Court Ruling C-055/22

Reference: file D-13.956
Subject: Claim of Unconstitutionality against article 122 of Law 599 of 2000.

Plaintiffs: Ana Cristina González Vélez, Mariana Ardila Trujillo, Catalina Martínez Coral, Sandra Patricia Mazo Cardona, Laura Leonor Gil Urbano, Angélica Cocomá Ricaurte, Ana María Méndez Jaramillo, Cristina Rosero Arteaga, Aura Carolina Cuasapud Arteaga, Valeria Pedraza Benavidez, Beatriz Helena Quintero García, María Alejandra Cárdenas, María Mercedes Vivas Pérez y Florence Thomas.

Judges rapporteurs: ANTONIO JOSÉ LIZARAZO OCAMPO y ALBERTO ROJAS RÍOS

Bogota D.C., February twenty first (21st) two thousand twenty-two (2022)

The Full Chamber of the Constitutional Court, on the basis of article 241.4 of the Constitution after completing the procedures[1] provided for in Decree Law 2067 of 1991, decides on the lawsuit filed by the citizens referred to, exercising the public action of unconstitutionality established in article 40.6 of the Constitution, against article 122 of Law 599 of 2000 (Criminal Code), the text of which is as follows:

I. TEXT CHALLENGED

LAW 599 OF 2000 (24th of July)
Official Gazette No. 44.097 of July 24, 2000.
Whereby the Criminal Code is enacted
The Congress of Colombia decrees: [...].
Book II. Special part of the crimes in particular. Title I. Crimes against life and and personal integrity
Chapter IV.
Abortion

[1] According to the record, through a written submission sent by e-mail on September 16, 2020, exercising the public action of unconstitutionality, article 122 of Law 599 of 2000 is challenged. In compliance with article 2 of Decree Law 2067 of 1991, the plaintiffs indicate the challenged norm and the constitutional provisions that are alleged to have been infringed; they also describe the reasons why they believe that the accused norm violates the Constitution and the basis of the competence of the Constitutional Court to hear the lawsuit. In accordance with the provisions of article 3 of Decree Law 2067 of 1991, the lawsuit was assigned by a draw on September 30, 2020, and sent to the office of the judge, Antonio José Lizarazo Ocampo, on October 2, 2020. Pursuant to article 6 of the Decree Law 2067, the Judge, by order dated October 19th 2020, admitted the complaint.

"Article 122. Abortion[2]. The woman who causes her own abortion or allows another to cause it, shall be imprisoned from sixteen (16) to fifty-four (54) months.

The same sanction shall apply to whoever, with the consent of the woman, carries out the conduct foreseen in the preceding paragraph".

This article was declared conditionally constitutional by the Constitutional Court in court Ruling C*-355 of May 10, 2006, "under the understanding that the crime of abortion is not incurred when with the woman's will, the termination of the pregnancy is performed in the following cases: (i) When the continuation of the pregnancy constitutes danger to the life or health of the woman, certified by a doctor; (ii) When there is a serious malformation of the fetus, that endangers its life and this condition is certified by a doctor (iii) When the pregnancy is the result of a conduct, duly denounced, constituting carnal abuse or an abusive sexual act, abusive or non-consensual artificial insemination or transfer of fertilized egg, or of incest.*

II. THE CLAIM

1. The plaintiffs request a declaration of the total unconstitutionality of the accused norm. In their opinion, it violates the preamble and articles 1, 2, 11, 13, 16, 18, 18, 19, 20, 26, 43, 49, 67 and 93 of the Political Constitution (hereinafter, PC). Although in the section of the complaint corresponding to the violated norms no express reference is made to international instruments, in the statement of the charges, the Universal Declaration of Human Rights (hereinafter, UDHR), Article 1 of the American Convention on Human Rights (hereinafter, ACHR) and article 9 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (hereinafter, Convention of Belem do Para).

2. In support of their claim, they first formulate the following six charges: *(i)* disregard of the right to Voluntary Interruption of Pregnancy (hereinafter, VIP[3]) in relation to the right to equality; *(ii)* violation of the right to health and sexual and reproductive rights of women in relation to the right to equality; *(iii)* disregard of the right to equality of women in an irregular migratory situation; *(iv)* violation of the right to freedom of profession and occupation of health personnel; *(v)* disregard for the right to freedom of conscience and the principle of the secular state; and *(vi)* disregard for the constitutional principles on the purposes of the sanction and the minimum constitutional standards of criminal policy.

3. Secondly, in order to justify why a substantive pronouncement is appropriate with respect to these charges, they state the reasons why they consider that there is no constitutional res judicata with respect to the Court Ruling C-355 of 2006 and, subsidiarily, why, despite the conclusion that this phenomenon is present, it can be overcome for such purpose.

4. They also specify that the Court must take into account the limits of constitutionality control as a consequence of the issuance of the Court Ruling C-355 of 2006. Thus, they argue that: *(i)* by virtue of the principle of res judicata, the decision with respect to this claim cannot have a more restrictive interpretation than the one given in the aforementioned decision; *(ii)* in accordance with the constitutional and international principles of progressive rights, the authorized grounds for VIP in such decision must be considered as a minimum, which cannot be restricted or conditioned more than it already is, and, finally, *(iii)* the principles of *pro person* and evolutive interpretation of rights require offering alternatives,

[2] Since January 1st, 2005, the sanction of this type of crime, among others, was augmented by article 14 of the Law 890. The text with the increased sanctions is the one written herein.
[3]As indicated below, in Ruling C-355 of 2006, the Court considered that the criminalization of abortion in absolute terms was contrary to the Constitution; for this reason, it established three assumptions in which the voluntary interruption of pregnancy would not be a typical conduct. In this sense, the procedure of voluntary interruption of pregnancy - VIP - is understood as the three-hypothesis introduced in the mentioned court ruling as atypical.

opportunities and spaces -always- optional considering the protection deficit that exists with regard to abortion.

5. They point out that the Constitutional Court enjoys legitimacy to eliminate the crime of abortion from the Criminal Code, to the extent that: *(i)* it is a formal competence of the Court (Articles 40 and 241 of the PC)*; (ii)* the corporation has the necessary and sufficient "legal and democratic credentials"; *(iii)* there is evidence of inaction from Congress before the exhortations that the Court itself has made on the matter, thus giving rise to the imperative need to protect fundamental rights, eliminate institutional blockages and end the *infra* application of the Constitution, and *(iv)* by when the decision is made by the Court, it generates a guarantee of democratic and public deliberation of the matter.

6. Finally, they indicate that in view of the continuous silence of the Congress during the last 14 years, it can be understood that there is an implicit conformity of the Congress and the people for the decriminalization of abortion and that, by virtue of the dialogic and cooperative constitutionalism that characterizes the constitutional jurisprudence, there will not be an invasion of competences when pronouncing, but, on the contrary, it will propitiate an incentive or institutional stimulus that will end the institutional silence on the matter.

1. Charges of the lawsuit

1.1. First charge: violation of the right to VIP on the grounds set forth in Court Ruling C-355 of 2006, in relation to the right to equality

7. The plaintiffs argue that the accused provision constitutes the main barrier to access to the VIP procedure when women are in any of the grounds referred to in the Court Ruling C-355 of 2006[4]. Furthermore, they point out that the disregard of this right implies the violation of the constitutional rights to life with dignity -articles 1 and 11-, to equality -article 13-, to the free development of personality -article 16-, to information -article 20-, to health -article 49- and to education -article 67-. They also state that the challenged provision does not have the same impact when it comes to women immersed in a situation of vulnerability, since they face additional barriers to access the practice of abortion in the three grounds referred to in the Court Ruling Ruling C-355 of 2006, among other reasons, living in rural areas, lacking economic resources, or lack of access to health services.

8. They specify that article 122 of the Criminal Code promotes a dual regime: law-crime, which favors a hostile context for the practice of VIP, which hinders and prevents compliance with the different duties that arise for both individuals and the State in relation to the guarantee of the procedure. Among others, this context leads to the imposition of obstacles and illegitimate and unjustified delays in its practice, which implies a disregard from the State of the negative and positive duties required for its guarantee. Among the former are those of refraining from imposing obstacles and illegitimate and unjustified delays in the practice of the VIP. Among the latter, the following stand out: *(i)* respect or guarantee, which implies developing all those activities necessary for women who request the procedure to have access to it in conditions of opportunity, quality and safety, including the removal of regulatory barriers, such as the criminalization of abortion and the regulation of VIP by mechanisms other than criminal law; *(ii)* timely, sufficient, truthful and adequate information on reproductive matters, for example, regarding the risks of the procedure according to the age of gestation, in order to guarantee informed consent of the woman,

[4] For such purposes, they specify that the Constitutional Court has recognized the fundamental nature of this right in the following rulings: C-754 of 2015, C-327 of 2016, SU-096 of 2018, T-585 of 2010, T-841 of 2011 and T-301 of 2016.

including those under 14 years of age; *(iii)* availability of VIP throughout the national territory, at any stage of pregnancy and at all levels of complexity - particularly insofar as undue and unconstitutional practices of conscientious objection are evidenced - and in circumstances free of obstetric violence; *(iv)* of medical confidentiality and the correlative right to privacy; *(v)* to decide freely about the VIP; *(vi)* to issue the corresponding certification by health professionals, according to the alleged cause, and *(vii)* to issue a timely medical diagnosis about the state and conditions of the pregnancy.

9. Finally, they specify that the guarantee of access to legal and safe abortion, as well as the elimination of the use of criminal law for its regulation, have sufficient support in International Human Rights Law (hereinafter, IHRL), as evidenced by the United Nations Human Rights Committee (hereinafter, OHCHR[5]), the Committee on the Elimination of Discrimination against Women (hereinafter, CEDAW[6]), the Committee on Economic, Social and Cultural Rights (hereinafter CESCR Committee) and the Committee on Rights of Persons with Disabilities (hereinafter, CRPD[7]).

1.2. Second charge: violation of the right to health and sexual and reproductive rights of women in relation to the right to equality (Articles 13, 49, 42 and 16 of the PC).

10. The plaintiffs point out that although the right to health was expressly alleged as violated in the lawsuit that gave rise to Ruling C-355 of 2006 and, in addition, was studied by the Court in that ruling, on this occasion different arguments are raised, which were not considered at that time, and which justify the declaration of unconstitutionality of Article 122 of the Criminal Code. Thus, they ask the corporation to study the right to health in its positive aspect, and not in its negative aspect; they propose that the study be carried out based on the barriers to its exercise, which, of course, did not exist in a scenario of total criminalization of abortion, such as the one that existed before 2006, and finally, they ask that the recommendations of international organizations on the total decriminalization of abortion, beyond the three grounds authorized in 2006[8], be taken into account.

11. Having overcome the justification regarding res judicata with respect to this charge, given that abortion is a component of the right to reproductive health, they state that the provision being challenged disregards the immediate state obligations of compliance or guarantee, protection and respect, which originate both in the Statutory Law 1751 of 2015[9] -article 5- and in various international instruments[10], as well as their authorized interpretations,[11] that have been recognized, among others, in the Ruling SU-096 of 2018.

[5] By its acronym in English, “International Covenant on Civil and Political Rights.”
[6] By its acronym in English, “Convention on the Elimination of All Forms of Discrimination against Women.”
[7] By its acronym in English, “Committee on the Rights of Persons with Disabilities.”
[8] In relation to all these reasons, they state: "The challenged norm violates the fundamental right to reproductive health in two major ways. On the one hand, the challenged norm, contrary to the obligations of compliance and protection, generates, maintains and deepens structural barriers to access to VIP-which is part of reproductive health- under the three authorized grounds. In this way, it affects all women who are entitled to the right to VIP, but especially some groups in vulnerable situations, violating the right to substantive equality. On the other hand, the norm violates the obligations of respect for reproductive health because it prohibits, contrary to international recommendations, a health service that women require in such a way that women who are not under the grounds, especially the most vulnerable, must resort to abortions in unsafe conditions, putting their lives and mainly their health at risk, as shown by the current figures of maternal mortality and morbidity in the country."
[9] Whereby the fundamental right to health is regulated and other provisions are issued.
[10] International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR, Article 12); Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW, Articles 11.f. and 12); Convention on the Rights of the Child (hereinafter CRC, Article 24); Convention on the Rights of Persons with Disabilities (hereinafter CRPD, Article 25) and 12); International Convention on all Forms of Racial Discrimination (hereinafter CERD, Article 5). d.iv); ACHR (Article 26); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (hereinafter Protocol of San Salvador, Article 10).
[11] As is the case with General Comment No. 14 of the DESC Committee CESCR.

12. (i) Regarding the obligation to comply, they state that the provision being challenged (a) gives rise to undue interference in women's right to health, (b) hinders access to comprehensive and impartial information, (c) prevents universal and equitable access to quality health services, and (d) generates illegal and unsafe abortions.

13. (ii) Regarding the obligation to protect, they argue that the use of criminal law to criminalize abortion gives rise to the following behaviors that disregard it: (a) false information that misleads women seeking the practice of the VIP procedure, (b) unconstitutional and opportunistic conscientious objections, (c) violations of the duty of medical confidentiality, (d) abusive and violent conduct that seeks to modify the will of women and punish those who decide to access the VIP procedure, and (e) unjustified delays by private providers of the health system for the practice of said procedure.

14. (iii) Regarding the obligation to respect, the plaintiffs claim that the criminalization of abortion and the design of policies that hinder access to sexual and reproductive health services constitute an undue interference in the exercise of this right. In addition, the prohibition of abortion outside the three grounds that allow it generates unjustified unequal treatment for women who are excluded, which has a greater impact on the most vulnerable women.

15. Finally, the plaintiffs refer to interpretations that they consider authoritative on the international treaties that make up the constitutional block and point out that there is a generalized position in the international sphere regarding the decriminalization of abortion. Thus, they point out that "several international organizations not only demand the decriminalization of abortion under minimum grounds such as those in Ruling C-355, but also recommend, based on human rights standards, greater liberalization and even repeal of laws that criminalize abortion. This has been done both in General Observations or Recommendations -which guide the interpretation of the treaties- as in the framework of recommendations made to the countries parties in their periodic compliance reports, and in their inquiry mechanisms. These pronouncements [...] constitute a relevant criterion for the interpretation of the Constitution and the bloc of constitutionality, which this Court must consider. For such purposes, they refer to some sections of the following documents: (i) 2011 special report on "the interaction between criminal laws and other legal restrictions on sexual and reproductive health and the right to health" of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health; (ii) General Comment No. 22, on the right to sexual and reproductive health of the Committee on ESCR; (iii) General Recommendation No. 35 of 2017, which updated General Recommendation No. 19 of 1992, on violence against women of the CEDAW Committee; (iv) concluding observations on the combined fourth and fifth periodic reports of Chile, 2015, of the Committee on the Rights of the Child; (v) concluding observations on the sixth periodic report of Mexico, 2019, of the Human Rights Committee and (vi) Joint Statement of the Committee on the Rights of Persons with Disabilities and the CEDAW on guaranteeing the sexual and reproductive health and rights of all women, in particular women with disabilities, 2018.

1.3. Third charge: disregard of the right to equality of women in an irregular migratory situation (Articles 13 and 93 of the Constitution, 1 of the ACHR and 9 of the Convention of Belem do Para).

16. The plaintiffs claim that the law under accusation violates the right to equality, insofar as it indirectly discriminates against migrant women in an irregular situation, since the conditions of access to the VIP procedure, especially for Venezuelan migrant women, become disproportionate.

17. On the one hand, they point out that, due to their migratory status, these women face enormous difficulties in reporting the criminal acts to which they are subjected, such as human trafficking, sexual exploitation and violence. On the other hand, these restrictions, associated with the stigmatization that this type of procedure entails, prevent them from going easily to the IPS or EPS for their performance, since a series of documents are required to prove their regular migratory status, as was recently evidenced in Ruling T-178 of 2019. This type of practice, they warn, ignores the fact that the abortion procedure is a health service that should be provided as a priority and that it is an emergency that should be attended, regardless of the immigration status of individuals.

18. For the foregoing reasons, the plaintiffs claim that the challenged provision should be subject to a strict scrutiny of equality, an examination that it would not pass, since it does not satisfy the requirements of necessity and proportionality in the strict sense of the word.

19. On the one hand, they point out that there are other ways to protect prenatal life and better guarantee the sexual and reproductive rights of women, especially migrant women in an irregular situation[12]. On the other hand, they indicate that the provision does not consider the specific obstacles faced by these women in accessing abortion, which puts their lives at risk. On the other hand, they indicate that the provision does not consider the specific obstacles faced by these women in accessing abortion, which puts their lives at risk, dignity, personal integrity and health by increasing the likelihood of unsafe abortions.

1.4. Fourth charge: violation of the right to freedom of profession and occupation of health personnel (Article 26 of the PC).

20. According to the plaintiffs, the duality of the accused norm (right-crime) does not guarantee the conditions for the free practice of health professionals when faced with the decision to perform a consensual abortion, as a consequence of the fact that it is not clear what continues to be a crime and what is not. Therefore, they point out that the challenged provision violates this freedom and has several effects on health professionals (i) physicians who perform abortion under the terms of Ruling C-355 of 2006 continue to face the risk of being criminally sanctioned if a judge considers that any of the three permitted grounds are not met; (ii) the stigmatization of abortion has the effect of self-censorship, silence, marginalization, psychological stress, emotional fatigue and work overload on the professionals who perform this procedure; (iii) the law favors ignorance and lack of training of providers of abortion services, which has negative consequences on the life and health of women and on the education of physicians, preventing the provision of this procedure based on medical autonomy and compromising the access and quality of the service. In summary, for the plaintiffs, "the interference of the legislator in the free exercise of the profession by establishing a criminal sanction is not a legitimate limit but an interference in the internal sphere of professionals who in conscience decide to offer their expertise to ensure the health of women who request an abortion".

1.5. Fifth charge: violation of the right to freedom of conscience and the principle of the secular state (Articles 18 and 19 of the Constitution, Articles 3 and 12 of the ACHR).

[12] As a basis for this statement, they cite the Artavia Murillo v. Costa Rica (2012) Court Ruling of the Inter-American Court of Human Rights. They indicate that this decision has been used as a relevant hermeneutic criterion in cases of abstract control of constitutionality (Ruling C-500 of 2014), in which it has been indicated that prenatal life as a value is realized through the protection of women with different measures, among them, respect for their autonomy to become pregnant or not and the punishment of all forms of violence against them.

21. The plaintiffs state that the accused provision forces women to act in accordance with considerations that do not necessarily coincide with their conscience and, therefore, the State persecutes those who make decisions about their own existence based on their self-determination. That is, it confronts the free determination of a woman to choose or not to choose motherhood, which is punished when, in use of that freedom, she decides to have an abortion. Finally, they point out that Colombia, as a secular state, cannot impose or defend particular norms, values or moral principles linked to a particular confession.

22. Thus, this charge is based on the double dimension of freedom of conscience: the first corresponds to freedom of religion or worship and the second has to do with the personal construction beyond religious identity, i.e., a moral.

23. For the plaintiffs, the regulation of abortion in Colombia is based on a moral position that, with religious interference, is fundamentally based on the protection of prenatal life. However, they claim that the law is not called upon to introduce a legal prohibition that penalizes the free determination of women to exercise maternity as a life option, as well as to interrupt a pregnancy when it is contrary to their own conscience and their intimate moral mandates, "since procreation, as well as gestation and reproduction, cannot be considered merely biological acts but the result of the will". In sum, they conclude:

> "The Colombian State in religious matters adopts the formula of the secular state, so the defense of secularism and the secular state are indispensable if we want as a society to advance in the recognition and full enjoyment of rights, especially of historically vulnerable groups such as women, where the decisions of the majorities do not imply the violation of the rights of minorities, having as enlightening principles diversity, multiculturalism and pluri-ethnicity. These principles are the pillars of the Social and Democratic Rule of Law, which are put at risk when a particular creed or creeds seek to impose their conception of the world and of life on society. But the risk is even greater when religious denominations rely on existing regulatory tools such as Article 122 of Law 599 of 2000 to institutionalize dogmas constituting impositions that clearly threaten the formula of the secular state, which is precisely what guarantees the exercise of religious freedom and freedom of conscience".

1.6. Sixth charge: violation of the constitutional principles on the purposes of punishment and the minimum constitutional standards of criminal policy (preamble and Articles 1 and 2 of the PC).

24. The lawsuit argues that any criminalization by the State involves interfering in the freedom of individuals and, to that extent, clashes with the realization of the purposes of the State and the materialization of a just order. Therefore, the power of the Legislature to define behaviors as crimes is not absolute and finds limits -explicit and implicit- in the set of values, principles and rights constitutionally recognized. These limits, in the opinion of the plaintiffs, have been recognized by constitutional jurisprudence[13].

25. Thus, in the first place, they state that the criminal offense that is being challenged ignores the retributive and preventive purposes of the punishment [14], to the point that instead of preventing abortions,

[13] In this regard, the plaintiffs cite the following Court Rulings: C-108 of 2017, C-387 of 2014, C-1033 of 2006, C-475 of 2005, C-420 of 2002 and C-565 of 1993.
[14] For such purposes, they refer to Court Rulings C-318 and C-328 of 2016. Likewise, they state that in Rulings C-107 of 2018 and C-939 of 2002, the Court declared the unenforceability of provisions that were not suitable to achieve the goal set by the Legislator, consisting of reducing impunity for certain crimes, nor did it succeed in discouraging the commission of the prohibited conduct.

it promotes them, but in clandestine and unsafe circumstances for women. Based on comparative experience[15], they indicate that the criminalization of abortion is a variable that leads to a higher number of abortions per capita [16], in addition to the fact that the abortion rate has remained unchanged in Colombia since 2006, when it was decriminalized on three grounds[17].

