Chapter

The Use of Criminal Law on Abortion: A Structural Barrier that Limits Women's Rights

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Abstract

The use of criminal law to limit abortion rights still prevails in most of the legal regimes around Latin America. This particular law reveals the lower value assigned to women's lives in modern societies and how much the state interferes in women's freedom and reproductive autonomy. This situation has had an impact on women's ability to access safe and timely abortion services due to the numerous barriers they face, among other things the criminalization of abortion. This paper develops the arguments that support a recent constitutional claim submitted to the Constitutional Court in Colombia by the Just Cause Movement, demonstrating that abortion crime violates several human rights including equality and freedom and compromises women's citizenship by undermining their ability to make free decisions about their bodies and their lives.

Keywords: criminal law, abortion, freedom, citizenship, human rights, autonomy, Colombia, Causa Justa, Constitutional Court

1. Introduction

In September of 2020 the Just Cause Movement filed a lawsuit before the Constitutional Court of Colombia to declare the illegality of abortions unconstitutional.[1] This movement started taking shape in 2018 when La Mesa por la Vida y la Salud de las Mujeres (la Mesa),[2] a Colombian feminist organization, called on a wide group of women's, feminist and human rights organizations, and other actors such as activists, healthcare service providers, academics, and members of research centers together to promote the idea through pedagogical work with diverse audiences of eliminating the crime of abortion from the Penal Code so that no woman

[1] The lawsuit was filed on September 16 by La Mesa por la Vida y la Salud de las Mujeres, Women's Link Worldwide, Católicas por el Derecho a Decidir, the Centro de Derechos Reproductivos and the Grupo Médico por el Derecho a Decidir. It was accepted on October 19th by the Selection Chamber, and is currently being studied by the Court for an approximate period of six months. The file documents can be reviewed here: https://www.corteconstitucional.gov.co/secretaria/actuacion.php?proceso=1&palabra=D0013956&mostrar=ver.

[2] A collective of organizations and people that has worked for the sexual and reproductive rights of women since 1998, especially towards the free choice to maternity, the free exercise of sexuality and the decriminalization of abortion. Link: https://despenalizaciondelaborto.org.co.

and no provider would have to or suffer the threat of serving prison time for having performed an abortion [1].[3]

For the pedagogical work, La Mesa formulated numerous arguments that support the need to eliminate the illegality of abortions.[4] These arguments encompass issues such as the inefficacy of the crime of abortion, the failures regarding service provision within the context of abortion as a crime, its impact on women's freedom, critique to the indications regime (or legal grounds) and the time-limit model,[5] and the lesser value assigned to women's lives when they have an abortion or refuse maternity as their destiny, which causes restrictive abortion regulations [4].

Along with this petition and an action strategy on several fronts [5],[6] the Just Cause Movement moreover seeks to stop the State's punitive power being applied in issues regarding abortion, so that women can freely be the protagonists of their lives and thus be equals in society. Furthermore, the movement endeavors to eliminate the stigma surrounding abortion, to reduce inequality among groups of women, and to create an environment of legitimacy around the decision to have an abortion, in order to keep criminalization from forcing women to be mothers and taking away their autonomy [3].

"As for punitive power, the interpretation of authors such as Douglas Husak (2008) who has been endorsed by the Inter American Human Rights Court, considers that there is a wide group of restrictive measures which are punitive, and *not only those that apply to criminal law*: [...] administrative penalties are, as much as criminal ones, an expression of the State's punitive power and, occasionally, have a similar nature. Both imply the undermining, privation or alteration of people's rights, as a consequence of *illicit* behavior" [4, 6].

2. The problem

In 2006, Colombia ceased to be one of the few countries that have fully restrictive legislation regarding abortion in Latin America, and became one which adopted the indications regime through a judicial decision [7].[7] In decision C-355 of 2006, the Constitutional Court conditioned the enforceability of article 122, stating

[3] The pedagogical strategy has shaped La Mesa's work since 2006, when abortion was decriminalized, and its purpose was precisely to construct arguments and disseminate them in order to produce change in the operators of healthcare services and legal administrators, and in the public opinion. For more information consult reference [2].

[4] These arguments can be reviewed in reference [3].

