Causa Justa Ruling made everyone discuss the right to decide. This facilitated access to

52 Ministry of Health and Social Protection. Resolution 051 (January 12, 2023). https://www.minsalud.gov.co/Normatividad_Nuevo/Resoluci%C3%B3n%20No.%20051%20de%202023.pdf

information regarding the guarantees the institutions should provide, causing many of the people who came to our support line requesting advice on the procedure to have prior information already and see it as an exercise of their rights. It also allowed dialogues on abortion with different sectors under the premise of updating people on the new regulations (especially justice, protection, and health personnel); thus, myths and taboos surrounding the procedure could be clarified. Having the support of talking about a constitutional right and a partially eliminated crime allowed us to open doors in institutions and defend our positions against opinions.

Finally, for the collective, it meant a great space to disseminate our work as part of the Causa Justa movement. Space that, although anti-rights and religious fundamentalists used to attack our activism actions and our colleagues, also allowed other people to know that it was not a centralized, foreign milestone, only from big cities, but that from the regions we were part recognizing our particular barriers and allowing ourselves to work based on them. Referring to learnings, we can highlight the importance of including diverse voices in the fight for our right to decide. The fact that the different collectives in all regions knew first-hand the information both about the demand and the discussions around it, allowed us to strengthen communication with arguments and unify as a movement.

Sororidad Activista (Santa Marta)

As a result of the visibility and recognition spaces of the Causa Justa movement, we have been able to articulate with higher education institutions to carry out pedagogical processes around Ruling C-055 of 2022 and the recognition of the reproductive autonomy of women, trans men, and non-binary people. In addition, we have obtained tools to monitor and politically influence the institutions and their progress in providing this health service. Today, in Santa Marta, there is a more legitimate and informed public dialogue around legal abortion.

Causa Justa is a living example of the articulation of the struggles of women and pregnant people throughout the history of Colombia. Ruling C-055 of 2022 is the result of the work carried out with collective processes and communities in many

regions of the country; where to make the sentence visible, it was key to recognize the differentiated barriers and cultural characteristics of each territory, proposing from there some particular terms of the public debate around legal abortion.

Aquelarre (Popayán)

The media coverage of the Causa Justa Sentence C-055 ruling of 2022 allowed many people to ask questions regarding this issue. We noticed this because several of them expressed interest in having an explanation of what this ruling consisted of and when it could be implemented. On one hand, this is important because it allows us to have conversations regarding a topic that has been censored for a long time; however, it also reflects the levels of ignorance that exist regarding this right in our territories. Likewise, we recognize that this ruling in rural spaces has not been widely socialized from a rights-based approach. In some indigenous communities, the Causa Justa Sentence has also provoked a particular interest in discussing the implementation of this new regulation in these territories. Although the dialogues are yet extensive, there is interest of women to start addressing them, although many of them say they need more training in this regard so that these internal debates can take place.

Referring to the greatest learning, we consider important in this process the possibility of working together to achieve such significant advances; knowing that it is necessary to have united debates so that our requests can have much more weight and relevance.

Although the organization has very prominent voices to publicly address the issue, it is also important to recognize that there are many women capable of speaking about the VTP from their contexts and who were the ones who managed to place the issue on the public scene in their own communities. We find it significant as a learning process to rotate the spokespersonship, expand the voices, and make visible the differences and diversities that exist regarding how this sentence covers each woman in different territories.

Likewise, it must be recognized that there is much to be done, for example, activating debates and dialogues around the approaches with which the sentence has

been promoted, which in many cases were not achieved in-depth due to ableism, racism, and classism.

Finally, it is important to note that Causa Justa is a political movement that is the result of a historical and intersectional struggle, with a deep focus on epistemological and territorial diversity, which

recognized the relevance of consolidating compelling arguments from the academy around reproductive autonomy; but it has also placed in the public debate the experiences, collective processes and personal stakes of women, trans men and non-binary people who access and request a legal abortion.

VII. By way of closing: perspectives and challenges for the total decriminalization of abortion

By Laura Castro González⁵³ and Luisa Rodríguez Gaitán⁵⁴

The global outlook for the total decriminalization of abortion remains challenging, although the advances of the women's and feminist movements represent great hope for sexual and reproductive rights. As a way of concluding this issue, we want to provide four sections as input for reflection and action: first, a general map of the state of abortion legalization in Latin America; second, a summarized overview of the learnings about the struggle for the right to abortion that may be useful in other countries; third, the challenges posed by the actions of anti-rights groups; and, finally, the challenges that exist at the institutional level to guarantee the right to abortion in Colombia.