26. Therefore, if the typification of a conduct as a crime does not persuade and does not reduce the amount of injuries to protected legal interest, it loses legitimacy and, therefore, contradicts the Political Constitution (preventive purpose). The same happens if the retribution is not fair or coherent with the entity of the injury, the conscience of the individual in its realization and the damages caused (retributive purpose).

27. Secondly, they indicate that the censured provision also contravenes the ultima ratio or last resort character of criminal law, by omitting to consider other means of public action that are more suitable to protect life during pregnancy, without the need to nullify the rights of women[18]. To this end, they indicate that other measures equally suitable to achieve the aforementioned end correspond to those that adopt "a public health perspective, with educational campaigns on sexual and reproductive rights and access to quality medical services "[19]. They also state that criminalization, as a means of social control in this area, (i) is contrary to the empirical data on VIP, such as mortality rates, the differential impact on vulnerable women[20] , sociodemographic profiles and cases of abortion; (ii) is a policy that is particularly harmful to fundamental rights; and (iii) entails high economic costs for the health system, as a result of post-abortion complications that are often the result of clandestine and unsafe VIP procedures[21].

2. The reasons given by the plaintiffs to justify why there is no constitutional *res judicata* that would inhibit a decision on the merits by the Constitutional Court.

28. The plaintiffs assume the qualified burden of arguing why there is no constitutional *res judicata*with respect to the challenged provision, despite the existence of Ruling C-355 of 2006, which declared its

[15] The plaintiffs cite the following data: "between 2010 and 2014, around 56 million induced abortions were performed worldwide. Of this figure, countries that authorize it to be performed 'at the request' of the woman had an average lower number of abortions compared to those where the law permits its practice to 'save the woman's life' or to ensure her 'physical health'. Thus, in the former, an average of 34 induced abortions per 1,000 women aged 15 to 44 years was recorded. In the latter, the average rises to 39 and 43 induced abortions per thousand women, respectively (Guttmarcher-Lancet Commission on Sexual and Reproductive Health and Rights, Accelerating Progress: sexual and reproductive health and rights for all, 2018, pp. 44-45)."
[16] (i) The Netherlands, where abortion can be practiced from conception until the viability of the fetus, approximately at 24 weeks gestational age, has the lowest abortion rate in the European Union (Zuñiga, Y. Una propuesta de análisis y regulación del aborto en Chile desde el pensamiento feminista. Revista Ius et Praxis, v. 19, No. 1, p. 255-300); (ii) England, which has a broad model of indications in terms of grounds, gestational age and access, and, therefore, which leaves the crime of abortion without effect in practice, has reduced the number of abortions and (iii) Canada, where abortion has been eliminated from the Criminal Code and there are several studies that show first an increase, then a stabilization and finally a reduction (see Annex 3 of the lawsuit).
17 According to data provided in the lawsuit, "the number of cases of abortion with consent recorded by the Prosecutor's Office since 2006 is stable and there is no significant reduction that should have occurred in light of the decriminalization introduced by the Court in Ruling C-355 of 2006. The performance of the Prosecutor General's Office does not show reductions in indictments either; although there is a drop in indictments between 2012 and 2015, the number is quite regular in the fifteen years that have passed. It was also found that from 2005 and 2006 there was an increase in charges (Isabel Cristina Jaramillo et al. La criminalización del aborto en Colombia, to be published soon)."
18 In relation to the parameters that should guide criminal policy, the lawsuit cites the considerations of Ruling C-762 of 2015.
19 Criminal Policy Advisory Commission. Final Report. Diagnosis and proposal of criminal policy guidelines for the Colombian State, June 2012.
[20] The plaintiffs bring up the figures of the Attorney General's Office in the report on the prosecution of abortion in Colombia, provided as a technical concept to the Constitutional Court in the process with file number D0013255. Thus: "in 800 criminal reports for the crime of abortion, a high percentage of the women indicted did not register economic income or carried out unprofitable activities. Thus, 43.3% of the cases (275 women) reported being engaged in activities related to the home or domestic services, 2.75% (22 defendants) reported being unemployed and 13.6% (109 defendants) were high school students. Likewise, the information system of the investigating agency found that 29.11% of the women indicted for abortion (910 women) have been linked as victims of the crime in its databases, and that 42% of these women had a history of previous victimization for crimes of domestic violence (12%), personal injury (10%), sexual crimes (8%), among others. According to data from the Attorney General's Office, in the period 2010-2017, 97% of the women reported for abortion are inhabitants of rural areas."
[21] The lawsuit cites the following figures: "for the year 2014 the average cost in Colombia of care for abortion complications meant a direct cost to the health system of about $14 million dollars per year (US dollars), which could be reduced by providing services in a timely manner in first level institutions and through the use of safe, non-invasive and less costly abortion methods. (Elena Prada et al, 'El costo de la atención posaborto y del aborto legal en Colombia', Perspectivas internacionales en sexual y reproductiva, 2014, pp. 2-12)."

conditional enforceability. According to them, (i) there is no identity in the object of the current lawsuit with that of the aforementioned decision, "due to a substantial variation of the legal regime to which it belongs[22]", and (ii) there is no identity in the charges that are formulated in this opportunity and those proposed and decided fifteen years ago. proposed and decided fifteen years ago. Therefore, they conclude that the phenomenon of formal, relative and implicit judged matter[23] , which does not inhibit the Court's competence to pronounce on the merits of the present lawsuit.

29. Regarding the first aspect, they take as a reference the considerations of Ruling C-075 of 2007, in which the Court considered that the considerations of Decision C-075 of 2007, in which the Court considered that the phenomenon of *res judicata* was not present in the patrimonial regime of same-sex couples. Based on this precedent, they indicate that as a consequence of a series of changes in the normative set of rules on the matter, there has been a substantial variation in the legal regime in which the challenged provision is included, "that is, the regime that regulates the interruption of pregnancy, both that which is a fundamental right and that which is a crime"[24]. For such purposes, they refer, at least, to the issuance of at least three ordinary laws related to the subject matter of the current lawsuit[25], one statutory law[26], multiple regulations[27], and public policy documents[28] , and more than twenty rulings of the Constitutional Court[29]. Based on this set of norms and jurisprudence, they conclude that in the Colombian context there is a change of paradigm's model, which goes beyond the partial decriminalization of voluntary abortion, under the casual abortion model provided for in Decision C-355 of 2006, to a model of partial legalization of VIP[30]. This substantial change in the legal regime of voluntary abortion did not exist at the time when Decision C-355 of 2006 was issued. This substantial variation in the legal regime of voluntary abortion did not exist at the time of the issuance of Decision C-355 of 2006, which is why it is not possible to infer that there is identity between the object of the current lawsuit and that of the aforementioned decision.

30. In relation to the second aspect, they state that there is no identity between the charges that led the issuance of Court Ruling C-355 of 2006 and those formulated in in this lawsuit, so that there is only

22 Fl. 6 of the complaint. Based on the provisions of Court Ruling C-007 of 2016, they indicate that the "Court has also stated, when explaining the identity of object, that 'the variation of some of the normative elements, or the modification of its scope as a result of the adoption of new consequence of the adoption of new provisions, are circumstances that may have an impact on the controlled object'.", as happened with the case resolved in Decision C-075 of 2007 (fls. 8-9 of the complaint).
23 Based on Ruling C-259 of 2019, they point out that this phenomenon occurs "[...] 'when there is a previous decision of this Court, which has analyzed the constitutionality of the same provision that is again submitted to study', understanding provision as normative statements, that is, legal texts, in this case Article 122 of the Criminal Code in force" (Fl. 8 of the of the lawsuit).
24 Fl. 7 of the complaint. According to them, "since 2006 there has been a whole network of regulatory measures, public policy and judicial decisions -from this and other national courts-, which made that the article is not the same challenged in 2006 because its regime is substantial different in 2020.
25 Cfr., Annex 2 of the complaint: (i) Law 1257 of 2008 (article 7), "which establishes rules for awareness, prevention and punishment of forms of violence and discrimination against women, amends the Criminal Code, the Criminal Procedure Code, Law 294 of 1996, and other provisions are enacted"; (ii) Law 1448 of 2011 (article 54), "whereby measures are enacted for the attention, assistance and comprehensive reparation to the victims of the internal armed conflict and other provisions are enacted; and (iii) Law 1719 of 2014 (article 23), "whereby it is modify some articles of Laws 599 of 2000, 906 of 2004 and adopt measures to guarantee access to justice for victims of sexual violence in the context of the armed conflict, and enact other provisions.
26 Cfr., Annex 2 of the lawsuit: Law 1751 of 2015 (articles 6 and 11), "Ley Estatutaria de salud."
27 Cfr., Annex 2 of the complaint: (i) Ministry of Health and Social Protection: Resolutions 3280 of 2018, 276 of 2019, 0459 of 2012, 652 of 2016, 1904 of 2017 and Circular 016 of 2017; (ii) National Superintendence of Health, Circular 003 of 2013; (iii) Attorney General's Office, Directive 006 of 2016; (iv) National Institute of Family Welfare, Resolution No. 1526 of February 23, 2016 and (v) District Secretariat of Health of Bogota, Circular 043 of 2012.
28 Cfr., Annex 2 of the complaint: (i) National Council on Social Security in Health, Agreement 350 of 2006; (ii) Conpes Document 147 of 2012; (iii) Conpes Document 161 of 2013; (iv) Social Conpes Document 3783 of 2013; (v) National Plan of Public Health for 2012; (vi) Ten-year Public Health Plan for the four-year period 2007-2010; (vii) National Policy on Sexuality, Sexual Rights and Reproductive Rights.
29 Cfr., Annex 2 of the lawsuit: Constitutional Court, Court Rulings T-171 of 2007, T-636 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-009 of 2009, T-388 of 2009, T-585 of 2010, T-841 of 2011, T-959 of 2011, T-636 of 2011, T-627 of 2012, T-532 of 2014, C-754 of 2015, T-301 of 2016, C-327 of 2016, T-697 of 2016, T-731 of 2016, C-341 of 2017 and C-088 of 2020.
30 As they indicate, the distinction between "decriminalization" and "legalization" is of utmost importance. As they specify, "It could happen that only the decriminalization of abortion would occur, but the State would not have the obligation to ensure access to the procedure. In the case of voluntary interruption of pregnancy, legalization implies the inclusion of services in the health system as well as other decisions that involve the justice and protection sectors. This partial legalization is what we have in Colombia, thanks to legislative, public policy, regulatory and jurisprudential developments after 2006." (p. 10 of the lawsuit)

evidence of a formal[31], relative and implicit [32]judged matter, which does not preclude a substantive ruling by the Constitutional Court. They indicate that while on that occasion a lawsuit was resolved that dealt with the limits to the Legislator's margin of configuration to punish the crime of voluntary abortion, this time it is one that accuses the law of directly violating the right to abortion, to sexual and reproductive health, to freedom of profession to the principle of the secular state, to freedom of conscience, to the equality of women in an irregular migratory situation, and to the constitutional principles on the purposes of punishment and standards for the protection of human rights. In summary, they conclude that this is a new lawsuit challenging the constitutionality of Article 122 of the Criminal Code for violating constitutional norms different from those that were used as a parameter of control in the process that gave rise to Court Ruling C-355 of 2006 and in which, therefore, were studied the substantive juridical problems different to the ones that were derived from the present accusation[33].

3. The subsidiary reasons proposed by the plaintiffs to justify why, in the event that constitutional *res judicata* is deemed to exist, it is appropriate to weaken it and, therefore, to rule on the merits.

31. Subsidiarily to the foregoing argument, the plaintiffs point out that, if the Court were to consider that the phenomenon of the *res judicata* is present with respect to some or all of the charges proposed against article 122 of the Criminal Code, there are two reasons, decanted by the constitutional jurisprudence[34], which make it possible to enervate or weaken the *res judicata* in the present case and, therefore, justify a decision on the merits. According to them, "there is a variation in the normative context of the subject matter of the control and a variation of the material meaning of the Constitution "[35].

32. In relation to the first phenomenon - variation of the normative context - they specify that the normative context of the object of control has changed as a result of the multiplicity of norms, public policies and sentences (rulings) that have appeared with respect to abortion, subsequent to Ruling C-355 of 2006, to which the following have been added was referred to extensively in the previous title above. Therefore, as they indicate, "the regime in which the crime of abortion is inscribed has been modified, since in these 14 years we have gone from a partial decriminalization under a model of grounds carried out by Court Ruling C-355 of 2006, to a model of partial legalization of the VIP, even considering that there exists in Colombia a fundamental right to the right to VIP in the decriminalized cases" Thus, the challenged criminal

[31] Based on what was stated in Court Rulings C-1145 of 2000, C-443 of 2009, C-539 of 2010, C-327 of 2016, and C-659 of 2016, they specify that even though the Constitutional Court may have evaluated the constitutionality of a provision in the past, if new charges are presented, "an analysis of the substance of the matter is appropriate" (p. 12 of the lawsuit). They particularly refer to what was stated in Court Rulings C-656 of 2006, C-443 of 2009, and C-300 of 2016, where it was demonstrated that even though a certain provision had been declared constitutional conditionally, a new substantive ruling was appropriate whenever it concerned new charges, since the formal res judicata phenomenon does not inhibit a new substantive ruling by the Constitutional Court (p. 12 of the lawsuit).

[32] For the plaintiffs, Court Ruling C-355 of 2006 is a paradigmatic case of the phenomenon of relative implied judged matter, since the Court "did not limit its resolution regarding Article 122 of the Criminal Code to the charges analyzed, but did so implicitly in its reasoning, which constitutes a res judicata that is only relative and enables the presentation of new charges that do not share identity with those studied in 2006" (pg. 14 of the complaint). According to them, such delimitation was made in the section "the subject matter under study" of the aforementioned ruling, in which it was stated: "In general, the reasons formulated by the plaintiffs revolve around the fact that the normative statements of the Criminal Code that typify the crime of abortion (Art. 122), abortion without consent (Art. 123), and the circumstances of the mitigating factors of the crime of abortion (Art. 124) are inexequible because they unreasonably and disproportionately limit the rights and freedoms of pregnant women, even when it comes to minors under the age of fourteen. They also claim that the challenged normative statements are contrary to various international human rights treaties that are part of the constitutional block, in accordance with Article 93 of the Constitution, and to opinions issued by the bodies responsible for interpreting and applying such international instruments."

[33] In summary, as the plaintiffs specify, "On this occasion, as in other cases of implicit relative res judicata, the Court did not examine Article 122 of the Criminal Code in light of the entire Constitution and the norms that integrate constitutional parameters, nor did it refer to other aspects of constitutionality that are relevant to define whether the Political Charter is being violated, such as the new charges that we raise here and whose novelty will be demonstrated shortly. In other words, C-355 of 2006 only reviewed one aspect - albeit complex - of constitutionality, namely, that of the constitutional limits of the legislature to penalize abortion constituted by certain women's rights and principles of criminal law (negative obligation of respect), but it did not study the challenged norm regarding the positive obligations of guarantee and protection of these and other rights of women and healthcare personnel as requested in this lawsuit." (pg. 15 of the lawsuit)

[34] In particular, they refer to Court Rulings C-007 of 2016, C-659 of 2016 and C-064 of 2018.

[35] Pg. 7 of the lawsuit.

law now coexists with a framework of regulatory measures, public policy and judicial decisions, under which the Court has not had the opportunity to analyze its constitutionality and it is our citizen petition that it should do so now"[36].

33. In relation to the second phenomenon - modification of the material meaning of the Constitution[37] -, they indicate that the Court would have to recognize the changes in the material meaning of the Constitution about the (i) the evolution of the constitutional jurisprudence[38] and international[39] and of the progressive authoritative interpretation of the international treaties that make up the block of constitutional law, (ii) the evolution of the constitutional jurisprudence and international jurisprudence and of the progressive authoritative interpretation of the international treaties that make up the block of constitutional law constitutionality in relation to the VIP, the right to health, the recommendations for the decriminalization of abortion beyond the 3 grounds provided for in the Colombian legal system and the protection of prenatal life in the framework of the ACHR[40] (ii) The statistics that demonstrate the inadequacy of the provision being challenged, which have to do with its ineffectiveness in protecting life as a legal right, and, on the contrary, the intense effects it has on the rights of women in vulnerable situations, the levels of maternal mortality and morbidity it encourages, the negative impact on health personnel, and which explain the international trend towards liberalization and reduction of the use of criminal law in the area of voluntary abortion. (iii) the obstacle that represents the inexistence of legislative development – despite of the direct exhortation done by the Court[41] for the either constitutional or legal reform that adapts to the social claims on consensual abortion. (iv) the effects that it would have the elimination of this crime as main barriers to VIP´s procedure, in terms of the frequent use of the writ of protection.

III. PROCEDURAL STEPS

34. This section will provide an account of the different matters decided, both by the substantive judge and by the Full Chamber of the Court, during the process of the proceeding and before adopting a decision on the merits on February 21, 2022.

1. Accumulation of records

35. On October 1st, 2020, a request was received to consolidate cases D-13.856, D-13.911, D-13.929, and D-13.956, all related to Article 122 of Law 599 of 2000. [42]Subsequently, on October 6th of the same

[36] Pg. 35 of the lawsuit.
[37] As they specify, this phenomenon has been particularly evident in cases that have to do "—like the present case—with the rights of women and the relationships between same-sex partners, as in recent years there have been profound social and legal transformations that warranted—as is the case now—new studies by this Court" (pg. 21 of the lawsuit). To illustrate this assertion, they refer to Court Rulings C-007 of 2006, C-029 of 2009, C-283 of 2011 and C-659 of 2016.
[38] They refer, in particular, to the Court Ruling of October 13, 2016, of the First Section of the Council of State (case: 11001-03-24-000-2013-00257-00, Judge Guillermo Vargas Ayala), to the following constitutional Court Rulings of the Court: C-754 of 2015 and C-327 of 2016, and, among others, to the following review decisions: T-585 of 2010, T-841 of 2011, T-627 of 2012, T-301 of 2016, T-697 of 2016 and SU-096 of 2018.
[39] For these purposes, they refer, in particular, to the following decisions of the Inter-American Court of Human Rights: (i) Court Ruling of June 17, 2005, Yakye Axa Indigenous Community v. Paraguay; (ii) Court Ruling of September 1, 2015, Gonzales Lluy and Others v. Ecuador; (iii) Court Ruling of November 22, 2007, Albán Cornejo and Others v. Ecuador; (iv) Court Ruling of August 31, 2017, Lagos del Campo v. Peru; (v) Court Ruling of March 8, 2018, Poblete Vilches and Others v. Chile, (vi) Court Ruling of August 23, 2018, Cuscul Piraval v. Guatemala and, with qualified relevance, (vii) Court Ruling of November 28, 2012, Artavia Murillo and Others ("In Vitro Fertilization") v. Costa Rica.
[40] Specifically, they refer to the authorized interpreters that this Court specifically took into account in 2006, who have evolved in their considerations regarding the criminalization of abortion, and other committees have issued relevant recommendations or decisions after 2006, indicating that a broader decriminalization is the one that respects human rights. This demand will allow the Court to analyze the challenged norm in light of these developments or new pronouncements that did not exist in 2006, and that are relevant criteria for the interpretation of the Constitution (page 27 of the demand).
[41] They refer, in particular, to those made in sentences T-532 of 2014 and SU-096 of 2018 (page 34 of the plaintiff).
[42] Letter sent by citizen Ángela María Anduquia Sarmiento.

year, some of the plaintiffs filed a writ in which they requested the non-consolidation of the aforementioned cases[43].

36. Through Ruling 403 of October 28th, 2020, the Full Chamber rejected the request for consolidation of the aforementioned cases[44], considering it unfounded.

2. Requests for public hearing

37. The constitutional trial was designed so that through a public, participatory, and deliberative process, citizens can control the power to shape the legal system that the Constitution attributes to Congress and, exceptionally, to the President of the Republic. In light of these characteristics, Decree Law 2067 of 1991 regulates the possibility that the Full Chamber may convene public hearings in which, among other things, relevant facts of the cases under review may be clarified and presented, different positions related to the constitutional debate may be heard, and questions about the points under controversy may be resolved. In effect, Article 12 of the Decree Law provides that any justice may propose, prior to defining an issue within the Court's jurisdiction, that a hearing be convened to deepen the arguments presented or clarify relevant facts in order to make a decision, and that the Court "by majority of those present, will decide whether to convene the hearing, set the date and time for it to take place, and grant the parties a brief but reasonable period to prepare their arguments. The hearings will be public.

38. Although citizens may request the holding of such hearings, the truth is that it is not a judicially enforceable right, nor is it a mandatory procedural stage whose non-fulfillment can generate the nullity of the process; it is a power of the Full Chamber for the aforementioned purposes. Therefore, only if the Court, through its Full Chamber, decides to convene them, is it appropriate for such a decision to be adopted by judicial order.

39. During the process, several writings were submitted to the Constitutional Court in which it was requested, based on the competences assigned to it by Decree Law 2067 of 1991, to hold a public hearing with the purpose of presenting arguments both in defense and in challenge of the norm under review (see Annex 1 of this order). Likewise, other citizens requested greater participation in the process (see Annex 2 of this order). When these citizen requests were considered by the Full Chamber, in a session held on May 26th, 2021, the Full Chamber denied the request to hold the hearing.