[5] Both the indication regime and time-limit model are built on arbitrary notions about reasons (the first one) or time limits (the second one), by which or within which the woman can or "must" interrupt a pregnancy. Both are supported by legal paternalism that grants third parties, physicians and judges among others, the power to share in or directly make the decision of when to abort for women. These are a part of a spectrum of restrictive norms that, both in Latin America and other parts of the world, have applied the punitive power of the State to limit the reproductive self-determination of women. It must be said, however, that the term model is wider and offers more guarantees because it offers a gestation period within which the woman can have an abortion at will. See references [3, 4].

[6] Some of the strategic dimensions include: the production of expert knowledge, pedagogical work with diverse audiences, including opinion leaders, legal action, new research, and social mobilization, among others. To learn more about Just Cause and social mobilization go to: https://causajustaporelaborto.com.

[7] See: https://reproductiverights.org/worldabortionlaws.

that: "the crime of abortion cannot be incurred in when, with the woman's consent, the interruption of pregnancy is produced in the following cases: (1) When the continuation of pregnancy constitutes a danger for the life or health of the woman, certified by a physician; (2) when there is a fetal impairment of the fetus that makes life inviable, certified by a physician; and, (3) when pregnancy is the result of a properly reported behavior, that constitutes abusive, non-consensual carnal abuse or sexual intercourse, or artificial insemination or transference of fertilized ovum without consent, or incest" [8].

Since then, 14 years have passed, and more than 22 legal decisions prove that there is a true fundamental right to abortion in Colombia. That is the status the Constitutional Court itself has given it. However, since it coexists with the crime of abortion in the Penal Code, a deep ambiguity has been created for those who provide abortion services, those who need abortions and even for the public opinion and society.[8]

"Since Decision C-355 of 2006, a large number of norms, both legal (3 regular laws and 1 statutory) and regulatory, public policy documents, and constitutional (there are more than 20 decisions of the Court regarding VOLUNTARY TERMINATION OF PREGNANCY) and administrative jurisprudence, all of them later than 2006, now coexist with the criminal norm object of our claim, and are part of the legal regime under which it is subscribed, that being the regime that regulates voluntary termination of pregnancy, both the one that constitutes a fundamental rights, and the one that constitutes a crime" (Public action for the unconstitutionality of article 122 of La 599 of 2000, File D-0013956).[9]

This situation, as has been mentioned, has persisted for these past 14 years and has created a series of circumstances that show that the indications regime, adopted in 2006, is insufficient, deepens inequalities among women, upholds the lesser value assigned to their lives, particularly their biographical dimension, and is the source of uncountable barriers, where the most important structural barrier is the crime of abortion, as we will demonstrate in the following pages.[10]

Although there is much variation in the indication regime as applied in Latin America, from some places that only recognize one indication (save women's lives, Paraguay) to others, such as Colombia that recognize three, it is a regime that betrays at least three limitations [4]. Firstly, indications are variable and not always consistent with the reasons or needs of women who seek abortions. For example, in Colombia, there is a non-consensual artificial insemination indication, but fertility

[8] See the decisions of the Colombian Constitutional Court: i) Decision T-636 of 2007, ii) Decision T-171 of 2007, iii) Decision T-988 of 2007, iv) Decision T-209 of 2008, v) Decision T-946 of 2008, vi) Decision T-009 of 2009, vii) Decision T-388 of 2009, viii) Decision T-585 of 2010, ix) Decision T-841 of 2011, x) Decision T-636 of 2011, xi) Decision T-959 of 2011, xii) Decision T-627 of 2012, xiii) Decision T-532 of 2014, xiv) Decision C-754 of 2015, xv) Decision C-274 of 2016, xvi) Decision T-301 of 2016, xvii) Decision C-327 of 2016, xviii) Decision T-694 of 2016, xix) Decision T-697 of 2016, xx) Decision T-731 of 2016, xxi) Decision C-341 of 2017, xxii) Decision SU-096 of 2018.

[9] Public action for the unconstitutionality of article 122 of Law 599 of 2000 (Penal Code) presented by Just Cause on September 16th 2020.