According to the Center for Reproductive Rights⁵⁵, approximately 111 million women—corresponding to 6% of the world's total—live in 21 countries where abortion is completely prohibited and criminalized in all circumstances, even when the health or life of the person pregnant woman is at risk. Six of these countries are in Latin America and the Caribbean: El Salvador, Honduras, Nicaragua, Jamaica, Haiti, and the Dominican Republic. In order to ensure physical and mental health and save the lives of pregnant people, more than 85 countries have included in their regulatory framework laws to allow abortion in these cases. However, penalization remains a reality when the risk to life or health does not apply, and around 683 million women of reproductive age have to face it.

In four Latin American countries (Bolivia, Peru, Ecuador, and Costa Rica), abortion is allowed when the life or health of the pregnant person is at risk; however, except for Ecuador in cases of rape and Bolivia in cases of incest, rape or fetus malformation, in all four countries abortion is considered a crime and is punishable in other conditions or circumstances. There are six countries in which abortion is illegal and classified as a crime, and only allowed mainly when there is danger or threat to the woman's life: Guatemala, Panama, Venezuela, Brazil, Chile, and Paraguay⁵⁶. There are 12 other countries in the world in which social or economic reasons are considered within the impact of pregnancy and motherhood, these being reasons that allow abortion, according to data from the Center for Reproductive Rights.

Although total or partial criminalization continues to be an attack on the women's and pregnant people's rights, and setbacks or obstacles to accessing safe and timely abortions continue to be present in more than 118 countries, becoming a challenging panorama for the decriminalization of abortion, women's and feminist movements and organizations have made significant progress towards the elimination of abortion as a crime and towards full and effective guarantees for the exercise of rights and reproductive freedom and autonomy of women, trans and non-transgender binary people.

In the last three years, the news has been favorable for the right to abortion. In the first quarter of 2024, France announced the possibility of including the

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55 See: <https://reproductiverights.org/maps/worlds-abortion-laws/>

56 Brazil and Chile allow abortion in cases of pregnancy due to rape.

right to abortion in its Constitution⁵⁷. Argentina, Colombia, and Mexico have taken very valuable steps between 2021 and 2023 in terms of questioning the use of criminal law and changing the regulation of abortion, seeking to overcome the criminalization of pregnant people who decide to do so and the legal and social, cultural, and economic barriers for the VTP. Data from the portal “Abortion laws in the world” of the Center for Reproductive Rights⁵⁸ registers 77 countries in which approximately 662 million women in reproductive age live and where abortion is allowed between the ages of eight, 12, 14, 16, and 24 gestation weeks. Seven of these 77 countries are in Central America, the Caribbean, and South America: Belize, Cuba, Colombia, Guyana, Suriname, Argentina, and Uruguay.

Uruguay and Cuba had already been pioneers in the region, decriminalizing abortion up to week 12 several years ago (in 2012 and 1965, respectively). In Argentina, the law that expanded sexual and reproductive rights came into force in January 2021, allowing women and people with other gender identities to terminate the pregnancy without explaining the reasons for the decision until week 14, and thereafter when there is rape or the life or health of the person is in danger⁵⁹. Mexico also recognizes the right to legal, safe, and free abortion during the first 12 weeks. In addition, it recognizes abortion as a constitutional right, and punishing it is considered a violation of human rights.⁶⁰

The legal and political changes that have taken place in Latin America (Argentina, Colombia, Mexico, and we hope Ecuador soon) in recent years regarding the reproductive autonomy of women, trans and non-binary people invite us to review in more detail, the strategies and arguments that feminist movements and women’s rights defenders from the Global South have used in the dispute for the recognition of the right to abortion. Latin America has a long tradition of social mobilization around democratic causes, social

justice, and the recognition of human rights. In this political accumulation of mobilization, the history of the feminist movement stands out in particular, which, although it has taken as a reference strategies from other regions, for example, strategic litigation before the High Courts of North America or public denunciation on social media, has also developed its own mobilization repertoires in accordance with the regional political and cultural context: the construction of parallel reports of truth or justice, mass mobilization in the streets, the appropriation of territorial cultural and artistic expressions at the service of the right to decide (chivas, bici-rodadas, tumbadas), feminist meetings or gatherings, among others. In this sense, one of the main lessons that the Latin American feminist movement could share with other latitudes is knowing how to implement the combination of arguments and strategies typical of the global repertoire with others adapted and consistent with national contexts, a combination that is energized thanks to the strength and political method of this historic movement in the region.