3. Request for evidence

40. The plaintiffs[45], as well as Gloria Yolanda Martínez Rivera, Elsa Eugenia Hurtado Hurtado, Francisco Javier Higuera, Ángela Vélez Escallón, and Claire Culwell, requested the decree and practice of evidence.

41. By order of October 11, 2021, the presiding justice resolved to: (i) reject the request signed by Ms. Claire Culwell, who did not prove her status as a Colombian citizen, in the terms of article 7 of Decree Law 2067 of 1991; (ii) deny, for lack of necessity, the other evidence requested by both the plaintiffs and the other requesters who demonstrated their status as Colombian citizens and intervened timely in the process; and (iii) admit as an integral part of the citizen interventions of Gloria Yolanda Martínez Rivera

[43] Letter sent by Aura Carolina Cuasapud Arteaga, Angélica María Cocomá Ricaurte, Mariana Ardila Trujillo, Valeria Pedraza, and Cristina Rosero Arteaga.
[44] The Court considered that the only procedural opportunity to request the accumulation of cases was before the distribution of the files, which had already been exhausted in the referred processes.
[45] They requested to incorporate into this proceeding the technical concepts rendered or citizen interventions submitted within the framework of the process D-13.255, by Yesid Reyes, María Camila Correa Flórez, Ricardo Posada Maya, Ana Cristina González Vélez, the Center for Reproductive Rights, Megan Duffy and Diana López, the Attorney General's Office, and the District Secretary of Women of Bogotá.

and Ángela Vélez Escallón, the testimonies reproduced in the writings sent to this process[46].

4. Nullities

42. During the process, multiple requests for partial nullity were presented and decided upon, and the Full Chamber decreed two (2) nullities ex officio.

43. (i) On October 26, 2020, citizen Ángela María Anduquia Sarmiento requested that the Court "process an incident of Nullity against the admittance order of the lawsuit and from there on all subsequent proceedings for the vices that affect it"[47]. By Order 423 of November 12, 2020, the Full Chamber rejected the request as manifestly inappropriate[48].

44. After the registration of the ruling that resolved the aforementioned request for annulment and its approval in the Full Chamber, some citizens, on November 10th, 11th, 12th, 26th, and 27th of 2020, submitted writings in which they expressed their support for the request for annulment of citizen Anduquia Sarmiento. By Order 479 of December 3rd, 2020, the Full Chamber rejected the writings supporting the annulment as manifestly improper, for the reasons stated in the aforementioned Ruling 423 of November 12th[49].

45. (ii) On November 18th, 2020, citizen Natalia Bernal Cano requested the annulment of the D-13.956 process due to the alleged violation of her rights to due process, access to justice, equality, impartiality, and judicial protection and guarantees[50]. By means of Ruling 480A of December 7th, 2020, the Full Chamber rejected the request for annulment as manifestly improper[51].

46. On February 19th, 2021, citizen Bernal Cano stated that she withdraws the request for annulment and the requests for disqualification, which she alleges were not notified, all submitted in the D-13.255 process. Similarly, on February 22nd of that year, she submitted two other motions[52] to this corporation.

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[46] Since the writings of Gloria Yolanda Martínez Rivera and Ángela Vélez Escallón were submitted within the deadline for listing, and some of the requested testimonies were transcribed therein, they were taken into account as an integral part of their timely citizen interventions.

[47] In the request for annulment, it was argued that by admitting the lawsuit in case D-13.956 without having resolved the request for accumulation presented to the magistrates Alberto Rojas Ríos and Richard S. Ramírez Grisales (e) on October 1 of that year, their rights to due process and procedural intervention would have been violated. The petitioner also referred to an alleged lack of impartiality of the presiding magistrate, Antonio José Lizarazo Ocampo; to the disregard of res judicata; to the failure to comply with the argumentative burden of the admitted lawsuit; and to the lack of standing of the Women's Link organization in the cause. Within the term for response, interventions from some of the plaintiffs were received.

[48] The Court determined that: (i) the request for annulment was directed against a procedural order and, according to constitutional jurisprudence, procedural orders are not generally subject to annulment; and (ii) the consolidation of claims is a matter for decision by the Full Chamber of the corporation before the respective distribution.

[49] The Full Chamber highlighted that the supporting documents submitted by citizen Anduquia Sarmiento in connection with the request for annulment reaffirmed the arguments and claims made in the initial submission.

[50] The applicant challenged that the order admitting the lawsuit on October 19, 2020 was null and void because it was issued: (i) without having previously resolved the request for annulment and disqualification filed by her in case D-13.255; (ii) after the Court, with the same presiding magistrate, Antonio José Lizarazo Ocampo, issued an inhibitory Court Ruling on the same subject (Court Ruling C-088 of 2020) without having considered all the evidence provided by her; (iii) with a lack of impartiality and independence and abuse of authority; (iv) without the lawsuit meeting the sufficiency requirement provided for in constitutional jurisprudence; and finally (v) in the context of alleged criminal conduct attributed, without any proof, to magistrate Antonio José Lizarazo Ocampo. On November 23rd, 2020, citizen Bernal Cano reiterated the request for annulment and requested that three of her own writings be attached, in which, in addition to reiterating the arguments raised in her November 18, 2020 submission, she explained the reasons why she justified her intervention as a petitioner for the annulment of case D-13.956. Within the term for reply, interventions were received from the plaintiffs in the case, the Incidence and Social Action Group of the University of Los Andes, the Universidad Libre de Colombia, the presidency of the Republic, Martha Liliana Cuéllar Aldana, and the Ethics and Bioethics Foundation.

[51] The rejection of the request for nullity was based on the following grounds: (i) the applicant did not meet the requirement of procedural legitimacy, as she did not have the status of an intervenor in the reference process; (ii) her claims and arguments lacked foundation; and (iii) the request was unfounded, given that the admission ruling was a procedural order.

[52] In her first submission, she indicated that there was a failure in the service of justice administration, among other things, because, in her opinion, the documents she brought to the attention of the corporation "were rejected, altered, denigrated, discredited and all considered unfounded". Likewise, she stated that she had filed complaints against the judges of this Court for alleged "judicial abuses against children and against me, caused by the improper handling of my 45 original manuscripts and more than 400 pages of scientific annexes that I trusted in good faith to your institution, expecting an honest and transparent administration of justice". In the second submission, she made several considerations regarding the file with registration No. D-13.255 and the reference file. Regarding the present process, she stated: (i) that she confirms all the complaints and documents presented against the judges of the corporation; (ii) that she publicly apologized for some terms used against the members of the Full Chamber of this Court and that, as a consequence, she modified some of the writings sent to the Constitutional Court; (iii) that she has denounced the judges

47. By means of Ruling 088 of February 25th, 2021, the Full Chamber annulled ex officio Ruling 480A of December 7th, 2020, in order to guarantee due process extensively[53]. Consequently, by means of Ruling 178 of April 22nd, 2021, it proceeded to decide again on the incident of annulment and rejected it as manifestly improper[54], as well as the withdrawal submitted by the same citizen.[55]

48. (iii) On November 27th, 2020, Villavicencio's Archbishop Óscar Urbina Ortega, President of the Colombian Episcopal Conference, requested the annulment of the process starting from the Ruling of November 12th, 2020[56]. By means of Ruling 117 of March 11th, 2021, the Full Chambered Court rejected the request for annulment [57]as manifestly improper.

49. (iv) On January 26th, 2021, citizen Harold Eduardo Sua Montaña requested partial annulment of the proceedings with record numbers D-13.856 and D-13.956[58]. By means of Auto 176 of April 22nd, 2021, the Plenary Chamber rejected such request for annulment [59]as manifestly improper.

50. (v) On April 5th, 2021, citizen Harold Eduardo Sua Montaña submitted a document called "Manifesto on the Plenary Chamber Auto 039 of 2021"[60].

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of this High Court for the crimes of falsification of public documents and perversion of justice; and (iv) that she is a victim of the crimes of slander and libel.

[53] It was found that while the nullity presented by citizen Bernal Cano was being resolved, the General Secretariat of the corporation, without knowing that the debate on the matter was taking place, sent to all offices a request for recusal dated December 6th, 2020, presented by the same citizen, which aimed to remove Judges Alejandro Linares Cantillo, Antonio José Lizarazo Ocampo, and Gloria Stella Ortiz Delgado from the incidental procedure. Additionally, it took into account that the terms of the process were suspended at the time the recusal was filed, which was decided by Ruling 040 on February 4th, 2021.

[54] The Full Chamber, in Ruling 178 of April 22nd, 2021, rejected the nullity petition as manifestly unfounded, arguing that it was not possible to transfer the alleged irregularities that may have taken place in a different process to the reference process; furthermore, that the petitioner lacked legitimacy to promote the incident and that the censored ruling was a procedural ruling, regarding which neither nullity nor any other remedy was admissible.

[55] The Court argued that withdrawal was not admissible in the constitutional process because there were no available interests, since private interests were not being judged. On the contrary, it stated that the purpose of this process is to defend the public interest, and the decisions taken therein have effects binding on all.

[56] In the Ruling dated November 12, 2020, the rapporteur magistrate, Antonio José Lizarazo, extended the deadline for the submission of opinions on all the invitees listed in the Ruling of October 19th, 2020, until November 27th of that year. According to the petitioner, the extension of the term to provide opinions disregarded: (i) Articles 242 and 244 of the Constitution, which establish, according to Sentence C-323 of 2006, constitutional time limits for resolving constitutional matters; (ii) Sections 7, 8, 9, and 10 of Law Decree 2067 of 1991, which set the deadlines for the different stages of the constitutional process; and (iii) Section 13 of the same decree, which regulates the possibility of inviting public entities, private organizations, and experts in matters related to the subject of the process to present their opinion and establishes the non-interruption of judicial terms due to the period granted to the addressees of the invitation. The petitioner also stated that this contradicted the decision expressed in Sentence C-513 of 1992, according to which Article 13 of Law Decree 2591 of 1991 reiterated the peremptory nature of the deadlines conferred on the Court. Finally, the petitioner warned that the invited experts who submitted their opinions during the extended period would have an undue advantage, as they could have access to expert opinions and citizen interventions presented within the initial and listing period, and even refute those that are contrary to their own opinions. During the deadline for responses, interventions were received from Harold Sua Montaña, some of the plaintiffs in the reference process, the Ministry of Justice and Law (Directorate of Legal Development and Planning), and Gloria Yolanda Martínez Rivera.

[57] The request for nullity was rejected because it was filed against a procedural order.

[58] In the opinion of the petitioner, Ruling 403 of October 28th, 2020, issued in process D-13.856, which was assigned to Justice Alberto Rojas Ríos, was only notified on January 25th, 2021, and therefore, his right to due process was violated in accordance with the provisions of Article 133 of the General Code of Procedure. It was noted that on January 20th, 2021, a request was submitted to this court to incorporate "the request for annulment filed in file D-13956 on October 26th, 2020, into file D-13856, as omitting to resolve said accumulation or not informing about the decision on it, causes a breach of the principle of publicity of judicial proceedings for file D-13856." It was argued that the lack of disclosure of Auto 403 of 2020 generated a partial nullity of processes D-13856 and D-13956, whose consequences are: "(i) the nullity of the admitting order of file D-13956; (ii) the nullity of the draft ruling of file D-13856, if it has already been presented, and (iii) issue a new pronouncement on the accumulation of both processes, resolving the exception of unconstitutionality raised on January 20th, 2021." In the latter document, it was stated: "Since there are common interventions in both files, even though both claims initially require different approaches, and a recusal against the judge in charge of the D-13956 file, still to be decided, it is much more plausible to accumulate the files, at the moment of my pronouncement on it, in light of Article 5 of Decree 2067 of 1991, as well as Articles 148 to 150 of the General Code of Procedure, being a limitation of the principles of procedural economy, efficiency and absence of excessive formalisms inherent in due process in constitutional matters, and the scope of said legal norms when applying a norm of lower hierarchy such as Article 49 of the Internal Regulations of the Court, thus proceeding with the respective exception of unconstitutionality contemplated in Court Ruling C-122 of 2011, and which I request be carried out." During the term of transfer, interventions were received from some of the claimants in the process in question, the Ministry of Justice and Law (Director of Development and Legal Ordinance), Gloria Yolanda Martínez Rivera, and Carlos Felipe Castrillón. Out-of-time writings were received from Esperanza Andrade (Senator of the Republic) and María Cristina Rosado Sarabia (Coordinator of the Legal Commission for Gender Equality of the Congress of the Republic), Vilma Graciela Martínez Rivera, and Yolanda Martínez Rivera.

[59]The Full Chamber noted that the criticized ruling, i.e., the order admitting the lawsuit, was a procedural order, for which neither its nullity nor any appeal was admissible. Regarding the request for nullity of Order 403 of October 28, 2020, issued in case D-13.856, the Court noted that it could not be processed in this nullity incident because it was directed against a ruling issued in a different case. Therefore, the determinations made in that order would lack the relevance to invalidate the proceedings carried out in the present case.

[60] In the opinion of the applicant, citizen Sua Montaña, the Order 039 of February 4, 2021, through which the challenge presented by Vilma Graciela Martínez Rivera and others was rejected for lack of relevance, could not have been issued by the Plenary Chamber of the Corporation, but by the magistrate Paola Andrea Meneses Mosquera (who was not challenged), along with eight

51. (vi) On April 9th, 2021, the aforementioned citizen submitted a document entitled "Manifesto against the auto issued by Magistrate Antonio José Lizarazo on April 8, 2021, in the framework of the process of record D-13956 and is now included in the record without being listed".[61]

52. (vii) On April 23rd, 2021, citizen Sua Montaña submitted another document he called "Manifesto against the auto issued by Magistrate Antonio José Lizarazo on April 21, 2021, in the framework of the process of record D-13856"[62].

53. By means of Order 217 of May 5th, 2021, the Full Chamber rejected the referred requests for annulment as manifestly unfounded[63].

54. Subsequently, through Order 325 of June 23rd, 2021, the Full Chamber annulled ex officio everything acted upon in the reference process between March 11th and May 26th, 2021, which included the referred orders of March 11, 176 and 178 of April 22nd, and 217 of May 5th, 2021[64].

55. Since Order 325 of 2021 ordered to redo the annulled orders, in compliance with said provision, the Full Chamber proceeded to re-examine the requests for annulment presented by Óscar Urbina Ortega, President of the Colombian Episcopal Conference, Natalia Bernal Cano and Harold Eduardo Sua Montaña[65]. In compliance with the aforementioned order, by means of Order 752 of October 6, 2021, the Full Chamber redid the orders of March 11th, 176 and 178 of April 22, and 217 of May 5th, 2021, which were declared null and void, and rejected as manifestly unfounded the requests for annulment presented by Óscar Urbina Ortega, Natalia Bernal Cano and Harold Eduardo Sua Montaña directed against the orders of October 19, 2020, and November 12th, 2020, Order 039 of February 4th, 2021, and the orders of April 8th and April 21st, 2021, issued within the reference process[66].

5. Impediments and Recusals

56. Throughout the proceedings of the case, multiple requests for recusal were presented and decided upon against some of the members of the Plenary Chamber, as well as against the entire Chamber. Two

co-judges, in accordance with the provisions of Article 28 of Decree Law 2067 of 1991 and Article 140 of the General Code of Procedure. Additionally, he argued that the aforementioned order is a precedent that must be taken into account by the Court when resolving several of the requests that he claims to have presented in the process with file number D-13.856 (sustaining magistrate, Alberto Rojas Ríos). Furthermore, he filed a challenge against eight of the magistrates who make up the Plenary Chamber of the Constitutional Court. During the response period, interventions were received from Clemencia Salamanca, Gloria Yolanda Martínez Rivera, Andrés Forero Medina, the Archbishop of Villavicencio, Óscar Urbina Ortega, Carmen Alicia Martínez Rivera, and Vilma Graciela Martínez Rivera.

[61] The citizen based the request for nullity against the order of April 8, 2021, which gave notice of the nullity request of April 5, 2021, in which the reviewing magistrate: (i) should have referred the case to the office of Magistrate Paola Andrea Meneses because it had been requested to remove him and the magistrates Alberto Rojas Ríos, Alejandro Linares Cantillo, Cristina Pardo Schlesinger, Diana Fajardo Rivera, Gloria Stella Ortiz Delgado, Jorge Enrique Ibáñez Najar, and José Fernando Reyes Cuartas from the matter; and, furthermore, because (ii) he confused the nullity request with the Constitutional Court's power to declare nullity of its own proceedings. Likewise, he requested that the aforementioned magistrates be removed from this decision. Within the transfer period, interventions were received from Clemencia Salamanca, Gloria Yolanda Martínez Rivera, Andrés Forero Medina, Oscar Urbina Ortega, Carmen Alicia Martínez Rivera, Felipe Chica Duque, and Vilma Graciela Martínez Rivera.

[62] The citizen requested an explanation as to why the substantive magistrate had issued the orders of April eighth and twenty-first, 2021, which granted a hearing on the requests for annulment of April 5th and 9th of that year, despite having been challenged to hear these matters. Consequently, he requested the nullification of the order of April 21, 2021, and asked the magistrates Alberto Rojas Ríos, Alejandro Linares Cantillo, Cristina Pardo Schlesinger, Diana Fajardo Rivera, Gloria Stella Ortiz Delgado, Jorge Enrique Ibáñez Najar, and José Fernando Reyes Cuartas to recuse themselves from this decision.

[63] In full room the Court pointed out that these requests for nullity were inappropriate as they were directed against procedural orders, for which nullity or any remedy was not applicable.

[64] The Full Chamber noted that between March 11th and May 26th, 2021, the terms of the process were suspended due to a request for disqualification - as stated in the following heading. Therefore, when these decisions, among others, were issued, the proper forms of the trial were not met, as the competence of the Full Chamber was suspended.

[65] In compliance with the order of the substantiator magistrate's ruling of September 8th, 2021, which instructed the corporation's general secretariat to send communications regarding the aforementioned requests for nullity, based on Article 106 of Agreement 02 of 2015, and in order to allow the participation of interested parties in the incidental process, Natalia Bernal Cano, Harold Eduardo Sua Montaña, and the Ministry of Justice and Law, Directorate of Development and Legal Organization presented interventions.

[66] The Full Chamber rejected these requests for nullity as manifestly improper because they were directed against procedural orders. Additionally, it rejected the withdrawal presented by one of the applicants on February 19th, 2021, as manifestly improper, and denied the requests for suspension of the process raised by some of the interveners.

requests for impediment were also made against Justices Alejandro Linares Cantillo and Cristina Pardo Schlesinger.

57. (i) Vilma Graciela Martínez Rivera opposed abortion and its possible decriminalization and argued that there were impediments for the Constitutional Court to address the issue[67].

58. Citizens Víctor Raúl Martínez Rivera, Ángela Rocío Martínez Rivera, and Ángela Paola Rada Martínez presented citizen interventions in which, among other aspects, they requested that the Constitutional Court take into account the document submitted by Vilma Graciela Martínez Rivera.

59. Subsequently, on November 27th , 2020, citizen Vilma Graciela Martínez Rivera submitted a new document in which she expressed her intention to expand her interventions and additionally requested the incorporation of the document filed with the General Secretariat of the Corporation on February 25th, 2020[68], into the case file.

60. By means of Order 039 of February 4th, 2021, the Full Chamber rejected the recusal requests [69]due to lack of relevance.

61. (ii) On December 6th, 2020, citizen Natalia Bernal Cano filed a recusal document against magistrates Antonio José Lizarazo Ocampo, Alejandro Linares Cantillo, and Gloria Stella Ortiz Delgado, in order to remove them from the decision on the nullity request submitted by her in this case[70]. By means of Order 040 of February 4, 2021, the Full Chamber rejected the request.[71]

62. (iii) On March 11, 2021, citizen Vilma Graciela Martínez Rivera filed a document addressed to magistrate Alberto Rojas Ríos, within case D-13.856, in which she filed a recusal request against all the magistrates of the Court and requested, among other things, its incorporation into this case, as well as the request sent on February 25, 2020[72]. By means of Order 141 of March 25, 2021, the Full Chamber rejected the recusal request[73] due to lack of relevance.

63. (iv) By means of a document dated April 5, 2021, citizen Harold Eduardo Sua Montaña requested "to declare by official dutty the nullity of the Full Chamber Order (Order 039 of February 4, 2021) by removing from the matter the 8 Magistrates on whom said Order decides the situation"[74].

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[67] In the writings presented on October 30th, November 8th, and November 12th, 2020, it was argued that the corporation is facing a "serious situation in which, among other aspects, we observe the impediments of the Constitutional Court to approach the issue of the unconstitutional intention of decriminalizing abortion in a neutral, ethical, and morally sound manner."

[68] In this document, she requested that the judges of the Court declare themselves disqualified from pronouncing "on the topic of abortion (or "VIP", processes 13225 and 13255 and any other related to this topic)". She indicated that there was a presumed lack of transparency, neutrality and impartiality on the part of the judges of the Constitutional Court as a result of the financial support that the World Bank and the Inter-American Development Bank granted to the Court for the implementation of the PROMETEA program, organizations that, according to her, defend abortion.

[69] According to the Chamber, the requests lacked relevance. It stated that the argumentation presented was not clear or coherent, nor did it point to how the impartiality of the judges would be affected, or how the international cooperation received by the Constitutional Court, as a judicial authority, could translate into a specific, personal, certain and real interest of the challenged judges and their relationship with the decision being deliberated; and finally, that the request had not met the argumentative rigor required to demonstrate the configuration of any grounds for disqualification, since the applicants alleged the existence of an institutional interest in the decision and not a personal interest of the judges.