[10] We know from previous studies that the indication regime had existed for decades in many countries in the region without it translating into real access to legal abortion for women. For this reason, the first years of La Mesa were dedicated to creating frameworks that could serve health operators and judicial authorities to interpret the indications established by the Court in 2006 widely and consistently with human rights. See references [9] y [10].

treatments are not even covered by the healthcare system. Secondly, the requirements to access abortion vary between countries and, even though in Colombia they only include a medical certificate for risk to health, risk to life, fetal malformation cases or a complaint for rape cases in practice, these often function as authorizations that legitimized the reasons of women. Thirdly, the indication regime is subject to interpretation problems, as its application, for instance, depends on a professional's opinion of how much the situation poses a risk to health.[11] However, the current interpretation has also allowed advancements in the proper application of indications [11, 12].[12]

Regarding the inequalities between groups of women it should be pointed out that the indications regime implemented in Colombia has not changed the realities of abortion, as most abortions are still illegal (between 1% and 9%, according to the reviewed source) [13], and their consequences are still felt in certain groups of women, particularly poorer rural women, who have a 70% higher risk of suffering complications as a result of unsafe abortion or of not receiving timely care than women who inhabit urban areas or who have more means [14].[13] At the same time, availability and accessibility problems persist in the more remote areas of the country [3].

Regulations such as the ones that constitute the indication regime are based on the State's punitive power and also reflect, as has been discussed in past works, that legal systems assign greater value to biological life, hence why indications are mainly associated with health and harm. This promotes those system's interests of protecting fetal life as a primordial duty [15], subordinating the life of women to intrauterine life. Following this same logic, the dimension of women's life which is protected is the biological, and not the biographical. This latter one alludes to the life project that each individual creates for itself, and is the most ignored by abortion regulations, and ultimately explains how women are dispossessed of their autonomy and freedom through norms such as the crime of abortion [4].

All of these aspects explain why, 14 years after the partial decriminalization of abortion in Colombia, women are still facing multiple barriers, gathered through several studies, and widely documented in the 1360 cases of women that La Mesa has given accompaniment to since 2006, offering legal assistance and ensuring that they receive legal abortion services; a goal that has been very successful during these years [16]. Three different types of barriers exist: (1) lack of knowledge of the legal framework which happens when service providers, medical professionals, or legal administrators lack the information or ignore the administrative and judicial decisions about legal abortion, (2) a restrictive interpretation of the indications established in decision C-355 of 2006 that manifests when, for instance, an unconstitutional use of the objection of conscience is attempted, and (3) the failures in

[11] Notions such as health, or the idea of how much risk a woman must endure before her abortion is legal under risk to health reflect to what extent the application of indications is subject to interpretation by third parties [9].

[12] The interpretation, however, is not always a problematic element, as showcased by the case of La Mesa por la Vida y la Salud de las Mujeres in Colombia that, in conjunction with other organizations and groups in Latin America, "made the political decision to promote a wide and plural discussion about the scope of the health indication, thanks to which a legal interpretation of the indication could be promoted and, at the same time, guarantee access to legal interruption of pregnancy services and generate elements to ensure the certitude for professionals that must apply it".

[13] This report includes data from Colombia.

service provision, be it during the process of direct assistance with a professional, or as the result of inaction or obstruction derived from administrative decisions taken in hospitals. As an example, this last barrier happens when professionals deny the medical certifications necessary for access to voluntary interruption of pregnancy [17].[14]

Additionally, these barriers are more severe for migrant women, the assistance to whom increased by 51% during the pandemic compared to the immediately preceding year, and from whom, for instance, additional documents are often required.[15] During confinement related to the Covid-19 pandemic, they have also faced the impossibility of access to service, discontinuity in care, and lack of intimacy at home to access abortion information and services [19].

Compounding the barriers already mentioned, the criminalization of abortion in Colombia is another element which generates and worsens inequality among women and reflects the stigma that surrounds it. According to data from the Colombian Attorney General's Office, during the 2010–2017 period, 97% of women who reported having had an abortion inhabited rural areas and only 3% lived in urban zones.[16] As of 2019 there were 5833 abortion cases reported to the authorities in the country, of which 4834 are active cases in some stage of the criminal process, and that 340 people have been sentenced to the crime of abortion even though abortion is a fundamental human right in Colombia, and legal in three circumstances [20]. Additionally, almost 73% of the abortion cases that reach the Attorney General's Office are reported by hospital staff which violates professional secrecy and confidentiality, revealing the stigma that persists in healthcare institutions, particularly against those who provide abortion services [21].[17] Women under the age of 18 are the most prosecuted for this crime: 12,5% of the reports for abortion involve minors and 25% of women found guilty of this crime are minors [20]. Finally, at least 30% of the women who reported having had an abortion between 1998 and 2019 were victims of domestic violence, sexual violence, or assault.[18] In other words, one out of 3 women who have abortions and are reported for doing so has been the victim of violence.[19]

Thus, the crime of abortion is revealed as a key element that underlies the production of barriers and the reproduction of inequality acting as a structural barrier.