The recognition of the reproductive autonomy of women and LGBTI+ people, and with it, the recognition of their full citizenship, is one of the main areas of dispute in the sociocultural sphere. In previous decades, women’s movement won other fundamental rights for us (right to property, divorce, physical integrity, and work, among others). In this new century, cultural tension looms over our ability and autonomy to make decisions in the sphere of reproduction. In fact, as Simone de Beauvoir announced with her phrase: “Never forget that a political, economic or religious crisis will be enough for women’s rights to be questioned again. These rights are never taken for granted; you must remain vigilant throughout your life”, we constantly see how sexual and reproductive rights, among others, are attacked by conservative or anti-right groups.

Faced with these threats, it is important to recognize several issues to know how to face these challenges. First, the anti-rights mobilization is, above all, a reaction to the enormous achievements of the feminist and human rights movement in recent years. This mobilization reveals the sociocultural and political resistance that still exists against gender equality, becoming a goal that threatens privileges and, with it, the patriarchal order, but which is necessary and, above all, unstoppable. In the face of

57 BBC News World. (2024, March 4). France becomes the first country in the world to protect the right to abortion in its Constitution. BBC News World. <https://www.bbc.com/mundo/articles/c72147qz1y2o>

58 The World’s Abortion Laws of the Center for Reproductive Rights: <https://reproductiverights.org/maps/worlds-abortion-laws/>

59 Law 27610 of Argentina that regulates access to VTP and post-abortion care.

60 Vanessa. (2023, 20 de octubre). El acceso al aborto en América Latina. *Planned Parenthood*. <https://www.plannedparenthood.org/es/blog/el-acceso-al-aborto-en-america-latina>

sociocultural and political resistance, pedagogical and knowledge-building work is essential. Secondly, based on the experience of Causa Justa and other comparative contexts in the region, it is clear that the anti-rights mobilization is activated with greater force in electoral contexts. In this sense, as it occurred with the campaign against the so-called “gender ideology” in the world, it is evident that the anti-gender fight allows political and electoral gains for those sectors that take advantage of misinformation, fear, and short but misleading messages. At this point, it is significant that the feminist movement, along with opinion leaders or politicians and the media, work to defend the right to truthful, safe, and timely information about sexuality and reproduction. Thirdly, in the face of threats and attacks against gender equality and reproductive autonomy, the articulated and coordinated actions of the feminist movement at regional and global levels have become increasingly valuable. Causa Justa is an example of the reach we have when, as a feminist movement, we articulate and coordinate around a common purpose.

Despite the enormous legal and cultural advances that the country has made in terms of recognition of women’s reproductive autonomy, the challenges of national and territorial institutions persist in achieving the full implementation of the Causa Justa Sentence. In this sense, moving forward in different

ways after the sentence is necessary. First, in terms of implementation, the comprehensive policy on sexual and reproductive health must be issued as soon as possible by the Ministry of Health, since this public policy instrument can better guide the institutions and their officials on how to guarantee sexual and reproductive rights in the country, taking into account goals and compliance indicators. Second, it is desirable that national and territorial institutions continue issuing or updating regulatory frameworks and technical guidelines that are still necessary for the provision of abortion services without barriers, and that once they are issued, they contribute to the consolidation of an even more solid legal framework. For example, Resolution 459 of 2012 that regulates the Protocol and Model of Comprehensive Health Care for Victims of Sexual Violence, the route for victims of human trafficking of the Ministry of Interior, which includes information and access to emergency abortion services, and the internal documents of the Colombian Institute of Family Welfare for minors to access the VTP. Finally, campaigns and political leaders should include in their agendas and programs the defense and respect of women’s reproductive autonomy and, in that sense, recognize that guaranteeing this autonomy is also part of the progress toward more democratic and just societies.

Authors

La Mesa por la Vida y la Salud de las Mujeres

Collective of feminist organizations and individuals that, since 1998, have been working for women's sexual and reproductive rights, in particular, for the total decriminalization of abortion.

Católicas por el Derecho a Decidir

Autonomous movement of Catholic feminists committed to the defense of women's rights, especially those that refer to sexuality and human reproduction, and a life free of violence and discrimination.

Women's Link Worldwide

International organization that uses the power of law to promote social change that favors the human rights of women and girls, especially those who face multiple inequities.

Center for Reproductive Rights

Global human rights organization that ensures that reproductive rights are protected by law, as human rights are fundamental to the dignity, equality, health, and well-being of all people.

Fundación Oriéntame

Non-profit foundation that, since 1977, has worked for health and the promotion of sexual and reproductive rights.

Social networks

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Facebook:

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