[70] The applicant alleged the presumed lack of impartiality and independence of the judge and judges mentioned because, according to her, the judicial officials, in summary, (i) committed alleged irregularities in the decision adopted by Court Ruling C-088 of 2020, to favor the plaintiffs of the File D-13,956; and (ii) failed to assess the evidence and arguments presented by her as a plaintiff in previous proceedings.

[71] The Full Chamber considered that: (i) the applicant did not meet the procedural legitimacy, since she did not submit citizen intervention in this unconstitutionality process; (ii) it is also not possible to establish if the disqualifications she requests are timely, since there is no concretization of the interest within the process – the intervention – to establish if the facts alleged, as grounds for disqualification, were subsequent and if they were or not determinative to affect the impartiality of the decision.

[72] It was stated that she ratified the request for disqualification directed against all the judges of the Constitutional Court, with regard to any pronouncement on abortion, and added two new facts to her disqualification requests: (i) the signing of a memorandum of understanding between the Constitutional Court and Mr. Juan Gustavo Corvalán (director of the Innovation and Artificial Intelligence Laboratory of the University of Buenos Aires), in November 2018; and (ii) the holding of a workshop at the Constitutional Court by the Dejusticia organization, in 2019.

[73] The request for disqualification was rejected because it was based on supposed institutional interests and not personal interests, and because it was untimely.

[74] It was stated that this corporation had indicated in Court Ruling T-266 of 1999: "the duty of any judge to declare impediments."

Through Ruling 165 dated April 15th, 2021, the Full Chamber rejected the challenge for lack of relevance[75].

64. (v) On April 15, 2021, the citizen Vilma Graciela Martínez Rivera filed a challenge brief addressed to the file of the reference and requested that it be incorporated to process D-13.85676[76]. By means of Order 179 of April 22, 2021, the Plenary Chamber resolved "TO BE IN ACCORDANCE WITH THE RESOLUTION" in orders 039 and 105A of 2021, which defined the challenges filed against the members of the Chamber of the Constitutional Court[77].

65. *(vi)* By writs dated April 9 and 23, 2021, the citizen Harold Eduardo Sua Montaña requested most of the judges of the Constitutional Court, specifically eight (8), to be set aside from the nullity proceedings filed in the process of reference against the orders of April 8 and April 21, 2021. April 8 and 21, 202178.[78]

66. *(vii)* On April 27, 2021, citizen Vilma Graciela Martínez Rivera filed a new request for the analysis of the competence of the Plenary Chamber to define the merits of case D- 13.95679.[79]

67. By means of Order 216 of May 5, 2021, the Plenary Chamber decided "to be in accordance with the resolution" of orders 039 of February 4, 141 of March 25, 165 of April 15 and 179 of April 22, all of 2021, that of March 25, 165 of April 15 and 179 of April 22, all of the above of 2021, which rejected for lack of relevance of the challenges presented by citizens Sua Montaña and Martínez Rivera.[80]

68. Additionally, considering Vilma Graciela Martínez Rivera requested to extend her writ "to processes D-13,856 and to others related to abortion", by means of Order 249 of May 20, 2021, in relation to case D-13.856, the Plenary Chamber resolved to comply with decision of Order 105A of 2021, which concluded the rejection of the challenge.

69. Subsequently, by means of Order 325 of June 23, 2021, the Plenary Chamber declared void ex officio all actions taken in the proceeding in question between March 11 and May 26, 2021, including the aforementioned orders 165 of April 15, 179 of April 22 and 216 of May, 2021[81].

70. Since Order 325 of 2021 ordered the re - elaboration of the void orders, in compliance, the Plenary Chamber proceeded to re-study the challenge requests presented by citizens Harold Eduardo Sua Montaña and Vilma Graciela Martínez Rivera. Consequently, by means of Order 326 of June 23, 2021, the Plenary Chamber rejected for lack of relevance the aforementioned challenges[82].

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[75] For the Plenary Chamber, the document did not indicate how their impartiality is affected.
[76] She pointed out as additional arguments to the requests presented by her that the reason to remove all the magistrates and associate magistrates of this Court from resolving any procedure related to the issue of abortion lies in the fact that the definition of its criminalization or not, according to the Constitution, corresponds to Congress. He also questioned the use of the expressions right to decide, gender approach and/or gender perspective which, in her opinion, have been used by the Inter-American Development Bank since 2018 when it supported abortion in Uruguay and Argentina.
[77] For the Court, citizen Martínez Rivera claimed that the competence of the plenary of this corporation to define the merits of files D-13.856 and D-13.956 shall be analyzed, alluding to additional facts that did not modify the initial sense of her petition, that is, to remove eight of the magistrates from the hearing for lack of impartiality, a matter that had been timely analyzed in the aforementioned rulings, in which her arguments were rejected, making a new analysis unfeasible.
[78] He based the recusal request on the arguments set forth above, when reference was made to the request for nullity filed on April 5, 2021.
[79] As an additional argument to the three recusals she had filed, she indicated that the Secretary General of the Court served as magistrate in charge in replacement of Magistrate Alberto Rojas Ríos, who was in charge of the study of nullities of sentences related to abortion and her connection with PROMETEA is public; she also indicated that former Magistrate Manuel José Cepeda has pronounced himself in favor of abortion and that Magistrate Jorge Enrique Ibáñez Najar was a consultant of the Inter-American Development Bank.
[80] For the Court, the petitioner did not identify any of the grounds for recusal provided for in Decree Law 2067 of 1991, nor did he indicate how the impartiality of the judges was affected, and citizen Martínez Rivera pointed out additional facts that did not modify the petitions previously filed.
[81] The Plenary Chamber noted that between March 11 and May 26, 2021, the terms of the proceeding were suspended due to a recusal request. Therefore, when the aforementioned decisions, among others, were issued, the forms of the trial were not complied with, since the competence of the Plenary Chamber was suspended.
[82] Regarding the challenge requests filed by Harold Sua Montaña, it was resolved that the one filed on April 5 did not indicate how the impartiality of the judges was affected, and in those filed on April 9 and 23, by alleging as grounds the orders issued by the substantive judge on April 8 and 21, which were declared null and void by Order 325 of 2021, their validity was affected with ex tunc

71. (viii) By writings dated August 2, 2021, citizens Edison Pablo Zárate, Martha Camila Páez, Andrés Fabián Moreno and Delio Pablo Zárate, filed a recusal brief against the members of the Plenary Chamber of the Constitutional Court[83]. By means of Auto 442 of August 5, 2021, the Plenary Chamber rejected the challenge for lack of standing and, likewise, lack of relevance[84]. Subsequently, the citizens requested an addendum to the request[85], which was rejected as inadmissible by means of Order 470 of August 11, 2021[86].

72. On August 4 and 5, 2021, some citizens submitted coadjutant writs to the challenge request filed on August 2, 2021[87], and requested the decisions in which Judge Alberto Rojas had participated to be declared void, "specifically in the abortion and euthanasia processes". By means of Order 671 of September 16, 2021, the Plenary Chamber rejected the coadjutant's document for coinciding with the previously rejected challenge in Order 442 of August 5, 2021, and declared the current lack of subject matter with respect to the nullity requests[88].

73. (ix) On November 12, 2021, after having registered and rotated the case file and having been on the agenda of the Plenary Chamber since October 27, 2021, Ana María Idárraga Martínez requested to the Chamber, "that Judge Alejandro Linares is set aside from the discussion and decision of files D0013956 and D0013856, given that he issued a clear, concrete and precise concept, on November 11, 2021, on his position to decriminalize abortion.

74. On November 16, 2021, Judge Alejandro Linares Cantillo presented an impediment because he considered that, within the framework of an interview with Semana TV media, related to "the decision adopted by this court in the tutela case of former President Álvaro Uribe Vélez"[89], he made "brief references and generalities as an example of the difficult decisions that the Court must take" and, among them, to the case of abortion[90]. According to judge Linares, such a circumstance could be framed "in numeral 4 of article 56, paragraph 4, of the Code of Criminal Procedure, if it is considered that in the context of the interview, I inadvertently expressed opinions about my position on the issue of abortion"[91].

75. At the session of the Plenary Chamber of November 18, 2021, "it was decided to appoint a co - judge to decide on the impediment presented by Judge ALEJANDRO LINARES CANTILLO within processes

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effects, reason for which the grounds for these requests disappeared. Regarding the challenge requests formulated by Martínez Rivera on April 15 and 27, 2021, the Plenary Chamber decided to reject them for lack of relevance, considering them inopportune, since they were based on facts prior to her intervention, that is, occurring before October 30, 2020.

[83] The citizens filed the challenge based on the grounds set forth in Article 25 of Decree Law 2067 of 1991, related to "having a direct interest in the decision".

[84] The Plenary Chamber rejected the proposed challenge for lack of standing of the petitioners and, therefore, of relevance, since they did not act as plaintiffs in any of the proceedings on which the challenge was filed, nor did they intervene in a timely manner as challengers or defenders of the rules subject to review of constitutionality. In fact, they did not even summarily accredit their status as citizens.

[85] This is because, in his opinion, the Plenary Chamber should have ruled on the request for information concerning the status of the investigations into the alleged conduct of one of the judges of the Constitutional Court.

[86] The Plenary Chamber considered that the request for information presented in the recusal brief should not be resolved by judicial order, since it was not a procedural action, but a request protected by the right to petition.

[87] In the briefs referred to, the citizens: (i) supported the challenge brief filed on August 2nd of that year; and (ii) as a consequence of these challenges, they requested the nullity of all decisions in which Judge Alberto Rojas Ríos had participated, especially in the abortion and euthanasia proceedings. Likewise, most of the petitioners requested information about an investigation against one of the judges, about a request for insistence and the selection of a file. Finally, one of the petitioners requested a clarification regarding the "ethical guidelines" for the exercise of the functions assigned to the magistrates of the corporation.

[88] In this regard, the Court considered that the pleadings coincided with the petition of the main motion, i.e., to challenge the members of the Plenary Chamber of the Constitutional Court, resolved in Order 442 of August 5, 2021. On the other hand, the Court rejected the motions for annulment filed for lack of grounds for (i) being a consequence of the challenge filed on August 2, 2021, in case D-13.956, among others, and (ii) since it was rejected for lack of relevance in Order 442 of August 5, 2021.

[89] It refers to file T-8.170.363, which was decided by Ruling SU-388 of November 10, 2021. The interview was held on November 11, 2021.

[90] Fl. 2 of the impediment manifestation.

[91] Fl. 2 of the manifestation of impediment. Subsequently, in a letter dated November 19, 2021, Judge Alejandro Linares expanded the scope of the manifestation of impediment in files D-13.956 and D-13.856, by indicating that the circumstances mentioned therein could be framed, not in the provision of the Code of Criminal Procedure previously mentioned, but in the cause of impediment and recusal provided in Article 25 Decree Law 2067 of 1991 of "having given his opinion on the constitutionality of the accused provision". Finally, he indicated: "I leave for your consideration this clarification of the applicable legal norm, so that in the exercise of its powers, the Plenary Chamber may adopt the decision that best corresponds to objective impartiality, transparency and institutional loyalty".

D-13856 and D-13956, for not having obtained the majority required for that purpose. || That after the drawing of lots, the following was selected as co-judge Dr. HERNANDO YEPES ARCILA"[92].

76. In response to this designation, by letter dated November 23, 2021, Ana Cristina Gonzalez Velez, Mariana Ardila Trujillo, Catalina Martinez Coral, Sandra Mazo Cardona, Cristina Rosero Arteaga, Aura Carolina Cuasapud Arteaga and Valeria Pedraga, plaintiffs in case D-13.956, filed a challenge against Judge Hernando Yepes Arcila to participate in the discussion and decision of the impediment presented by Judge Alejandro Linares Cantillo[93]. For the same reasons, in a letter dated December 2, 2021, citizen Enrique Gómez Martínez stated that Judge Hernando Yepes Arcila was involved in a conflict of interest.

77. In view of these requests and manifestations of impediment, in the first place, with the exception of Judge Alejandro Linares Cantillo -whose impediment was to be whose impediment was to be decided - and of co - judge Hernando Yepes Arcila - against whom a challenge was filed -, by means of Order 1063 of December 1, 2021, the rest of the judges of the Plenary Chamber rejected the challenge filed by Ana Cristina González Vélez, Mariana Ardila Trujillo, Catalina Martínez Coral, Sandra Mazo Cardona, Cristina Rosero Arteaga, Aura Carolina Cuasapud Arteaga and Valeria Pedraza[94], and, by means of Order 031 of January 20, 2022, rejected as impertinent the challenge filed by Enrique Gómez Martínez[95].

78. In second place, since the request for challenge against Judge Hernando Yepes Arcila was not successful, the Plenary Chamber of the Constitutional Court, with his participation, in session of January 20, 2022, decided to accept the impediment presented by Judge Alejandro Linares Cantillo in files D-13.956 and D-13.856. Consequently, in the same session, it was decided to designate a co-judge to replace Judge Linares Cantillo in the decision of file D-13.956; after the appropriate drawing of lots, co - judge Julio Andrés Ossa Santamaría was selected[96].

79. (ix) On February 8, 2022, after the registration and rotation of the case file, and the appointment of Judge Julio Andrés Ossa Santamaría to replace Judge Alejandro Linares Cantillo, Linda María Cabrera Cifuentes and Karla Roxana Pérez García filed a "challenge against Judge Cristina Pardo Schlesinger on the grounds of having a direct interest in the decision', contained in Article 25 of Decree 2075 of 1991". The citizens stated that magistrate's interest was of a "moral" nature, "to the extent that her personal and moral convictions regarding the right to abortion, represent an affection to the right to abortion. Pardo's personal and moral convictions regarding the right to abortion, represent an affectation to her impartiality and, at the same time, they are of such a magnitude that they are understood to be current and constant, as they are not occasional or isolated opinions over the right to abortion" which would prevent her from deciding in an impartial manner in the decision of the aforementioned case[97].

80. On February 9, 2022, Judge Cristina Pardo Schlesinger declared her impediment to participate in the debate and decision of the lawsuits in files D-13.956 and D-13.856. According to Pardo, the

[92] This is indicated in the secretarial record dated November 19, 2021, available in the digital file of the process: https://www.corteconstitucional.gov.co/secretaria/actuacion.phpaccion=mostrar&palabra=D0013956&proceso=1 stage=0
[93] According to them, Judge Yepes Arcila could be involved in a "conflict of interest", since he was acting as legal representative in a constitutional proceeding, which is being heard by the Plenary Chamber, and whose substantive judge is Judge Linares Cantillo. They refer to constitutional proceeding T-7.648.831, in which the plaintiff is "the company Proactiva Doña Juana E.S.P. S.A.", from which Dr. Hernando Yepes Arcila is the legal representative.
[94] According to Article 30 of Decree 2067 of 1991, "the judges and co-judges to whom the decision on impediments or challenges corresponds are not subject to challenge".
[95] The Court stated that "the petitioner does not prove that he has standing to act and that the co-judges to whom the decision on impediments or challenges corresponds cannot be challenged".
[96] In the secretarial record of January 21, 2022, available in the digital file of the process: https://www.corteconstitucional.gov.co/secretaria/actuacion.php?accion=mostrar&palabra=D0013956&proceso=1&etapa=0, it is stated: "In virtual session of the Plenary Chamber held on January twenty (20), two thousand twenty-two (2021) with the presence of Judge HERNANDO YEPES ARCILA and, in accordance with the provisions of Articles 25 and 26 of Decree 2067 of 1991, the impediment expressed by Judge ALEJANDRO LINARES CANTILLO, to participate and decide the matter of reference was accepted. That for this reason, a lottery was held and Dr. JULIO ANDRÉS OSSA SANTAMARÍA was selected as co-judge in these proceedings".
[97] Fl. 7 of the challenge brief.

manifestations looked to guarantee “the absolute transparency that must preside over the exercise of the judicial function"[98] since, as a consequence of the conscientious objection that she presented in order to give her opinion on the sanction or objection unconstitutionality or inconvenience[99] of certain provisions of the bill of law that culminated in the issuance of Law 1719 of 2014[100], "some citizens could infer [...] that in view of what the plaintiffs are requesting on this, that I would have a negative position, derived from an alleged moral interest”[101].

81. By means of Order 178A of February 21, 2022, the Plenary Chamber of the Constitutional Court declared unfounded the impediment expressed by Judge Cristina Pardo Schlesinger in Case D-13.956. Likewise, by means of Order 179A of February 21, 2022, the Constitutional Court rejected the challenge presented by Linda María Cabrera Cifuentes and Karla Roxana Pérez García against Judge Pardo Schlesinger, as they did not meet the requirements of the examination of relevance[102].

6. Requests for clarification of judicial rulings

82. During the course of the process, the following requests for clarification were presented and decided.

83. (i) By document dated May 7, 2021, citizen Harold Eduardo Sua Montaña requested the Court to clarify Order 165 of 2021[103], in the sense of indicating whether "after the lack of relevance of the challenge, it can be re-filed, making up for the shortcomings found in said challenge or if its filing would be out of time". By means of Order 277 of June 2, 2021, the Plenary Chamber rejected the request for clarification since the required argumentation was not accredited[104].

84. As previously mentioned, by means of Order 325 of June 23, 2021, the Plenary Chamber annulled ex officio all the proceedings annulled ex officio all the actions taken in the proceeding between March 11 and May 26, 2021, including the referred Order 277 of 2021, which was issued as a consequence of the request for clarification of one of the void orders[105].

85. (ii) By means of document dated August 11, 2021, the citizen Harold Eduardo Sua Montaña requested the clarification of the second numeral of Order 325 of 2021, which declared the nullity of all actions taken in the process of reference between March 11 and May 26, 2021, consulting "if the redoing of the proceedings and actions implies the re-publication of the contents of the null and void orders in other orders and the sending of the writs prepared by virtue of what was resolved in said invalid orders". By means of Order 663 of September 8, 2021, the Plenary Chamber rejected the request for clarification as it did not accredit the required argumentation[106].

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[98] Fl. 2 of the impediment manifestation.
[99] Article 27 of Decree 672 of 2017.
[100] Fl. 2 of the impediment manifestation.
[101] Ibid.
[102] On the one hand, the Court stated that Linda María Cabrera Cifuentes lacked standing to file the request since she was neither a plaintiff nor an intervening party in the constitutionality proceeding of file D-13.956. On the other hand, it indicated that, although only one of the facts or circumstances formulated was presented in a timely manner and by a legitimate party -the one related to the conscientious objection presented by Judge Pardo Schlesinger-, with respect to this one the phenomenon of subtraction of subject matter was present, since by means of Order 178A of February 21, 2022, the remaining judges of the Plenary Chamber declared the impediment expressed by the mentioned judge with respect to this circumstance unfounded.
[103] This ruling resolved the request for nullity against Order 039 of February 4, 2021, filed by citizen Sua Montaña.
[104] For the Plenary Chamber, the request did not comply with the duty of argumentation required and, therefore, it was concluded that the petitioner did not censure the lack of clarity or ambiguity of the operative part of the aforementioned decision. On the contrary, he formulated an additional request, directed to the Court to rule on the timeliness of a new brief intended to correct the shortcomings of the request filed on April 5, 2021.
[105] The Plenary Chamber noted that between March 11 and May 26, 2021, the terms of the proceedings were suspended due to a challenge request. Therefore, when these decisions, among others, were issued, the proper forms of the trial were not complied with, since the competence of the Plenary Chamber was suspended.
[106] According to the Chamber, the request did not comply with the required duty of argumentation, since it did not censure the lack of clarity or ambiguity of the second paragraph of the operative part of Order 325 of June 23, 2021, by which the Court ordered to redo the orders and the procedural actions declared null and void in the first paragraph, but it formulated an additional request, directed to the Court to pronounce on the effects of the declaration of nullity.

IV. INTERVENTIONS

86. Within the period for the listing of the challenged norm, which expired on November 12, 2020[107], various citizen interventions, documents from social organizations, amicus curiae, pronouncements from public entities and authorities, expert opinions, among others, were received, proposing different approaches to the examination of the charges in the complaint and offering relevant elements to deliberate and approach the study of constitutionality[108]. These interventions are evidence of a widespread public discussion and reflect the pluralism and the diversity of approaches to the criminal regulation of voluntary abortion in Colombia. In view of the large number, the interventions will be presented in a simplified manner in the annexes to this decision[109]; in any case, the following is a synthesis of the most relevant arguments proposed.

87. Some intervening parties requested the Court to refrain from conducting a substantive study of the constitutionality of the challenged norm, considering that the complaint was inept; others asked the Court to declare that it would follow Ruling C-355 of 2006 since, in their opinion, the phenomenon of *res judicata* had been verified. In other interventions, the Court was asked to rule on the merits of the case and, in that sense, different requests were presented:

88. Many intervening parties requested the declaration of simple constitutionality of Article 122 the Criminal Code[110]. Among other things, on the grounds that: (i) the rights of the unborn child must be protected; (ii) abortion does not recognize human rights; (iii) the rights of girls and boys shall prevail over others; (iii) the rights of girls and boys prevail over others; (iv) the non-existence of a fundamental right to abortion; (v) the rights of parents (partners) to decide the number of children must be guaranteed; and (vi) the soft law norms on which the lawsuit is based are not binding.

89. Another group of intervening parties requested the Court to declare the conditional constitutionality of the provision in question, in the sense that a gestational age limit shall be taken into account, or that the denouncement of violent carnal access or the abusive sexual act shall not be delivered, or the lack of proof of access to the health system for women in an irregular migratory situation.