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[14] Currently, la Mesa in Alliance with Women's Link, the Center of Reproductive Rights, the Red Nacional de Mujeres y the Oriéntame Foundation are working on the development and publication of a technical report on barriers to voluntary termination of Pregnancy Access during COVID-19.

[15] The report on migrant women can be reviewed in reference [18].

[16] These numbers are from the Colombia Attorney General's Office and were obtained by la Mesa through a right of petition. The data correspond to cases initiated after the issuance of Law 906 of 2004 (Criminal Procedure Code), that is, between the years 2004 and 2017.

[17] Colombia Attorney General's Office. Report on abortion prosecution in Colombia. Technical opinion sent to the Constitutional Court in the process with filing number D0013255, p. 12.

[18] These numbers are from the Colombia Attorney General's Office and were obtained by la Mesa through a right of petition. The data corresponds to cases initiated after the issuance of Law 906 of 2004 (Criminal Procedure Code), that is, between the years 2004 and 2017.

[19] *61% of the population state that they disagree with women going to jail for voluntarily terminating their pregnancy,* 26% neither agree nor disagree and 36.1% of the people surveyed agree with sending a woman who has decided to interrupt her pregnancy to jail. The majority of the population considers that voluntary termination of pregnancy decision should be free and that women should be able to abort under certain circumstances [22].

3. Action undertaken: the arguments for the claim

Facing this complex situation and in order to protect women's freedom[20] and ensure their full citizenship, in September 2020 the Just Cause Movement filed an unconstitutionality lawsuit which was accepted in October of the same year by the Colombian Constitutional Court for review, and is expected to be resolved in a term of approximately six months.[21] This lawsuit, a text more than 150 pages long, is structured around a wide ranging set of arguments or charges of unconstitutionality that mainly cover: the violation of the right to voluntary termination of pregnancy, created by the Court itself in 2006, the violation of the right to health, the violation of the right of freedom of profession and trade, the violation of the right to equality for migrant women, the violation of the right of freedom of conscience and the principle of a secular State, and the violation of several constitutional principles through the use of criminal law.[22]

The lawsuit also explains at length that the request to eliminate the crime of abortion leaves no legal or regulatory vacuums in Colombia because both the ample jurisprudence of the Court and the administrative norms regarding abortion issued in the past 14 years will still be in effect and constitute an ample body of guarantees. Likewise, no service coverage issues are created since all healthcare service provision necessary for an abortion has been integrated into the Colombian healthcare system [3].[23]

In the following, some of the aforementioned arguments will be illustrated. The lawsuit explains to the Court that since 2006 the goal of allowing women to access abortion without jeopardizing their lives has not been achieved because the crime of abortion persists which generates stigma and stigma does not differentiate between what is and what is not allowed by law, and affects the exercise of the fundamental right to the voluntary termination of pregnancy.[24] This can

[20] Support of the arguments explained in this section can be found in the lawsuit filed by Just Cause, which can be reviewed in the link referenced in footnote 1. These arguments are also widely discussed in the texts produced by la Mesa, although they have been expanded on, adapted and discussed with more depth in the lawsuit. To review publications and reports by la Mesa see: https://despenalizaciondelaborto.org.co/biblioteca/.

[21] During the period immediately following the admission of the lawsuit, the Constitutional Court has received more than 114 amicus and technical opinions from national and international experts that support the elimination of the crime of abortion from the Penal Code. Among them are international organizations and think tanks such as Doctors Without Borders, Doctors of the World, DeJusticia, the National University's School of Gender Studies, and IPAS – Mexico, as well as interventions by academics, researchers and experts such as Alejandro Gaviria (former Health Minister and President of the Los Andes University), Johana Erdman (U. Dalhousie), Rebecca Cook (U. of Toronto), Line Bareiro, among others.