90. Finally, other considerable number of intervening parties supported the claims of the lawsuit and requested the declaration of unconstitutionality[111]. From this group of submissions, it is worth noting that, in addition to supporting the arguments of the lawsuit, some also consider, among other things, that the

[107] By Order of November 12, 2020, the magistrate Antonio José Lizarazo Ocampo extended the term until November 27, 2020, for the public entities, private organizations and experts in matters related to the subject matter of process D-13.956 indicated in the admissory order of October 19, 2020, to render their opinion.
[108] A total of 249 citizen interventions, 21 interventions from social organizations, 37 amicus curiae interventions and 77 expert opinions were received, for a total of 384 interventions. It should be noted that the number of interventions and concepts do not individually reflect the number of signatories, which far exceeds this number.
[109] See Annex 9 of this decision, which presents a simplified balance of these interventions. The following documents were also submitted to the constitutionality process, as shown in Annex 10 of this decision: (i) general statements against abortion and in favor of maintaining its criminalization (see Annex 10.1 of this decision); (ii) documents requesting the filing of the complaint before its admission (see Annex 10.2 of this decision); (iii) documents requesting the filing of the complaint, after its admission and before its publication on the list (see Annex 10.3 of this decision); (iv) documents sent before the listing, requesting the constitutionality of the norm (see Annex 10.4 of this order); (v) documents sent before the listing, referring to the lack of competence of the Constitutional Court to rule on the matter (see Annex 10.5 of this order); (vi) general statements sent before the deadline for publication, in favor of maintaining the criminalization of abortion (cfr., Annex 10.6 of this order); (vii) blank emails sent before the deadline for publication, in whose subject matter general statements against abortion are presented (cfr, Annex 10.7 of this order); (viii) writings referring to the existence of res judicata, sent after the term for posting on the list (cfr., Annex 10.8 of this order); (ix) writings referring to the non-existence of res judicata, sent after the term for posting on the list (cfr., Annex 10.9 of this order); (x) writs requesting the constitutionality of the challenged norm, sent after the deadline for posting on the list (see Annex 10.10 of this order); (xi) writs requesting the unenforceability of the challenged norm, sent after the deadline for posting on the list (see Annex 10.11 of this order); (xii) general statements against abortion and in favor of maintaining its criminalization, sent after the deadline for posting on the list (see Annex 10.12 of this order), (xiii) blank mails in which the subject matter contains general statements against abortion and in favor of maintaining its criminalization (see Annex 10.13 of this order), and (xiv) information sent in response to the order of proof (cfr., Annex 10.14 of this order).
[110] Cfr., Annex 8 of this ruling.
[111] Cfr., Annex 9 of this ruling.

norm is discriminatory because it contains wording that excludes those who do not identify themselves as women and ignores the progressive nature of the recognition of *iusfundamental* guarantees.

V. CONCEPT OF THE ATTORNEY GENERAL

91. In opinion dated December 14, 2020, the Attorney General requested the Court, on the one hand, to declare that it was not authorized to adopt a decision on the merits of the lawsuit and, on the other hand, to urge the Congress of the Republic to issue a comprehensive regulation of VIP, as a manifestation of women's sexual and reproductive rights, and to decide on the reasonableness of its total decriminalization, in terms of criminal policy.

92. The Attorney General warned that in the present case the phenomenon of *res judicata* would allow the Court to decide on the merits of the case, but the Court would lack jurisdiction to advance the Court Ruling of constitutionality since there was evidence of an "absolute legislative omission" in the regulation of the abortion, which could only be resolved by the Congress.

93. In connection with the first reason, and without prejudice of the detailed analysis made in section 6.1 below, there are new charges that were not assessed in Court Ruling C-355 of 2006, for example, the partial criminalization of abortion as a structural barrier to access abortion, within three grounds set out in the referred decision, the disproportionate impact on migrant women, freedom of choice of the health personnel and the principle of secular state. Although there are similar charges, the fact is that the approaches presented by the plaintiffs are clearly different.

94. Like the plaintiffs, the Attorney General also points out that without prejudice to the foregoing argument, in the event that it is considered that the phenomenon of *res judicata* is not present, but rather that of absolute *res judicata*, it is certain that a pronouncement on the merits would also be appropriate, as a consequence of its weakening or enervation, in the terms of the constitutional jurisprudence, since, on the one hand, there is evidence of a change in the material meaning of the Constitution in relation to the problem of consensual abortion and, on the other hand, there is evidence of a new regulatory context that has modified the legal regime of voluntary abortion as a crime and in which the compatibility of article 122 of the Criminal Code with the Constitution must be studied.

95. Secondly, despite this argumentation, for the Attorney General, the Constitutional Court lacks competence to advance this Court Ruling of constitutionality because there is an "absolute legislative omission", which can only be resolved by the Congress of the Republic. According to the Attorney General, "the comprehensive regulation of the fundamental right to abortion and the determination of criminal policy are matters subject to the principle of legal reserve"[112].

96. The Attorney General points out that, considering abortion is an autonomous fundamental right[113], it is from the exclusive competence of the Legislator to regulate the matter in its entirety:

"In the first place, abortion was regulated by Congress as a crime in a different constitutional and normative context from the one that currently governs, and not from a new facet as fundamental right whose specific and integral regulation, absent until now, is the competence of the legislator. It is then up to the legislator to guarantee that the health system allows the effective performance of abortion under conditions of coverage, efficiency, equity, equality, and quality, in order to ensure life, dignity, autonomy

[112] Fl. 20 of the concept of the Attorney General.
[113] Fl. 21 and 27 of the concept of the Attorney General.

over the body and free development of women, with the aim of addressing and overcoming existing barriers[114].”

97. On the other hand, the Attorney General indicates that Congress must reasonably legislate on the decriminalization of voluntary abortion or on other circumstances, in addition to those indicated in Court Ruling C-355 of 2006, in which the criminalization of abortion should be eliminated:

"Secondly, the determination of the State's criminal policy is in the hands of the ordinary legislator, who has a wide margin of configuration to define crimes and penalties, as well as to determine the total decriminalization of a certain behavior that under another context had been considered a crime, or to establish in which other grounds abortion is not punishable in order to overcome the barriers to the exercise of abortion”[115].

VI. CONSIDERATIONS OF THE CONSTITUTIONAL COURT

1. Jurisdiction

98. In accordance with the provisions of Article 241.4 of the Constitution, the Constitutional Court is competent to acknowledge and decide on the unconstitutionality action of reference, since it is directed against Article 122 of Law 599 of 2000, which establishes the crime of abortion with consent, consensual or voluntary[116], on charges related to its material content.

2. Decision’s Structure

99. For its study, the Chamber will rule on the content and scope of the challenged provision -Title 3. The Chamber will justify why there is no absolute legislative omission, in the terms in which it was raised by the Attorney General - Title 4 -. It will evaluate the substantive aptitude of the complaint and will reason why only four of the six charges that were proposed are apt -Title 5-[117]. From the study of the phenomenon of *res judicata*, it will justify, based on three reasons, why it is appropriate to pronounce on the merits with respect to the charges admitted, despite the existence of Court Ruling C-355 of 2006 -Title 6-[118]. Finally, it will propose the substantial legal issue of the case and the structure of analysis -Title 7-, which will be resolved in the remaining sections of the decision -Titles 8 to 13-.

3. Content and reach of the challenged provision

100. Article 122 of Law 599 of 2000 (Criminal Code) regulates the criminal offense of consented, consensual, or voluntary abortion. This provision is part of Book II ("Special Part of the Crimes in Particular"), Title I ("Crimes against Life and Personal Integrity"), Chapter IV ("Abortion"). Articles 122,

[114] Fl. 20 of the concept of the Attorney General.
[115] Fl. 20 of the concept of the Attorney General.
[116] The last expression "abortion with consent", "consensual abortion" or "voluntary abortion" is used for two purposes: first, to illustrate that the challenged provision establishes a criminal offense that falls on the woman, due to her condition as such, since it requires that it be "the woman" who "causes her abortion", which implies her will, or who, with her consent, "allows another to cause it". Secondly, this use is intended to differentiate this criminal offense from that regulated by Article 123 of the Criminal Code, which provides: "Abortion without consent. Whoever causes an abortion without the woman's consent shall be sentenced to four (4) to ten (10) years imprisonment". This penalty was increased in accordance with the provisions of Article 14 of Law 890 of 2004, "by one third in the minimum and one half in the maximum". This last type of criminal offense, unlike the one regulated by the challenged norm, not only protects the legal right of life in gestation, but also the legal right related to the reproductive autonomy of the woman, her dignity, health, and freedom of conscience to decide freely about her maternity. It is because of this double impact on the legal rights of the unborn child and the pregnant woman that a much higher prison sentence is correlative to the crime than that of the law that is being challenged. Finally, it is worth reiterating that article 123 of the Criminal Code, which establishes the crime of "abortion without consent" or "forced abortion", was not sued and, therefore, it is not possible for the Constitutional Court to issue any pronouncement with respect to it.
[117] Regarding the requests and documents of inhibition due to lack of minimum requirements of the claim, see Annex 3 of this decision.
[118] Regarding the concepts, interventions and briefs alleging the existence of res judicata, see Annex 5 of this decision. On the other hand, regarding the interventions and concepts of citizens, private organizations, public authorities, and amicus curiae that justify the non-existence of constitutional res judicata, see Annex 6 of this decision.

123 and 124 are part of the aforementioned chapter. The first regulates abortion with consent -the provision sued for-, the second regulates abortion without consent or forced abortion -provision that was not the object of the lawsuit- and the third regulated certain circumstances of punitive attenuation, which was declared unconstitutional in Court Ruling C-355 of 2006, considering that, among other things, voluntarily interrupting the pregnancy under the circumstances regulated therein could not be considered a typical conduct, since in all of them the woman was the victim of a crime.

101. The norm in question is an autonomous or independent criminal offense, that is to say, it is applied without the need to resort to another criminal offense; furthermore, that, prior to the issuance of Court Ruling C-355 of 2006, it contained an absolute prohibition of interrupting or terminating a pregnancy on a voluntarily matter, subject to the applicable penalty; and it is a subjective criminal offense, i.e., it only admits the criminal modality of intentionally terminating or interrupting a pregnancy.

102. Regarding the elements of the criminal offense: (i) the legal good or object protected is life in gestation; (ii) the active subject may be monosubjective, when it is the woman who causes the abortion herself, or plurisubjective, when it is caused by another with her consent; (iii) the passive subject may be mono or plurisubjective, if one or several fetuses or embryos are involved, and (iv) the governing verb of the conduct is "to cause" a specific result, which is abortion.

103. Although the normative content of said article was similar to article 343 of Decree Law 100 of 1980 (former Criminal Code), whose constitutionality was assessed in Court Ruling C-133 of 1994, in Court Ruling C-355 of 2006 it was indicated that these differed due to the modification in the quantum of the penalty. This was caused by the increase prescribed by Article 14 of Law 890 of 2004, which provided that as of January 1, 2005 "the penalties provided for in the criminal types contained in the Special Part of the Criminal Code shall be increased by one third in the minimum and one half in the maximum", hence the Court had concluded that they were not "identical normative statements". On that occasion, the Plenary Chamber also stated that both provisions were part of dissimilar normative contexts "since they are two criminal codes issued almost twenty years apart and that obey to a different criminal orientation"[119].

104. Based on these distinctions, the Plenary Chamber considered that there was no formal *res judicata* with respect to Court Ruling C-133 of 1994, which had declared Article 343 of Decree Law 100 of 1980 constitutional. It also stated that the phenomenon of absolute *res judicata* was not present, since the charges were different from those studied in 1994. Based on this analysis, it considered it was appropriate to issue a substantive ruling on the constitutionality of Article 122 of Law 599 of 2000.

105. After the corresponding study of merits, the Constitutional Court declared the conditional constitutionality of Article 122 of the Criminal Code, "on the understanding that the crime of abortion is not incurred when, with the will of the woman, the termination of pregnancy occurs in the following cases: (i) when the continuation of the pregnancy constitutes danger to the life or health of the woman, certified by a physician; (ii) when there is serious malformation of the fetus that makes its life unviable, certified by a physician; and, (iii) when the pregnancy is the result of a conduct, duly reported, constituting carnal access or sexual act without consent, abusive or non-consensual artificial insemination or transfer of fertilized egg, or incest."

106. Thus, based on the power to modulate its rulings, through an integrating court ruling, the Court adapted the normative content of article 122 of Law 599 of 2000 to the precepts of the Constitution that

[119] Court Ruling C – 355, 2006.

were part of the reproaches formulated against it, and on the basis of which it conducted its analysis on that occasion. Therefore, for fifteen years it has been possible to identify in said provision two differentiable normative contents: one that continues to punish abortion with consent in the generality of cases and another in which the conduct is atypical when it corresponds to any of the three assumptions of the previously mentioned conditioning.

107. This distinction, it is insisted, had as its cause the study of the charges specifically proposed fifteen years ago and in accordance with the legal problem raised and resolved on that occasion, which allowed this corporation to limit its analysis to three specific circumstances in which it considered that punishing abortion with consent was "manifestly disproportionate", without having been concerned on that occasion with assessing other cases in which the article in question could come into tension with higher mandates[120].

108. Finally, it is relevant to specify that the delimitation of scope of the normative content of Article 122 of the Criminal Code introduced by Court Ruling C-355 of 2006 has not been restricted to this pronouncement, since the Constitutional Court, in *tutela* review proceedings, has subsequently ruled on its specific scope in court rulings T-171 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-388 of 2009, T-585 of 2010, T-636 of 2011, T-959 of 2011, T-841 of 2011, T-627 of 2012, T-532 of 2014, T-301 of 2016, T-731 of 2016, T-697 of 2016, T-931 of 2016 and SU-096 of 2018.

109. As can be seen, since the issuance of Court Ruling C-355 of 2006, the normative content of Article 122 of Law 599 of 2000 has changed; although abortion with consent continues to be a crime in most cases, it is not a crime in the three cases indicated in that ruling, and subsequent review jurisprudence has clarified the understanding of this duality.

4. Absence of absolute legislative omission

110. Regarding the possible absolute legislative omission which, in the opinion of the Attorney General, would prevent the Court from issuing a substantive ruling on the constitutionality of the provision being challenged, the Court considers that the Attorney General is not right, since there is no total absence of regulation or non-existence of a normative reference that can be compared with the Constitution[121]. On the contrary, the normative content of the challenged provision, which unconstitutionality is sought, is clearly contrastable with the Constitution. It is a provision issued by the Legislator as a manifestation of the punitive power of the State, in exercise of its margin of configuration to define crimes and penalties.

111. In the opinion of the Court, what the Attorney General is proposing is that the Constitution provides a mandate to the Legislator to regulate the reproductive rights of women, a mandate that, in its opinion, Congress has absolutely omitted. However, this does not mean that the Court lacks competence to evaluate the claim presented, since it seeks the declaration of unconstitutionality of the regulation of the crime of abortion with consent, that is, the exclusion from the legal system of a normative content -verifiable, certain, and determined-, which in the opinion of the plaintiffs is contrary to the Constitution. Thus, the Court does not find an inactivity or omission of regulation in relation to the crime of voluntary abortion; on the contrary, the Chamber verifies that the challenged provision, Article 122 of Law 599 of

[120] In relation to this aspect, the aforementioned Court Ruling stated: "Therefore, by virtue of the principle of preservation of the law, it is necessary to issue a conditional executory Court Ruling by which it is considered that the crime of abortion is not incurred in the hypotheses mentioned above. In this way it is prevented that the due protection of life in gestation represents a manifestly disproportionate affectation of the rights of the pregnant woman" (Decision C-355 of 2006).
[121] In relation to the absolute legislative omissions, this corporation has consistently stated that they occur when there is total inactivity of the Legislature on the matter in which its intervention is required, i.e., there is a total absence of development of a constitutional content by Congress, so that, in the absence of a rule on which the Court Ruling of constitutionality may fall, the Court lacks jurisdiction to decide on the merits. In this sense, see, among others, court rulings C-314 of 2009, C-285 of 2019, C-572 of 2019 and C-486 of 2020.

2000, was issued by the Legislator based on Article 150.2 of the Constitution and has a specific content that can be contrasted with the superior norm.

5. Analysis of the substantive suitability of the claim

112. The complaint was admitted by order dated as of October 19, 2020[122], applying the *pro actione* principle[123]. Its admission, in any case, does not restrict the competence of the Plenary Chamber to rule on its suitability, at the time of deciding on the unconstitutionality claim.

113. As stated, some citizen interventions requested the Court to refrain from issuing a ruling on the merits, considering that the complaint does not meet the minimum requirements for its admission. For the Court, the fact that, in the framework of a public and participatory process, several of the interventions request a ruling of inhibition, imposes the need to re-examine, with more elements of Court Ruling, the substantive suitability of the claim. This is so, since at this stage of the process the Plenary Chamber has at its disposal the interventions of the citizens and the opinion of the Attorney General, which provide further elements of Court Ruling to the constitutional dialogue[124].

114. Pursuant to the provisions of Article 2 of Decree Law 2067 of 1991, the unconstitutionality claims must state: (i) the rules accused as unconstitutional; (ii) the constitutional provisions that are considered violated; (iii) the reasons why such texts have been violated; (iv) in case the correct legislative procedure is questioned, the procedure that should have been observed and, in all cases, (v) the reason why the Court has jurisdiction. In particular, with respect to the reasons for which such texts have been violated, this Court has specified that the plaintiffs have the duty to correctly define a concept of violation, which is why they have "a burden of material and not merely formal content", in the sense that it is not enough that the charge brought against the legal norms be structured on the basis of any type of reasons or motives, but that they must be "clear, certain, specific, pertinent and sufficient"[125].

115. The charge is *clear* if it allows understanding the alleged violation concept. This means that the argumentation: (i) has a logical thread, (ii) allows to easily differentiate the ideas presented and the reasoning is easily understandable and (iii) indicates why it is considered that the legal provision is unconstitutional[126].

116. The charge is *true* if: (i) it falls over a legal proposition present in the legal system; (ii) it attacks the challenged norm and not another one not mentioned in the complaint; (iii) it does not infer subjective consequences from the challenged provisions, nor is it based on conjectures, presumptions, suspicions or beliefs of the plaintiff with respect to the norm whose constitutionality is challenged; (iv) it does not draw from the challenged provisions effects that they do not objectively contemplate; (v) the legal propositions objectively derive from the normative text; and, finally, (vi) when an interpretation of a norm is demanded, it is plausible and follows from the normative content that is challenged[127].

[122] The substantiating magistrate found that the plaintiffs presented arguments that succeeded in generating a reasonable doubt of constitutionality in relation to the charges presented in their complaint for the alleged violation of the preamble and Articles 1, 2, 11, 13, 16, 18, 19, 20, 26, 43, 49, 67 and 93 of the Political Constitution, and therefore, in application of the pro actione principle, he proceeded to admit them.
[123] In accordance with the pro actione principle, when there is doubt regarding compliance with the requirements of the claim, it is resolved in favor of the plaintiff.
[124] Cfr., among others, court rulings C-623 of 2008, C-031 of 2014, C-688 of 2017 and C-233 of 2021.
[125] Ruling C-1052 of 2001. In this decision the Court systematized the existing jurisprudence on the issue of the procedural requirements of the action of unconstitutionality.
[126] Cf., especially court rulings C-540 of 2001, C-1298 of 2001, C-039 of 2002, C-831 of 2002, C-537 of 2006 and C-140 of 2007.
[127] Cf., in this regard, court rulings C-831 of 2002, C-170 of 2004, C-865 of 2004, C-1002 of 2004, C-1172 of 2004, C-1177 of 2004, C-181 of 2005, C-504 of 2005, C-856 of 2005, C-875 of 2005, C-987 of 2005, C-047 of 2006, C-156 of 2007, C-922 of 2007, C-1009 of 2008, C-1084 of 2008, C-523 of 2009, C-603 of 2019 and C-088 of 2020.

117. As to the *specificity* of the charge, it must: (i) evidence an accusation of unconstitutionality against the attacked provision; (ii) be directly related to the challenged provision and not have as its cause vague, indeterminate, indirect, abstract and global statements, which do not directly allow a Court Ruling of constitutionality; and (iii) be an effective accusation of unconstitutionality, which is why its grounds must be determined, concrete, precise and particular in relation to the challenged provision[128].

118. The *relevance* of the charge requires that: (i) it follows logically from the normative content of the provision being charged; (ii) it must be of a constitutional nature, that is to say, it must oppose norms of a lower category to constitutional norms and (iii) it must contain reasoning of a constitutional nature, that is to say, not based on legal or doctrinal arguments, nor on particular events, personal facts, personal experiences, events and real or imaginary occurrences, in which the challenged norm has allegedly been applied or will be applied, nor on personal desires, social desires of the plaintiff or on his wishes in relation to a social policy[129].

119. The charge is *sufficient* if it awakens a minimum doubt about the constitutionality of the challenged norm, in such a way that it initiates a process aimed at undermining the presumption of constitutionality that protects every legal norm and makes it necessary for the Constitutional Court to issue a pronouncement[130].

120. Finally, in the case of a charge of unconstitutionality for violation of the principle of equality, there is a special and greater burden of argument aimed at clearly identifying the subjects, groups or comparable situations, against which the accused measure introduces discriminatory treatment, and the reason why it is considered not justified[131]. Likewise, this corporation has stated that the principle of constitutional equality does not exclude differential treatment. On the contrary, the principle of difference materializes equality as far as affirmative measures are concerned. Equality thus conceived does not mean, therefore, that the Legislator must assign identical legal treatment to all persons, because not all of them are in similar factual situations or in equal conditions.