[22] The lawsuit also contains an extensive discussion about the existence of *res iudicata* and explains that there are now new arguments and situations that were not considered in 2006, when the same article of the Penal Code was studied. For example, 14 years ago the protection of medical staff from threat and stigma was not considered, it was not known that the establishment of the indication regime would worsen barriers and criminalization, affecting the situation of the most vulnerable women, or that both national (Commission on Criminal Policy) and international organizations would recommend eliminating the use of criminal law to regulate abortion.

[23] See footnote 1.

[24] In the text, especially in this section, the terms abortion and voluntary termination of pregnancy are alternated, the latter one is the one the Court has used since Decision C-355 de 2006 to refer to consensual legal abortion.

be observed, for instance, in the disproportionate way in which barriers affect the most vulnerable women and girls, those inhabiting rural and remote areas, or those who have the least economic resources, including those who live in situations of armed conflict or other forms of gender based violence, e.g. sexual or physical.

The lawsuit also shows how regardless of the three indications, the mortality rates and specially the maternal morbidity through abortion are evidence of the ways in which abortion as a crime negatively impacts women's right to health. Similarly, it is also argued that the health protection offered by the indication regime is relative, as it is only valid for those who fall under one of the indications and then are able to overcome the barriers to access. All other women are exposed to unsafe abortions due to their criminalization, which also aggravates inequalities among women. It is also argued that criminalization outside of the indications ignores the decisions, mandates and recommendations of diverse international human rights organizations that, after 2006, have recommended wider decriminalization.[25]

Moreover, the freedom of profession and trade for healthcare staff and the violation of the right to equality of migrant woman must be highlighted among the more innovative arguments in the lawsuit. In the first case, and taking into account that healthcare professionals and particularly physicians are the people most responsible for voluntary termination of pregnancy services, it is both problematic and paradoxical that they too should be susceptible to criminal penalties, including jail time, if they act outside existing indications.[26] As has been mentioned, these can be interpreted widely or more narrowly by different professionals and by judicial authorities, leading to the strange paradox of those who must ensure timely access to voluntary termination of pregnancy and who are themselves at constant risk of criminal penalties. Adding to this already complex situation, service providers are frequently victims of stigma when they ensure timely access to voluntary termination of pregnancy services which often leads them to self-censorship or marginalization from societies of healthcare professionals, causes them psychological stress, emotional fatigue, and leads to them being overworked due to the low availability of professionals willing to offer a service which is a right and a crime at the same time. All of this affects not only their freedom of profession and trade, but also the number of professionals willing to carry out this duty, reinforcing the vicious cycle which leads the most vulnerable women or those who live in the most remote areas to resort to unsafe abortions because they cannot find a safe service nearby.

As for migrant women, particularly those in an irregular migratory situation, who as we have seen, face not only the same barriers as Colombian women when attempting to access a voluntary termination of pregnancy, but also some of their own, caused by their migration status, and often end up being victims of different forms of sexual violence, even human trafficking. In their case, healthcare service provision is mediated by xenophobia, the threat of deportation or the initiation of criminal proceedings, and cruel and inhuman treatment in healthcare services which violate their right to equality.

[25] Human Rights Committee, CEDAW Committee (Convention on the elimination of all forms of discrimination against women), Committee on the rights of Children, Committee on the rights of disabled persons, Rapporteur on the Right to Health (Mr. Danilo Puras).

[26] According to the Colombian Penal Code, art. 122, "the woman who causes abortion or allows another to cause it, will be subject to 16 to 54 months of prison time".

Nevertheless, the argument that we are most interested in highlighting here is precisely the one that explains in which ways the use of criminal law on abortion is ineffective, counterproductive and violates several constitutional principles, not to mention that being a behavior that should be considered private, it should be outside the purview of criminal law [23, 24]. On the one hand, it is an ineffective measure since it does not prevent the behavior in the case of unplanned or unwanted pregnancies in which women decide to abort, since "the use of the States punitive power as a moral instrument of the patriarchal stamp is challenged by the moral resistance of women who have abortions even when it is totally prohibited. Even when they are prosecuted, condemned and humiliated. Even when they must pay with their lives" [4].