121. Only with the fulfillment of these requirements is it possible for the constitutional judge to compare the challenged norms with the constitutional text. Therefore, at the time of conducting a detailed analysis of the requirements indicated, if the Court finds them to be unfulfilled, the Court must declare itself inhibited due to substantive ineptitude of the claim, so as to leave open the possibility that citizens may question the challenged provision in the future.

5.1. Analysis of the suitability of the charges for the alleged violation of the right to VIP and the right to sexual and reproductive health and rights of women.

122. The plaintiffs raise as a first charge the alleged violation of the right to the VIP and a second charge for the alleged violation of the right to health and sexual and reproductive rights of women. Likewise, they argue that, in relation to both charges, the constitutional guarantee of equality is disregarded. Given the close relationship of this last aspect with the charge proposed by the plaintiffs for the disregard of the right to equality of women in an irregular migratory situation, the Court will make a joint assessment of these reasons in the study of the suitability of this last charge, to which it will integrate the reasons related to the alleged disregard of the right to equality of women in a situation of vulnerability.

[128] Cf., especially court rulings C-572 of 2004, C-113 of 2005, C-178 of 2005, C-1192 of 2005, C-278 of 2006, C-603 of 2019 and C-088 of 2020.
[129] Cfr., among others, court rulings C-528 of 2003, C-1116 of 2004, C-113 of 2005, C-178 of 2005, C-1009 of 2005, C-1192 of 2005, C-293 of 2008, C-603 of 2019 and C-088 of 2020.
[130] In this sense, cf., court rulings C-865 of 2004, C-1009 of 2008, C-1194 of 2005, C-603 of 2019 and C-088 of 2020.
[131] Cf., in this regard, Court Ruling C-178 of 2014.

123. After analyzing the arguments raised to support the first two charges, the Court concludes that both are based on the same thesis. In other words, the main argument in both charges is that the criminalization of consensual abortion constitutes the most important barrier to the realization of women's fundamental right to health, in particular, their sexual and reproductive rights and, in turn, to access to the VIP procedure as an essential component of these rights. In effect, the plaintiffs claim that by maintaining the challenged norm in the legal system, both negative and positive obligations that derive from the aforementioned constitutional guarantees and that the State authorities must comply with, are being violated. Consequently, the Court will study the suitability of these charges jointly.

124. In the first place, such charges are clear as the argumentation has a common thread and the ideas presented are easily understandable.

125. They also meet the requirement of certainty. It should be recalled that this Court, based on Court Ruling C-355 of 2006, declared that the crime of abortion is not incurred when, with the will of the woman, the termination of pregnancy occurs in the three cases referred to in that ruling. On this basis, the plaintiffs argue that the unconstitutionality of the challenged provision derives, among other reasons, from the way in which the criminalization of abortion is maintained, constituting the main obstacle to guarantee the VIP in the cases that ceased to be a crime as of Court Ruling C-355, This is because it prevents the adequate guarantee of the right to health, since it makes it impossible to provide correct information on the matter, and there are still complaints and criminal proceedings even though abortion is carried out in the three decriminalized scenarios.

126. In turn, they warn that the accused provision maintains a measure that not only does not facilitate, promote or affirm, but obstructs access to the abortion procedure as a reproductive health service required by all women. In addition, the plaintiffs point out that this is a component of the right to health -reproductive- and that it is a fundamental guarantee for the realization of all other human rights.

127. In this sense, they argue that the provision contravenes the immediate State’s obligations in this area. This leads to the conclusion that, in principle, an objective comparison of the challenged provision with the sexual and reproductive rights of women would allow observing a violation of this guarantee.

128. On the other hand, the claim is specific. The plaintiffs argue that, with the criminalization of abortion, the Colombian State fails to comply with a series of duties, among which stand out, on the one hand, obligations not to do, consisting of refraining from imposing obstacles and illegitimate and unjustified delays to the practice of the VIP procedure and from discriminating against women who opt for it. And on the other hand, a set of positive obligations or obligations to do, such as, for example, to respect or guarantee, which imply developing all those activities that are necessary for women who request the VIP procedure to have access to it under adequate conditions, including the removal of regulatory barriers; the duty to provide timely, sufficient, truthful and adequate information on reproductive issues; the guarantee of availability of the VIP procedure throughout the national territory, at any stage of pregnancy, at all levels of complexity and in circumstances free of obstetric violence; and the guarantee of the right to decide freely about the VIP, among others.

129. In the same sense, they point out precisely how the provision disregards the different obligations derived from the right to health established in Article 49 of the Constitution. In this regard, they argue that the challenged provision violates three obligations contained in Statutory Law 1751 of 2015 (Article 5), in constitutional jurisprudence (Court Ruling SU-096 of 2018, among others) and in General Comment No. 14 of the ESCR Committee, namely: (i) to comply with the right to sexual and reproductive health in its minimum or essential levels in terms of availability, accessibility, quality, suitability of the health

professional and without discrimination; (ii) to protect the right to health, as well as (iii) to respect it, which derives in an immediate negative obligation, not subject to progressivity and which does not constitute a disproportionate burden for the States in terms of resources.

130. In turn, the charge is pertinent, since the arguments set forth are aimed at demonstrating, according to the plaintiffs, the violation of the right to the VIP, which they consider protected by the Court since 2006 (Court Rulings C-355 of 2006, C-754 of 2015 and SU-096 of 2018, among others). In that sense, they claim that the main barriers to access the procedure are imposed by the State and that these are deepened by maintaining the challenged norm in the legal system. Likewise, they argue that the fundamental right to health established in Article 49 of the Constitution is not recognized and that the obligations derived from this right, which have been recognized not only by this Court, but also by international instruments on the matter, are not complied with. In other words, the arguments are of a constitutional nature, and not merely legal, and are not based on subjective interpretations or assumptions.

131. Finally, the complaint provides wide evidence such as reports, statistics and concepts issued by United Nations Special Rapporteurs, general observations and even decisions of this Court, among others, on the need to decriminalize abortion. The arguments are extensively developed and generate doubts about the constitutionality of the challenged norm, and therefore the requirement of sufficiency has been accredited.

5.2. Analysis of the suitability of the charge of alleged violation of the right to equality of women in vulnerable situations and in an irregular migratory situation

132. The plaintiffs argue, in different charges -the first, second and third charges referred to above-, that the criminalization of consensual abortion outside the three grounds referred to in Court Ruling C-355 of 2006 violates, on the one hand, the right to equality of women and girls in vulnerable situations and, on the other hand, the right to equality of those who are in the country in an irregular migratory situation.

133. After analyzing the arguments expressed to support each of these accusations, it is concluded that both are based on the same thesis, that is, that article 122 of the Criminal Code, although it is neutral in its text, generates an indirect discrimination against these groups of persons, since it impacts them in a different way, evidently more disproportionately, than the generality of women whom it identifies as active subjects of the conduct of consensual abortion. This is because the particular situation of these women exposes them to a greater extent to the practice of unsafe abortions that put their rights to health and life at serious risk, as well as to multiple barriers to access to the procedure for the VIP.

134. First, the charge is clear, since the arguments presented by the plaintiffs follow a logical thread and are easily understandable.

135. Second, it satisfies the requirement of certainty, since the plaintiffs attribute to the challenged provision a content and scope that is objectively derived from its text, and not from mere assumptions or unreasonable interpretations. Indeed, as stated in the complaint, Article 122 of the Criminal Code punishes with imprisonment any woman who causes her abortion or allows another to cause it, except in the three circumstances referred to in Court Ruling C-355 of 2006, which includes as possible active subjects both women in vulnerable situations and those who are in an irregular migratory situation.

136. Third, the charge meets the burden of specificity, since the plaintiffs present specific arguments on the basis of which it is possible to determine how the challenged provision opposes the principle of equality. According to them, the criminalization of consensual abortion generates an indirect

discrimination that violates the right to equality of vulnerable women and women in an irregular migratory situation because it affects them in an evidently disproportionate manner, more than women in general. This, to the extent that the most vulnerable women, on the one hand, are more exposed to the practice of unsafe abortions that put their rights to health and life at risk and, on the other hand, face differential barriers to access to abortion, derived from geographic, economic, social, and cultural factors. In other words, the plaintiffs argue that the consequences arising from the application of an apparently neutral norm, in practice, have an adverse and disproportionate impact on groups of people who have been traditionally marginalized or discriminated against.

137. Fourth, the charge satisfies the requirement of relevance, since it is based on reasons of a constitutional nature and not on mere convenience or correctness of the legislative decisions. In effect, the argument of indirect discrimination that supports the plaintiffs' accusation confronts the challenged provision with a higher-ranking principle, that is, the right to equality recognized both in Article 13 of the Constitution and in international human rights instruments that are part of the constitutional bloc. In particular, it conflicts with Article 9 of the Convention of Belem do Para, which obliges the States Parties to take special account of the situation of vulnerability to violence that women may suffer due to, among others, their status as migrants, displaced persons, minors, or their unfavorable socioeconomic situation or situation affected by the armed conflict.

138. It should be noted that, although the plaintiffs emphasize the consequences that the application of the challenged provision generates in the groups of people they consider to be especially affected, these reasons (i) are not mere hypotheses or assumptions, since they are supported by official information and information from non-governmental organizations, and (ii) are necessary to understand the differential and indirect effects that, in their opinion, Article 122 of the Criminal Code causes in vulnerable women in an irregular migratory situation.

139. Fifth, and derived from the fulfillment of the above requirements, the arguments supporting the charge are sufficient to generate, at least, an initial doubt about the constitutionality of the challenged provision, which makes it appropriate for the constitutional judge to analyze the merits of the case.

140. Finally, it is noted that the charge satisfies the special argumentative burden required when the violation of the right to equality is alleged. In effect, the plaintiffs:

141. *(i)* They identify the groups of persons who are the object of comparison: on the one hand, women who are in a situation of vulnerability derived from geographic, social and economic conditions, and women in an irregular migratory situation. On the other hand, the generality of women who are identified as active subjects of the conduct of consensual abortion provided for in Article 122 of the Criminal Code.

142. *(ii)* They identify the pattern of equality that allows comparing such groups of persons, that is, that both are covered by the effects of the provision being sued and, in particular, by the intense effects that it would generate both in their rights to health and life, as well as in their access to the abortion procedure.

143. *(iii)* They explain that despite the fact that the challenged provision is apparently neutral in its text, it indirectly discriminates against vulnerable women in an irregular migratory situation, which impacts them in a different way (evidently more disproportionate), compared to women in general. In other words, they warn that this norm generates a differentiated treatment between groups of people who should be treated in the same way.

144. *(iv)* They explain why such differential treatment lacks constitutional justification. In their opinion, although article 122 of the Criminal Code pursues compelling purposes, that is, to protect life in gestation

and, at the same time, to allow abortion in the three circumstances provided for in Court Ruling C-355 of 2006, the categorical criminalization of abortion (a) is not a necessary measure, since there are other ways to protect prenatal life that guarantee to a greater extent the sexual and reproductive rights of women, such as improving access to maternal health services, prenatal care, contraception and the abortion itself in the permitted circumstances. Furthermore, (b) it is a disproportionate measure, as it does not take into account the specific obstacles that the particular situation of vulnerable women in an irregular migratory situation imposes on them to access the abortion procedure and which put their rights to health and life at serious risk, by increasing the likelihood that they will seek an unsafe abortion.

5.3. Analysis of the suitability of the claim of alleged violation of the right to freedom of profession and occupation of health personnel

145. The plaintiffs consider that maintaining the criminalization of abortion in the Criminal Code -excluding the grounds set forth in Court Ruling C-355 of 2006- violates Article 26 of the Constitution, since it produces an ambiguity that does not guarantee the conditions for the free practice of this procedure by health professionals, who must, on the one hand, coexist with the obligation to ensure the abortion procedure in three decriminalized circumstances, while, at the same time, the "threat of the crime of abortion" hangs over them and over the women they treat -for whose health they are responsible-[132].

146. Although the argument is clear, insofar as it is understood, it lacks certainty, since the charge is based on: (i) the possible intimidation that the accused norm generates in health professionals, who must decide in each individual case whether the legal requirements for abortion not to constitute a crime are met; (ii) the alleged stigmatization that such professionals could suffer; (iii) the alleged favoring of the lack of knowledge and training of health service providers, which generates harmful consequences for women who opt for abortion; and finally, (iv) that the criminalization of abortion prevents the provision of abortion services based on medical autonomy, all consequences that, in the opinion of the Court, are not objectively derived from the law being challenged.

147. In addition, the charge is not relevant either, because although -as the complaint indicates- the criminal definition of abortion and the grounds of Court Ruling C-355 of 2006 require health service providers to make a complex decision, that is, according to their knowledge and interpretations, to classify the same fact -the reasons given for the termination of a pregnancy- as legal or as the basis for the possible commission of a crime, a situation that for many may be disproportionate, this argument is not of a constitutional nature. On the contrary, it is due to evaluations related to the difficulty that the application of the challenged norm represents in practice, specifically the grounds decriminalized in the aforementioned Court Ruling.

148. The arguments regarding the alleged persecution of health professionals by the control entities and the fear of being judged, stigmatized, or labeled as murderers or abortionists, as well as the lack of training of health professionals to perform the abortion procedure, deserve the same evaluation. In fact, the analysis made in the lawsuit does not follow directly from article 26 of the Constitution and, therefore, it is not possible to verify whether there is an objective contradiction between this superior norm and the legal provision being sued.

149. Finally, the lawsuit specifies that the State must guarantee the conditions for the free exercise of professions or trades; however, at the same time, it may impose restrictions, limits, and controls, which,

[132] Fl. 102 of the lawsuit.

in any case, may not infringe upon fundamental rights or the general interest. These reasons are neither specific nor sufficient.

150. In effect, the plaintiffs omit to explain why the restriction that the challenged norm imposes on health personnel is unconstitutional. They merely point out that the persistence of the criminal sanction provided therein does not guarantee the conditions for the free exercise of health professionals, to whom restrictions, limits and controls are imposed on the exercise of their profession, which threaten their fundamental rights and those of women seeking access to abortion services in safe and legal conditions, as well as the general interest of providing health care, all this without providing constitutional arguments.

5.4. Analysis of the suitability of the charge of alleged violation of the freedom of conscience and the principle of the secular state

151. The charge is clear, as it is easy to understand from its reading that, according to the plaintiffs, the challenged norm violates freedom of conscience from two perspectives: (i) one constructed from the freedom of religion or worship, and (ii) another that has to do with the personal construction beyond religious identity, that is to say, of morality.

152. In general terms, according to the first of them, "the limits of the right to freedom of religion and worship" are violated, due to the high religious content on which the discussion on abortion is based, going against those women who are not linked to any belief related to the existence of a god. They argue that, in a secular State, it is not possible to impose or defend particular norms, values or moral principles, linked to a particular religion, because it would be conferring unfavorable or disadvantageous legal consequences against persons or communities that do not share the majority religious practice, either because they exercise another faith, because they do not share any, or even because they express their open opposition to any transcendent dimension.

153. From the second perspective, that is, one that is based on personal convictions that are not of religious content, the challenged norm would violate "the guarantee of women to act in favor of their freedom of conscience", that is, that in the exercise of reproductive autonomy, women should enjoy full power to adopt a decision based on the value system that is the product of their ideological convictions built on the basis of moral experience, as part of their interaction with their social, political and economic context; even more so, taking into account that it is she who assumes the pregnancy process.

154. The first of the arguments presented by the plaintiffs is based on the premise that the challenged norm is the product of a religious construction for the protection of prenatal life and that, therefore, it violates the principle of the secular State on which the Constitution is based. The Court finds that this argument is based on subjective estimations of the plaintiffs and on legal propositions that are not objectively derived from the challenged norm, for which reason the requirement of certainty has not been accredited.

155. To that extent, by not demonstrating, even summarily, how the challenged norm violates the freedom of religion or worship and the secular State, the claim lacks specificity and relevance, since it is based on mere subjective reasoning and appraisals of the plaintiffs, from which no concrete accusation of opposition to the Political Constitution can be discerned.

156. Likewise, the claim does not provide the necessary and sufficient arguments to accept it as reasonable, that is, there is no evidence that the challenged norm is the product of a specific religious conception imposed by the Legislator. In effect, the statements to the effect that: *(i)* "Colombia as a

secular State cannot impose or defend particular norms, values or moral principles linked to a specific religion"[133], *(ii)* that "religious denominations rely on existing normative tools such as Article 122 of Law 599 of 2000 in order to institutionalize beliefs constituting impositions that clearly go against the formula of the secular"[134] or (iii) "the disproportionate recognition that the State has granted and that borders on the exclusion of different religions and beliefs, as well as with respect to persons or groups of persons who dissent from belonging to a certain religious faith"[135] do not reflect the religious character that the plaintiffs attribute to the law they are questioning.

157. However, the other perspective, related to the right to freedom of conscience and its possible violation, presents various arguments that deserve different evaluation.

158. Thus, the plaintiffs' arguments are true, since they offer a plausible interpretation of the content of the accused norm, since it is effectively directed at the woman who decides to terminate her pregnancy - the active subject of the crime of voluntary abortion - who is also the holder of the right to freedom of conscience and self-determination, which implies having the autonomy to define her life plan. This would include, in the plaintiffs' opinion, multiple aspects, among them, whether she wishes to assume motherhood.

159. In addition, the reasons given are specific and pertinent, since they allow for a comparison between the free determination of the woman to choose whether to have a child, derived from her right to freedom of conscience, and the norm being challenged, which punishes the same woman who decides to have an abortion using that freedom, according to the petitioners. In this way, the existence of an objective and verifiable opposition between the content of the legal provision being challenged and the freedom of conscience guaranteed by the superior order is proven, based on the reasons of a constitutional nature expressed.

160. Similarly, the complaint provides elements that generate a reasonable doubt about the constitutionality of the norm that is accused, because, in addition to the above, they point out that: (i) the crime of consensual abortion forces women to act according to considerations that do not necessarily coincide with their conscience; (ii) this crime pursues women for making decisions about their own existence based on their self-determination, and (iii) it must be the woman who, based on her religious, moral, ethical, spiritual and conscientious convictions, makes the decision on whether or not to continue with a pregnancy. Therefore, the arguments raised are sufficient for the Court to be able to assume the study of the constitutionality of the challenged provision under this claim.

5.5. Analysis of the suitability of the claim filed for the alleged violation of the constitutional principles on the purposes of punishment and the minimum constitutional standards of criminal policy

161. This last claim meets the requirement of clarity, as it is understandable that the plaintiffs are interested in having this corporation review the proportionality between the protection of the legal right to life in gestation through the criminalization of abortion and the impact it has on the fundamental rights of women, particularly considering the new international standards.

[133] Pgs. 114 and 115 of the lawsuit.
[134] Pg 16 and 115 of the lawsuit.
[135] Pg. 112 of the lawsuit.

162. For the plaintiffs, the crime of abortion with consent disregards the retributive purposes -correspondence between the injury and the sanction- and preventive purposes of the punishment -reduction of the rate of injury to the protected legal interest with the criminal offense, general and special prevention-. In addition, they claim that it violates the last resort character of criminal law by omitting to consider other ways different from the imposition of a criminal sanction, to protect the legal interest that involves life in gestation. These circumstances, the lawsuit states, openly oppose the realization of the purposes of the State and the materialization of a just order, founding principles of the Political Constitution.

163. In addition, in the lawsuit it is stated, based on various studies[136], that the crime of abortion and its penalty of imprisonment do not discourage or reduce the commission of the criminalized conduct. In other words, the criminalization of abortion does not protect the life expectancy of the nasciturus; on the contrary, it generates a completely opposite result, since it increases the number of abortions, as confirmed by several studies worldwide. Thus, there is no retribution or coherence between the interest of protecting the life expectancy represented by the subject in formation and the damage generated by the law in question to the fundamental rights of pregnant women (human beings with independent life) to freedom, autonomy, dignity, and equality, among others.

164. In the lawsuit, the plaintiff claims that, even though the State has countless public policy tools (for example, adopting a public health perspective with educational campaigns on sexual and reproductive rights and access to quality medical services) to ensure life expectancy, without the need to nullify the fundamental rights of women, it resorts to criminal law to regulate this social problem. For this reason, based on the report of the Criminal Policy Advisory Commission, they specify that the crime of consensual abortion does not respond to the last resort character of criminal law[137].

165. Furthermore, the plaintiffs point out that the decision to maintain the crime of voluntary abortion in force is not based on empirical data, nor does it evaluate the costs of criminalization, since the criminalization of abortion has proved to be highly burdensome for the life, liberty, integrity, health and equality of women, in addition to generating high economic costs for the health systems. This, even though "[t]hese values could be significantly reduced by providing services in a timely manner in first level institutions and through the use of safe, non-invasive and less costly abortion methods"[138]. They add that, in effect, the criminal sanction is neither suitable nor necessary to guarantee life in gestation and completely nullifies women's liberties without producing any social benefit in compensation.

166. It is therefore concluded that the plaintiff clearly states, based on specific arguments, how the challenged norm could violate the preamble and Articles 1 and 2 of the Constitution. On the other hand, it sustains the claim for the alleged violation of the minimum principles and standards of criminal policy foreseen to maintain a just order and comply with the purposes of the State, in the terms of the Constitution, for which reason the arguments presented are pertinent.

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[136] Guttmacher-Lancet Commission on Sexual and Reproductive Health and Rights, Accelerating Progress: sexual and reproductive health and rights for all, 2018, pp. 44-45. (Available at: https://www.balancemx.org/sites/default/files/recursos/AcelerarEspanol.pdf). Zúñiga, Y. A proposal for analysis and regulation of abortion in Chile from feminist thought. Ius et Praxis Journal, v. 19, n. 1, p. 255-300, 2013. Available at: <https://scielo.conicyt.cl/scielo.php?script=sci_arttext&pid=S0718–00122013000100008. Mesa por la vida y la salud de las mujeres. Causa Justa: arguments for the debate on the total decriminalization of abortion in Colombia. Edited by Ana Cristina González Vélez and Carolina Melo. P. 147. Available in digital version (annex 3 of the lawsuit). Isabel C. Jaramillo Sierra, Nicolás Santamaría Uribe and Wilson Forero Mesa. The Criminalization of Abortion in Colombia. 2020. In process of publication. The study analyzed a database of the General Attorney's Office with 4,834 cases of abortion without consent between 1998 and July 2019.

[137] The cited report states the following: "the best way to reduce abortions is to adopt a public health perspective, with educational campaigns on sexual and reproductive rights and access to quality medical services". File. 130 of the lawsuit.

[138] Page 132 of the lawsuit.

167. Finally, the plaintiff, based on reports from the General Attorney's Office, the Ministry of Health and the Criminal Policy Advisory Commission[139], provides a broad description of the number of investigations carried out since the criminalization of abortion, the convictions that have been imposed for this crime, the origin and conduct of the investigations carried out, as well as the consequences of the criminalization of abortion.

168. From all of the above, as they indicate, it is possible to establish that: (i) only a small number (136) of the case reports in the General Attorney's Office have to do with the operation or promotion of an abortion clinic[140], which means that the prosecution is focused on individuals, and not on combating unsafe abortion as an organized business. 65.85% of the convictions are for relevant information provided by medical personnel, which would indicate a violation of professional secrecy; the partial criminal prohibition of abortion and the subsequent clandestine practice of abortion is responsible for about 70 deaths per year in Colombia, in addition to about 132,000 cases of complications due to the performance of this procedure without adequate medical conditions; (iv) the crime in question does not prevent or reduce the performance of abortions and it is constitutionally problematic to retain a criminal offense that lacks any deterrent function; (v) its enforcement does not materialize, not even potentially, the respect for the expectation of human life and (vi) the threat of criminal sanction that implies the existence of the challenged norm and the initiation of criminal investigations does have serious and proven negative impacts on various fundamental rights, both of the most vulnerable women and of health personnel. Therefore, according to the plaintiff, the norm does not comply with its purpose, which is to "discourage conduct that harms legal rights worthy of protection by criminal law (general prevention), but in such a way that there is a certain proportionality between the harm caused by the crime and the penalty attributed to it (retributive component at this stage)"[141].

169. In conclusion, the approach related to this last claim provides sufficient information to raise doubts as to the constitutionality of the challenged norm.

5.6. Summary of the review of the suitability of the claims formulated in the lawsuit

170. Based on the previous reasons, the Court concludes that the claims related to the violation of the right to freedom of profession and occupation and the secular state lack certainty, relevance, specificity and sufficiency, and therefore fail to generate a reasonable doubt about the unconstitutionality of the accused norm. On the contrary, it evidences that the following four claims are adequate: (i) disregard of the obligation to respect the right to health and reproductive rights of women, girls and pregnant women (Articles 49, 42 and 16 of the Constitution); (ii) violation of the right to equality of women in vulnerable

[139] Data from the General Attorney's Office obtained by La Mesa por la Vida in 2017, in response to a request of June 1, 2017. The data correspond to cases initiated from the issuance of Law 906 of 2004 (Code of Criminal Procedure), i.e. between 2004 and 2017 (Annex 5 of the lawsuit). Office of the General Attorney of the Nation. Report on judicialization of abortion in Colombia. Technical concept sent to the Constitutional Court in the process with case number D0013255. Office of the General Attorney of the Nation, Directive No. 0006, March 27, 2016, "whereby guidelines are adopted for the investigation and prosecution of the crime of abortion". Criminal Policy Advisory Commission. Final report. Diagnosis and proposal of criminal policy guidelines for the Colombian State, June 2012. United Nations Human Rights Council. Interim report of the Special Rapporteur of the Human Rights Council on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A/66/254. 2011. Isabel C. Jaramillo Sierra, Nicolás Santamaría Uribe and Wilson Forero Mesa. The Criminalization of Abortion in Colombia. 2020. In process of publication.

[140] The plaintiffs cite as a source the paper The Criminalization of Abortion in Colombia, which states the following: abortion case reports are texts in which prosecutors or judges record qualitative information related to abortion cases. Thus, this study takes as its source the database of the Prosecutor's Office, which contained a total of 5.744 abortion case narratives between 1998 and 2018; however, the study found that from this universe, 157 cases had no content in the variable narrative or simply had the acronym "NA"; in addition, 7 other cases were excluded from the analysis, because the case identifier number was repeated; 6 more cases were discarded, because their content was identical to the narrative related to another case; and finally, 290 cases whose facts were not related to abortion were excluded.

[141] File 126 of the lawsuit.

situations and in irregular migratory situations (Articles 13 and 93 of the Constitution, 1 of the ACHR and 9 of the Convention of Belem do Para); (iii) violation of the freedom of conscience of women, girls and pregnant women, especially with regard to the possibility of acting in accordance with their convictions in relation to their reproductive autonomy (Article 18 of the Constitution) and (iv) incompatibility with the preventive purpose of punishment and failure to satisfy the constitutional requirements attached to the last resort character of criminal law (Preamble and Articles 1 and 2 of the Constitution).

6. About constitutional *res judicata*

171. The Court will study the phenomenon of *res judicata*, since different citizen interventions request the Court to comply with what was decided in Court Ruling C-355 of 2006 (see Annex 5 of this decision). Other interventions, on the contrary, request that a substitute ruling be issued, since they consider that this phenomenon is not configured (see Annex 6 of this decision). In addition, because, as mentioned above, the General Attorney of the Nation maintains that there exists an implied relative *res judicata* -without affecting that he considers that an absolute legislative omission has been accredited-.

172. If it concludes that *res judicata* exists, it must study, first, whether there is a change in the material meaning of the Constitution in relation to the issue of abortion with consent and, second, whether we are faced with a new regulatory context that modifies the legal regime of voluntary abortion as a crime.

6.1. The reasons proposed by the General Attorney of the Nation to justify a pronouncement on the merits in the present case.

173. In the first place, according to the General Attorney of the Nation, in the present case the phenomenon of implied *res judicata* is present, which does not prevent the Constitutional Court from pronouncing on the merits, since the analysis made by the corporation in the Court Ruling C-355 of 2006:

> "[...] it followed the limits of the legislator's freedom of configuration in the criminalization of abortion, considering that its absolute prohibition was disproportionate in relation to sexual and reproductive rights, human dignity, the free development of the personality and the autonomy of pregnant women in terms of health. On this occasion, however, it is argued that the partial criminalization of VIP has created barriers to access to abortion on the causes permitted by law and has contributed to the stigmatization of this practice, thereby affecting the freedom of conscience and the sexual and reproductive health of women (particularly migrant women), the freedom of profession and occupation of the health personnel responsible for providing this service, the principle of the secular state and the standards of criminal law and criminal policy".

174. Therefore, in relation to this first argument, it concludes that: (i) there are new claims that were not considered in the Court Ruling C-355 of 2006, for example, the partial criminalization of abortion as a structural barrier to access to VIP within the three causes established in the mentioned ruling, the disproportionate impact on migrant women, the freedom of health personnel to practice their profession, and the principle of the secular state. (ii) Although other claims are similar -such as the violation of equality, sexual and reproductive health and the last resort nature of criminal law-, the truth is that the approaches presented by the plaintiffs are different: in relation to the claim of equality, the indirect discrimination of migrant women and, therefore, the State's failure to comply with its obligations; with

respect to the right to sexual and reproductive health, the existence of structural barriers to access to VIP under the authorized causes and, finally, in relation to the last resort character of criminal law, the evidence of other ways other than the use of the punitive power of the State and more suitable to protect life in gestation.

175. In second place, according to the General Attorney of the Nation, regardless of the above argument, the truth is that the study of *res judicata* is overcome, as a consequence of its weakening or enervation, in the terms of the constitutional jurisprudence[142], when the following two phenomena are accredited: (i) on the one hand, it indicates that a variation has operated in the material meaning of the Constitution in relation to the issue of consensual abortion and (ii) on the other hand, there is a new legal context - legal and regulatory norms, public policy documents and jurisprudence - that has modified the legal regime of consensual abortion as a crime and in which the compatibility of article 122 of the Criminal Code with the Constitution must be studied. All this, according to him, as a consequence of the following phenomena: (i) the development of the VIP in the framework of the three causes provided by law from the review jurisprudence of the Court, for which it refers to Court Rulings T-585 of 2010, T-841 of 2011, T-627 of 2012, C-754 of 2015, C-327 of 2016, T-301 of 2016, T-697 of 2016 and SU-096 of 2018; (ii) the transformation of the right to health into an autonomous fundamental right, for which it refers to the provisions of Court Rulings C-313 of 2014 and T-361 of 2014; (iii) international recommendations for the decriminalization of abortion beyond the three causes referred to in the Court Ruling C-355 of 2006 and (iv) the issuance of Law 1257 of 2008, in order, among others, to comply with the State's international commitments regarding freedom, autonomy and sexual and reproductive health.

6.2. *Res judicata* in the constitutional jurisprudence

176. Based on the provisions of article 243 above, and in order to ensure legal certainty, constitutional jurisprudence has specified that *res judicata* is a procedural legal institution through which the decisions set forth in a Court Ruling of constitutionality are granted the character of immutable, binding and definitive[143]. This implies, in principle, as will be specified below, the loss of competence of the constitutional judge to issue a new substitute ruling on a norm whose control was previously carried out. As it has been recently specified[144], the constitutional *res judicata* is intended to guarantee various constitutional values and principles such as legal certainty, good faith, judicial autonomy and the normative force of the Constitution.

6.2.1. Structuring elements of constitutional *res judicata*

177. As the constitutional jurisprudence has made clear, not all the rulings handed down by the Court have the same effects and legal consequences[145]. Therefore, in order to establish whether in a specific case *res judicata* is established, the legal relationships between the following three elements of the past decision and the reasons alleged in the present must be evaluated: (i) the type of decision adopted, specifically, whether the simple constitutionality of the challenged provision was declared, its conditional

[142] For such purposes, it refers to the court rulings "C-774 of 2001, C-030 of 2003, C-1122 of 2004, C-990 of 2004, C-533 of 2005, C-211 of 2007, C-393 of 2011, C-468 of 2011, C-197 of 2013, C-334 of 2013 and C-532 of 2013, C-494 of 2014, C-228 of 2015, C-007 of 2016, C-100 of 2019, C-068 of 2020, among others" (Opinion of the General Attorney of the Nation, file. 12).
[143] Court Ruling C-100 of 2019. In the same sense, cf., Court Rulings C-774 of 2001, C-030 of 2003, C-1122 of 2004, C-990 of 2004, C-533 of 2005, C-211 of 2007, C-393 of 2011, C-468 of 2011, C-197 of 2013, C-334 of 2013, C-532 of 2013 and C-519 of 2019.
[144] Court Ruling C-233 of 2021.
[145] Court Ruling C-233 of 2021.

constitutionality[146] or its unenforceability and, in all these cases, the ratio decidendi of the ruling; (ii) the object of control -the challenged norm- and (iii) the parameter of control, constituted by the constitutionality claims formulated[147] and their relationship with the legal problem resolved in the previous Court Ruling[148].

6.2.1.1. The type of decision taken

178. In the constitutionality cases brought by the Court, when the decision is of unconstitutionality due to its material content, the *res judicata* is absolute and, therefore, the Court must reject the claim for lack of object of control or abide by the decision of the past, since the normative content accused has already been expelled from the legal system. In these cases, moreover, as provided in Article 243, second paragraph of the Constitution, "no authority" may reproduce the normative content that was expelled from the legal system for substantive reasons, "while the provisions that served to make the confrontation between the ordinary norm and the Constitution subsist in the Constitution".

179. In the events in which the simple constitutionality of a norm has been declared, it is necessary to evaluate the scope of the ruling, in order to establish whether the issue raised today was not resolved in the previous opportunity and, therefore, whether it is appropriate to issue a new pronouncement, or whether the reproach formulated was resolved in the past and, in that case, it will be necessary to abide by what has already been decided.

180. The analysis of *res judicata* is more complex when in the past decision the Court has declared the conditional constitutionality of a norm or, in other words, has issued an integrating Court Ruling. In this type of decision, the Court fills apparent normative gaps or addresses the inevitable uncertainties of the legal framework, as in the case of the Court Ruling C-355 of 2006, which is the subject of this Court's study. The integrating ruings, in any of their modalities -interpretative, additive, or substitutive-, are based on the normative nature of the Constitution (article 4 PC) and on the principles of effectiveness (article 2 PC) and preservation of the law (article 241 PC), which govern the exercise of the control of constitutionality. In relation to this type of rulings, the jurisprudence has specified:

> "[...] the constitutional reading given by the Court Ruling is understood to be incorporated into the provision, as the only valid interpretation thereof. Also, when the *res judicata* is predicated of an integrating, additive or substitute ruling, which intervenes not in the interpretation of the text, but in its grammatical content itself[149]. In these cases, after the Court Ruling of conditional constitutionality, we are faced with a 'legal norm that arises from the conditional Court Ruling' and, in the case of the additive, integrative or substitutive Court Ruling, a new wording of the provision arises "[150].

[146] As stated by the Court in the Ruling C-233 of 2021, the decisions "that conclude with the declaration of conformity of the law with the Constitution (of simple or conditional constitutionality) open a series of diverse possibilities, due to the scope of the control carried out by the Court, as well as the effects that it attributes to its decisions".
[147] In the Court Ruling C-007 of 2016, it was explained that "res judicata will exist if a previous ruling of the Court in the abstract control venue fell on the same norm (identity in the object) and if the constitutional reproach raised is equivalent to the one examined in a previous opportunity (identity in the claim)".
[148] From the study of the interaction of these elements, the Constitutional Court has constructed a typology of res judicata. Thus, it has indicated that res judicata can be formal, material, absolute, relative, or apparent. In this sense, see, among many other rulings, the recent Court Ruling C-233 of 2021, which, in a broad manner, develops this matter. Specifically, regarding these distinctions, it states: "128. Thus, (i) the object of analysis gives rise to the distinction between formal res judicata and material res judicata; (ii) the legal problem or the claims analyzed, to the distinction between relative res judicata and absolute res judicata. And (iii) the reasoning - in addition to being relevant to analyze the two previous distinctions - may exceptionally give rise to the phenomenon of res judicata of an apparent nature".
[149] Court Ruling C-182 of 2016.
[150] Court Ruling C-325 of 2009.

181. In any of these cases, the effect of the decision of conditional constitutionality, as the Court has stated, is that "the interpretation excluded from the legal system may not be reproduced or applied in another legal act; and in the cases in which the Court has adopted an additional (*aditiva*) Court Ruling, the *res judicata* implies that it is not allowed to reproduce a provision that omits the element that the Court has deemed necessary to add "[151]:

> "When the Court adopts an additional Court Ruling, the *res judicata* implies that it is not valid to reproduce a provision that omits the element that the Court has deemed necessary to add. In that case, any modification or reproduction of the initially controlled norm -whether of legislative or jurisdictional origin- should maintain the admissible weighting formula established by the Constitutional Court. If this is not the case, nothing prevents a new lawsuit from being filed against it and the Court from studying it again, without disregarding the principle of constitutional *res judicata*"[152].

6.2.1.2. The object of control

182. There will be identity in the object of control when the normative content that was evaluated in the past is the same as the one challenged in the present petition, either because it is the same text -provision- or because the challenged norm produces the same legal effects, in which case it is necessary to evaluate, if appropriate, the scope of the previous additive integrating Court Rulings that have been handed down on a particular provision. In relation to this assumption, the Court has stated that "The variation of some of the normative elements, or the modification of their scope as a consequence of the adoption of new provisions, are circumstances that may affect the object under review "[153].

6.2.1.3. The control parameter

183. The study of this element involves evaluating the proposed claims and the legal problem resolved by the Court in the past.

184. It is indicative that it is the same constitutional reproach when the constitutional norms or of the block of constitutionality[154] that are alleged to have been disregarded and the reasons adduced to prove the transgression coincide. This finding, however, is not sufficient. In addition, it is necessary to evaluate the legal problem resolved by the Court in the past, since this is what limits the constitutional debate based on the proposed claim; therefore, even when apparently in a current claim the same debate is formulated as in a previous decision, the Court must review whether there is identity in the way in which the study of the case was approached and the solution adopted. Finally, in this study it is especially relevant to consider that, "if the constitutional norms that were part of the control parameter undergo a relevant modification or, without such variation occurring, the type of reasons to explain the violation are different, the existence of *res judicata* cannot be declared and a new pronouncement of the Court will be required "[155].

[151] Court Ruling C-089 of 2010.
[152] Court Ruling C-233 of 2021.
[153] Court Ruling C-007 of 2016.
[154] Article 93, first section of the Constitution.
[155] In this regard, court rulings C-228 of 2009, C-220 of 2011, C-712 of 2012 and C-090 of 2015.

6.2.2. Despite the existence of *res judicata,* it is possible, in certain cases, to issue a substitute ruling, exceptionally

185. Finally, this corporation has admitted that, exceptionally, it is possible to carry out a new review of constitutionality despite the existence of *res judicata*. In this sense, the Constitutional Court has indicated that this possibility occurs in the following three circumstances[156]:

186. (i) Modification of the control parameter: this occurs when the norms that constituted the referent to judge the constitutionality of the again accused provision change[157].

187. (ii) Change in the material meaning of the Constitution: occurs when the social, economic or political reality of the country transforms the assumptions that served as a basis for declaring the constitutionality of the norm, which allows a new study to be carried out in light of the new realities, understanding the Constitution as a living text[158] . As stated in the recent Court Ruling C-233 of 2021, this hypothesis "does not depend then on the formal incorporation or incorporation of norms to the block of constitutionality, but on the way in which the understanding of the constitutional rules and principles changes over time and adapts to political, social and economic realities "[159].

188. (iii) Variation of the normative context of the object of review: this occurs when the provision previously examined is integrated into a new normative context, or when the normative system in which it is included has been modified. It refers to the systematic interpretation of the accused provision, in conjunction with all the provisions that, at present - and, therefore, after the decision of the past - make up the specific normative system to which it belongs[160]. As indicated in the recent Court Ruling C-233 of 2021, "the normative context of the provisions or norms subject to control varies when (i) a norm that has already been judged is subsequently issued, in a different normative context; (ii) the order in which the norm is inscribed has undergone modifications and a different constitutional assessment is necessary, in the new context. This scenario takes into account the need to interpret the norms, both in their context and in the criterion of systematic interpretation of the law, since it considers that two articles, identical in their formulation, may have different contents if they are part of different normative contexts "[161].

6.3. Analysis of the possible configuration of *res judicata* in the subject under review

189. As stated above, and in view of the discussion on the possible existence of *res judicata* with respect to the Court Ruling C-355 of 2006, the Court will now establish whether or not the phenomenon of constitutional res judicata is present in this case and, if so, whether it can be considered to have been overcome, in accordance with any of the three previously mentioned assumptions, not without first

[156] Cfr., in particular, Court Ruling C-233 of 2021. In this decision, reiterating the jurisprudence contained in Court Rulings C-007 of 2016 and C-073 of 2014, the Court stated: "exceptionally, the Court has also admitted that it is possible to advance a new study of constitutionality, despite the existence of formal or material res judicata. In this sense, the Constitutional Court has admitted this possibility when there is (i) a change in the parameter of control, derived from the incorporation of new relevant mandates to the Political Constitution, including the block of constitutionality; (ii) a modification in the material meaning or in the understanding of the relevant mandates, derived from significant social, political or economic changes; or (iii) the variation in the normative context in which the norm subject to control is inserted".
[157] On this hypothesis, Court Ruling C-007 of 2016 stated: "Given that the control parameter may be formed by directly constitutional norms or by those that without having an equivalent force are integrated to the block of constitutionality, the variation may take place by virtue of a reform of the Political Constitution or a variation, through the procedures provided for that purpose, of the laws integrated to said block. In these cases what happens is that the norm has not been judged in the light of the new provisions and therefore, if it does not admit a new constitutional review, the supremacy of the Constitution would be affected by allowing the validity of normative contents contrary to the Constitution".
[158] Cfr., in this regard, Court Rulings C-075 of 2007, C-029 of 2009 and C-283 of 2011.
[159] Court Ruling C-233 of 2021.
[160] Court Ruling C-200 of 2019.
[161] Court Ruling C-233 of 2021.

warning that, according to the constitutional jurisprudence[162], in these cases a qualified argumentative burden is required on the part of the plaintiff. In relation to this last aspect, to challenge the existence of constitutional res judicata requires that the plaintiffs do not merely present the disagreements that were exposed in the past but must sufficiently explain the reasons why the previous pronouncement does not constitute absolute res judicata or, failing that, in the event that the existence of res judicata has been ascertained, justify its overcoming.

190. In the case under study, as stated in the background of this ruling and as will be developed below, the plaintiffs assumed the burden of explaining, in a sufficient manner, why a new pronouncement of this Court is justified, despite the existence of the Court Ruling C-355 of 2006. In the first place, in their opinion, the claim that is now being decided does not present identity of claims, object of control, nor does it correspond to the same control parameter, with respect to the claim that was evaluated by the Court in the previously mentioned Court Ruling. Secondly, they sufficiently explained the reasons why, in their opinion, despite the conclusion that the phenomenon of res judicata is present, it is appropriate to pronounce on the merits. According to them, this is weakened or diminished because, on the one hand, there is evidence of a change in the material meaning of the Constitution regarding the understanding of the social problem of consensual abortion and, on the other hand, there is evidence of a change in the normative context in which the law being challenged is inserted[163].