On the other hand, it generates a counterproductive situation, since women get abortions under unsafe conditions that lead to an increase in deaths and maternal morbidity and produce costs for the healthcare system that must provide care for complications of unsafe abortions [3].[27] This is the reason why countries such as Canada, the Netherlands and England, where the use of criminal law has decreased and regulation is enacted through the health sector, show a gradual reduction in both abortions, death and complications from unsafe abortions. This is compounded, as has already been mentioned, by the fact that the effects of criminal law are felt disproportionately and almost exclusively by the most vulnerable women, who in Colombia's case are rural women, victims of violence, girls, and adolescents. This affirms that "the decision to keep abortion as a crime is not founded in empirical data nor does it value either the financial costs, or those to rights, of criminalization." "According to the Advisory Commission of Criminal Policy (Colombia), empirical research and informed decision making are indispensable elements for the design, execution and evaluation of criminal policy." Incipient data suggests that "severe penalization of abortion leads to clandestine abortions which gravely affect women's health, causing death in a significant number of cases." The main victims are those with fewer economic resources and a greater rate of unwanted pregnancy, easy prey to illegal markets (Public action for the unconstitutionality of article 122 of La 599 of 2000, File D-0013956) [25].

The crime of abortion also raises important questions about the retributive end of penalties because it objectifies women, using them as vessels forced to continue gestation under threat of going to jail if they interrupt according to their own will. What harm must a woman who aborts compensate society for? Should a woman who has had an abortion become a mother at a later date, or is the only recourse to continue the pregnancy forcibly? [3]. All of these questions and more are opened by the existence of the crime of abortion, which additionally does not constitute the *ultima ratio* of criminal law, as it ignores the use of "other paths of public action, better suited to protect the judicial interest that involves gestating life." "The state has at its disposal innumerable policy tools to ensure life expectancy without having to annul the fundamental rights of women. As was established by the Advisory Commission of Criminal Policy, the best way to reduce abortion is to adopt a public health perspective, using educational campaigns in sexual and reproductive rights and access to quality healthcare services [...] To the contrary, severe penalization of abortion, especially when not in tandem with campaigns to prevent unwanted pregnancies, does not prevent abortions and generates clandestine abortion practices that affect women's health, particularly poorer women, who suffer the most from unwanted pregnancies and must abort in the worst sanitary conditions" [25].

[27] It is known that in contexts with greater prohibition unsafe abortions increase. See reference [14].

4. Citizenship and women's freedom in Colombia: the right to a lawful existence

The lawsuit filed by the Just Cause Movement makes an in depth case about how the rule that creates the crime of abortion (article 122 of the Penal Code) violates several minimum constitutional standards for the use of criminal law and criminal policy. This situation is made even more critical by the fact that the Constitutional Court itself has made clear since its decision C-355 of 2006 that criminal law was neither the only nor the most suitable mechanism to regulate voluntary abortion in Colombia. It is a lawsuit with a strong and wide-ranging argumentation for why, after 14 years, the Court can and must reopen the discussion about the criminalization of abortion in Colombia in order to move forward.

This petition is even more urgent considering the inaction of Congress during this period, when Colombian women face serious problems of access to voluntary termination of pregnancy, and appeals to the Court's obligation to protect fundamental rights and the constitution, two essential tasks to maintain a strong democracy.[28] It bears highlighting that in 14 years of partial decriminalization of abortion in the country, Congress has not regulated or advanced the fundamental right to voluntary termination of pregnancy, even though the Constitutional Court has requested they do so in three instances, while it has considered approximately 27 law proposals that threaten the guarantee of this right.[29]

The overwhelming evidence contained in the lawsuit makes it possible to assert that the existence of the crime of abortion is the main structural barrier that forces women, especially women in the most vulnerable situations, to opt for abortion, even within the indications permitted in Colombia. As a result, women still live a strange paradox, being at the same time entitled to a fundamental right and under threat of going to prison for exercising it.

In order to grant women full citizen status, they must be made free and equal. In order to be free and equal, it is necessary to recognize their reproductive freedom, since the freedom of women is intimately bound to their bodies —a body that is biologically constructed for reproduction— making it so their freedom will only be complete when they can make decisions about their bodies and life projects [4, 26]. That means when they can live fully and build their biography without the existence of the crime of abortion. Only then will they be equal before the law. Only then will they be fully free.

Conflict of interest

The authors declare no conflict of interest.

[28] To expand on the inaction of Congress, see reference [5].

[29] The requests to Congress have been recorded in the Constitutional Court's Decisions: C-355/2006, T-532/ 2014 and SU-096/ 2018.

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