191. For the Court, despite the existence of the Court Ruling C-355 of 2006, it is appropriate to issue a substitute ruling, since (i) these are claims that, strictly speaking, were not assessed by the Court in the mentioned Ruling - reason for which, as the plaintiffs and the General Attorney of the Nation pointed out, there would be an assumption of formal res judicata, In any case, (ii) there is evidence of a change in the material meaning of the Constitution with respect to the understanding of the constitutional problem posed by the crime of consensual abortion, and (iii) a change in the normative context in which Article 122 of the Criminal Code is inserted. The first reason does not inhibit the competence of the Court to rule on the merits of the present petition. The last two, as has been repeatedly stated by the Court, allow a substitute ruling on the merits with respect to suitable claims, even though a provision that was subject to prior constitutional control is being challenged[164]. Therefore, there are three types of reasons that independently justify a substitute ruling in the present case, but that together provide sufficient grounds for the Court to, based on very new reasons, assess the constitutionality of Article 122 of Law 599 of 2000, despite the conditions contained in the Ruling C-355 of 2006.

6.3.1. There is no identity between the claims formulated in the present lawsuit and those resolved by the Court in the Ruling C-355 of 2006.

[162] Cf., recently, Court Ruling C-233 of 2021. In this ruling it is stated: "The argumentative burden that a plaintiff must assume for a provision declared constitutional to be studied once again is special and particularly demanding (it is insisted, if it is a new claim or a legal problem that was not previously resolved by the Court, since in this case it would not be in the presence of the phenomenon of res judicata; see, supra, 127 and 128). In this sense, it cannot limit itself to present the disagreements that were exposed in the past but must explain how any of the factors that weaken the res judicata materialize".
[163] It is specified, in any case, that the current debate is not about the constitutionality of the conditioning of Article 122 of the Criminal Code in the Court Ruling C-355 of 2006, but about the compatibility of this provision with the Constitution, on the basis of four suitable claims.
[164] Cf., among others, Court Rulings C-073 of 2014, C-007 of 2016 and, especially, Ruling C-233 of 2021. In this last ruling, the Court specified that with respect to Article 106 of Law 599 of 2000, which regulates the criminal offense of "mercy killing", there was "material res judicata, because the Constitutional Court ruled on a normative content identical to that of the challenged norm in Ruling C-239 of 1997". However, "despite the existence of res judicata, the Court notes that in this case there are two lines of argument that lead to the reopening of the debate. On the one hand, a profound change in the normative context, which includes a deeper constitutional understanding of the right to die with dignity than that reached in 1997, that is, an evolution in the meaning of the relevant constitutional principles". The Court, then, justified a substitute ruling regarding the criminal offense of "mercy killing" by evidencing, on the one hand, "that there are several changes in the normative context in which the criminal offense of mercy killing is inserted" and, on the other hand, "an evolution in the meaning of the Political Constitution in relation to the right to die with dignity: one of the hypotheses that enables a new ruling by the Constitutional Court".

192. The Court finds that it is not before the same control parameter of 2006, since not only is there no identity between the claims that are currently proposed and those that were resolved fifteen years ago, but it is not possible to infer that the current claims are subsumed in the legal problem resolved by the Court on that occasion. Therefore, despite the fact that there is a formal res judicata, this is of a relative nature and, therefore, does not inhibit the competence of the Court to issue a substitute ruling on this lawsuit.

193. As has been indicated, fifteen years ago, certain provisions of the Criminal Code, including article 122, which is now being challenged, were submitted for review as to their conformity with the criminal offense of abortion. The complaint resolved in the Court Ruling C-355 of 2006 argued that such provisions violated the rights to dignity (preamble and article 1 of the PC), to life (article 11 of the PC), to personal integrity (article 12 of the PC), to equality and to the general right of access to health care (article 12 of the PC), to equality and the general right to liberty (article 13 of the PC), to the free development of personality (article 16 of the PC), to reproductive autonomy (article 42 of the PC), to health (article 49 of the PC) and the obligations of international human rights law (article 93 of the PC). In the plaintiffs' opinion on that occasion, the criminalization of abortion with consent constituted a limitation of the rights and freedoms of pregnant women, contrary to the international obligations of the Colombian State acquired by virtue of the ratification of several human rights treaties that are part of the constitutional block and whose interpretation by the authorized bodies suggested the decriminalization of the conduct.

194. After analyzing the claims made, the Court found that the absolute criminalization of abortion with consent constituted an overreach of the Legislator's freedom of configuration, disproportionate and unreasonable, in relation to the rights to dignity, autonomy, free development of the personality, life and health and integrity of pregnant women, in three specific, extreme cases, and which it considered manifestly disproportionate, since they are circumstances related to (i) danger to the life or health of the woman, (ii) serious malformation of the fetus that makes its life unviable, and (iii) when the pregnancy is the result of a conduct constituting carnal access or sexual act without consent, abusive or non-consensual artificial insemination or transfer of a fertilized ovum, or incest. The Court specified that the protection of life in the constitutional order enjoys different degrees and is not an absolute guarantee, so that it is susceptible to be balanced with other principles, values and superior rights, although its safeguard from criminal provisions was viable, to provide for the punishment of abortion in all circumstances "implies the complete preeminence of one of the legal rights at stake, the life of the unborn child, and the consequent absolute sacrifice of all the fundamental rights of the pregnant woman "[165]. Based on this regulatory idea, it specified that the Legislator, in the first place, "is prohibited from invading constitutional rights in a disproportionate manner and, in second place, is ordered not to fail to protect constitutional rights, without this meaning that the principle that criminal law, due to its restrictive nature of freedoms, must be used as last resort, should not be ignored "[166].

195. For the Court, although the ruling in question did not limit the scope or the effects of the Court Ruling in its operative part, it is possible to note, from its content, that the examination of the criminal type of abortion was limited to the claims formulated in the plaintiff and not with respect to the entire constitutional text, hence the relative and implicit nature of the res judicata in the Court Ruling C-355 of 2006, with respect to the present claim.

[165] Court Ruling C-355 of 2006.
[166] Court Ruling C-355 of 2006.

196. Based on what has been said, to demonstrate the absence of identity in the control parameter, the following distinctions will be made in relation to each of the claims that the Court is examining in this opportunity:

6.3.1.1. Right to health and reproductive rights

197. In relation to the alleged violation of the right to health and reproductive rights of women, girls and pregnant women, despite finding certain similarities with some aspects addressed by the Court in the Ruling C-355 of 2006, we are not in the presence of the same claim that was studied fifteen years ago.

198. The claim formulated and evaluated in 2006 questioned the compatibility of article 122 of the Criminal Code with the right to health - article 49 of the Constitution - in connection with the rights to life and dignity, among others. It was alleged that this right was disregarded by criminalizing women who, regardless of their circumstances, wanted to terminate their pregnancy, since they were forced to go to clandestine places for this purpose, with risk to their lives, health, integrity and dignity, even in cases where their condition represented a threat to their life or health, there were malformations in the fetus incompatible with the life of the pregnant woman or the pregnancy was the result of sexual violence.

199. This controversy was addressed by the Court based on the analysis of the limits of the criminal legislator, among which it highlighted the constitutional rights, one of them being the right to health, which acquired the fundamental character - at that time - "whenever it is in a relationship of connection with the right to life, that is, when its protection is necessary to ensure the continuity of the existence of the person in conditions of dignity "[167]. In this way, the examination carried out by the Court was based on a negative obligation of respect (emphasizes the Court) of said right since, in the words of this corporation, the regulatory power of the legislator in the criminal field "excludes the adoption of measures that undermine the health of persons even when it is in order to preserve the general interest, the interests of third parties or other goods of constitutional relevance[168]".

200. It should also be noted that, although this pronouncement made a brief reference to the international framework for the protection of the rights of women and girls, which included a mention of some aspects of the sexual and reproductive rights of this population, this was done with the purpose of specifying that "this does not derive from a mandate to decriminalize abortion or prohibit the legislature from adopting criminal measures in this area"[169].

201. For the Court, it is not possible to evidence that the past claim is analogous to the current one, for the following three reasons: first, in 2006 the Court did not pronounce on the obligations of compliance and protection of the State, of a positive nature, for the guarantee of the right to health and reproductive rights of women, girls and pregnant women -as derived from Articles 42 and 16 of the Constitution-, in particular, as a result of the issuance of Law 1751 of 2015, Statutory Law on Health. Secondly, for that year it was not possible for the Court to rule on the obligation of respect attached to the right to health, based on the recommendations to decriminalize the practice of abortion issued by multiple human rights protection bodies -regardless of their normative value-, since these were subsequent to the issuance of the Court Ruling C-355. Third, unlike in 2006, to date, the duality of the accused norm -crime/non-crime-

[167] Court Ruling C-355 of 2006.
[168] Court Ruling C-355 of 2006.
[169] Court Ruling C-355 of 2006.

prevents assessing the condition of VIP as a procedure attached to health in the terms of constitutional jurisprudence, which has considered sexual and reproductive rights as part of this fundamental right -to health-, autonomous and justiciable in a direct manner.

202. Indeed, according to the plaintiffs, the constitutional jurisprudence and the Committee on Economic, Social and Cultural Rights have held that sexual and reproductive rights are part of the right to health, which is contemplated in Article 49 of the Constitution, in Statutory Law 1751 of 2015 and in several international human rights treaties that are part of the constitutional block. According to them, these rights - sexual and reproductive rights - are of particular importance, to the extent that the enjoyment of other human rights of women also depends on their guarantee.

203. In the plaintiffs' opinion, this implies that the State must comply with the same obligations with respect to VIP as it does with respect to the right to health. They specify that, in spite of this, such obligations are disregarded with the current criminalization of the crime of voluntary abortion -in the conducts that continue to be classified as typical-, by constituting the greatest obstacle to access to procedures for the termination of pregnancy and violating the elements of the fundamental right to health -reproductive- of availability, accessibility, and professional quality and suitability.

204. Thus, they point out that such violation would occur mainly because the provisions of Article 122 of the Criminal Code would be contrary to the obligations of compliance and protection of health, in this case reproductive health, by generating, maintaining and deepening the structural barriers to access to VIP in the three authorized causes. According to them, such obligations of the State have been specified by the Constitutional Court in its pronouncements, after noting the multiple obstacles faced by women when requesting the mentioned procedure, in which it has had to urge the authorities and individuals involved in the process to refrain from deploying practices that impede it.

205. Likewise, it is highlighted in the lawsuit that "the challenged norm also goes against Article 5 literal a) of the 2015 Statutory Health Law [which is a parameter of constitutionality control after 2006], since it is a measure that leads to the deterioration of the population's health and that in fact it is proven that it results in harm to women's health "[170].

206. For the plaintiffs, article 122 of the Criminal Code would additionally violate the obligation to respect, as it constitutes an undue interference in the right to health of women who are outside the causes of absence of criminality, referred to in the Court Ruling C-355 of 2006. This inference, as they point out, could not have been made fifteen years ago in the lawsuit studied by the Court, since it is based on the pronouncements subsequent to that decision, of several international human rights organizations -among which are those of the Committee on Economic, Social and Cultural Rights, of the Special Reporter on the right of everyone to the enjoyment of the highest attainable standard of health and of the CEDAW Committee-, which have been unequivocal in stating the need to decriminalize abortion as a measure in favor of the health and sexual and reproductive rights of this population, as well as a way to act against violence against women.

207. As can be seen, with respect to the violation of the right to health, the current lawsuit is mainly aimed at proving that the criminal offense of abortion with consent prevents women who fall under the three circumstances provided for by the decision of this corporation fifteen years ago, from carrying out

[170] File 88 of the lawsuit.

the VIP procedure. In other words, it is focused on certain obligations of compliance and protection of the State, of a positive nature, to guarantee the right to health in the three mentioned cases. As for the obligation to respect, it is based on the lack of protection that persists after the issuance of the Court Ruling C-355 of 2006 for women who do not fall under the causes contemplated therein and, therefore, cannot access services essential for the enjoyment of their reproductive health, despite the multiple pronouncements of human rights organizations subsequent to that ruling, which advocate the decriminalization of this practice as a fundamental measure for the enjoyment of the health of women and girls. For the Court, based on the foregoing, Ruling C-355 of 2006 did not address the study of a claim related to the guarantee of the fundamental right to health, specifically, to reproductive health, in the terms proposed by the plaintiffs, since, as they point out, it is based on that decision that the alleged violations have been identified.

208. For the foregoing reasons, as announced, the Court finds that in relation to the claim related to the alleged disregard of the right to health raised in the current lawsuit, there is no constitutional res judicata, so it is appropriate to issue a substitute ruling.

6.3.1.2. Right to Equality

209. In relation to the claim related to the principle of equality, in the Court Ruling C-355 of 2006, the Court did not analyze any objection related to the alleged disregard of the principle of equality, much less to the disregard of this guarantee with respect to women in vulnerable situations and in an irregular migratory situation.

210. According to the plaintiffs, the structural barriers to access to the VIP procedure arising from the challenged norm do not affect all women equally. In other words, women and girls in vulnerable situations, such as rural women, women of limited resources, adolescents, women living in situations of armed conflict and women who suffer other types of gender-based violence, are disproportionately affected. According to their reasoning, this unjustified inequality among women violates the State's obligation to guarantee access to the VIP procedure under equal conditions and without discrimination. Thus, they argue that the "fundamental right to equality contains a mandate to avoid discriminatory treatment (formal equality), as well as a mandate of intervention that obliges the State to overcome conditions of inequality (material equality)"; and, in addition, Article 13 of the Constitution prohibits indirect discrimination, that is, "the consequences that arise from the application of apparently neutral rules, but which in practice generate an adverse and disproportionate impact on a traditionally marginalized or discriminated group". That is, "from formally non-discriminatory treatments derive unequal factual consequences on the rights of a group, in this case women in an irregular migratory situation."

211. Thus, as they indicated, while legislative rationality must take into account, among other aspects, the social, economic and cultural context of the population to which the criminal classification and sanction is directed, judicial scrutiny of such powers must investigate whether their effectiveness is aimed at specific sectors of the population, in order to demonstrate, among other things, whether they establish biases against social groups in vulnerable conditions, who are more likely to engage in such conduct and be prosecuted because of their economic, social or cultural conditions, than other more privileged groups that can more easily avoid the conduct or the criminal sanction by means of different

strategies[171].

212. They also specified that special attention should be paid to cases in which the crimes are aimed at penalizing only women, girls and pregnant women, since it is necessary to identify whether, in fact, the legislator imposes an excessive burden on them because of their sex and gender, whether or not, when criminalizing certain conduct, it weighs the possible affectations to individual dignity and whether or not it avoids imposing a system of beliefs and values that, ultimately, translates into the determination of their conduct and the subjugation of their will, to the point of placing it at the service of other people's convictions, by means of coercion and the threat of a penalty for it; in short, by replacing his personal autonomy with state heteronomy.

213. Finally, they indicated that, as recalled by the Constitutional Court in Ruling C-335 of 2017, the Convention of Belem do Para and the IACHR Court have highlighted that violence against women is a manifestation of historically unequal power relations between women and men that has transcended all sectors of society, so that certain actions of individuals and even the State may end up legitimizing or reproducing it.

6.3.1.3. Right to freedom of conscience

214. In relation to the claim related to freedom of conscience, although in the Court Ruling C-355 of 2006 the Court referred to the right to free development of the personality established in Article 16 of the Constitution, the present claim is based on a different and autonomous parameter of constitutional control - Article 18. According to the plaintiffs, the provision forces women to act according to considerations that do not necessarily coincide with their conscience and, therefore, the State persecutes those who make decisions about their own existence based on their own self-determination. That is, the plaintiffs confront the free determination of women to choose whether or not to have children with the challenged norm, which punishes them when, in the use of that freedom, they decide to have an abortion. Thus, in 2006, the Court did not rule on the possible violation that the criminalization of abortion with consent would produce in the fundamental right to freedom of conscience of women, girls and pregnant women, that is, regarding the alleged violation of their reproductive autonomy by not being able to act in accordance with their convictions.

215. In effect, the claims that originated the pronouncement of this corporation on the conditional constitutionality of the criminal offense of abortion fifteen years ago, did not include within the claims against article 122 of Law 599 of 2000, the violation of freedom of conscience, contemplated in article 18 of the Constitution. Nor has this occurred in subsequent lawsuits regarding the same provision, on which the Court could have ruled on the merits.

216. Despite the foregoing, it is important to indicate that in the Court Ruling C-355 of 2006, some specifications were made in relation to the persons entitled to conscientious objection, so that this would not become an obstacle for women who, being incurs in any of the grounds provided in that ruling, could have access to the voluntary interruption pregnancy procedure.

217. On that occasion, this Corporation considered it pertinent to refer to conscientious objection to indicate that: (i) it is not a right that is claimed by legal persons or the State, such that they cannot

[171] Files 95 and 96 of the lawsuit.

request its protection; (ii) in relation to natural persons, this is based on profound beliefs and does not simply correspond to the personal opinion of agreeing or disagreeing with voluntary abortion; and, (iii) in the events in which a case of conscientious objection is presented by medical personnel, it is their duty to refer the woman to one who can carry out the procedure.

218. It is worth mentioning that the brief reference in the Court Ruling C-355 of 2006 to freedom of conscience was framed in the analysis of the specific case, specifically, of two of the events in which the crime of abortion is not incurred -when the continuation of the pregnancy constitutes a danger to the life or health of the woman, and when there is a serious malformation of the fetus that makes its life unviable -, to point out that "there must be certification by a medical professional, since in this way the life in gestation is safeguarded and the real existence of these hypotheses in which the crime of abortion cannot be punished can be verified". Thus, the Court concludes that in these cases "[t]his determination is placed in the hands of medical professionals who will act in accordance with the ethical standards of their profession".

219. As can be seen, in the decision referred to above, the Court ruled on the right to freedom of conscience of the health professionals who must perform the VIP and that their conscientious objection cannot affect the rights of women. In other words, it dealt only with the legal position of doctors with respect to the fundamental right to freedom of conscience, specifically in the events in which, as a consequence of being forced to perform a termination of pregnancy, their beliefs were threatened.

220. In contrast, the current lawsuit explicitly includes article 18 of the Constitution as one of the provisions not recognized by the challenged norm[172], in view of the legal position of women as holders of the fundamental right to freedom of conscience. Thus, in the current proceeding, the plaintiffs argue that Article 122 of the Criminal Code violates freedom of conscience by transgressing the subjective rule of morality of women, which, with respect to reproductive autonomy, should serve to recognize that "the woman enjoys full power to adopt a decision to exercise it, based on a system of values that is the product of her ideological convictions constructed on the basis of moral experience, as part of her interaction with her social, political and economic context, but especially because pregnancy is a process that only she is in a position to face "[173]. This is because, on the one hand, it forces them to carry their pregnancies to term despite being subject to any of the causes established in Court Ruling C-355 of 2006, due to the obstacles they face in accessing the VIP procedure and, on the other hand, with respect to women who are not covered by the causes that are not penalized, by forcing them to assume maternity, contrary to their convictions.

221. It is concluded, then, that the phenomenon of res judicata is not configured with respect to this claim either, since there is no identity between what was analyzed by this corporation fifteen years ago and what is formulated in the present lawsuit.

6.3.1.4. Constitutional purpose of general prevention of punishment and constitutional characteristic of criminal law as a mechanism of last resort

222. Finally, in relation to the claim related to the constitutional purpose of general prevention of

[172] It also referred to Article 3 of the American Declaration of the Rights and Duties of Man and Article 12 of the ACHR.
[173] File 112 of the lawsuit.

punishment and the constitutional characteristic of criminal law as a mechanism of last resort, whose parameter of constitutional control is the preamble and Articles 1 and 2 of the Constitution, although there are some similarities between this claim and some aspects dealt with in the Court Ruling C-355 of 2006, it is not possible to infer that the constitutional problem that now arises had been resolved in the mentioned Ruling.

223. In the Court Ruling C-355 of 2006, the Court analyzed whether the absolute criminalization of abortion constituted a disproportionate and unreasonable state interference that exceeded the limits of the Legislator and disregarded the constitutional rights to human dignity, to the free development of personality, to health in connection with life and to the integrity of persons, as well as the criteria of reasonableness, proportionality and strict legality, which were applied both to the definition of the criminal offense and to its sanction.

224. On this occasion, the plaintiffs argue that article 122 of Law 599 of 2000, after the conditioning to which it was subjected in the Court Ruling C-355 of 2006, is unconstitutional because, first, it ignores the preventive and retributive purposes of the penalty, since it does not prevent voluntary abortions in general or in particular, nor does it contemplate a just and legitimate negative consequence to the social harm caused by such conduct. They point out that the crime does not discourage or diminish the commission of the criminalized conduct; on the contrary, criminalization increases the number of abortions as, according to them, is confirmed by worldwide data and the figures of the General Prosecutor's Office in the Colombian case[174].

225. On the other hand, they point out that the criminal charge also disregards the minimum standards of criminal policy, if we take into account that the criminal charge of abortion lacks preventive effectiveness and disregards the last resort nature of criminal law, at the same time that such policy lacks empirical foundations and does not measure its economic costs.

226. According to the plaintiffs, this is an ineffective and unnecessary social control mechanism, or one with little functionality as a means of social dissuasion, while it does have a harmful effect on the rights of women. They specify that the Legislator's use of criminal law by criminalizing the conduct of abortion does not respond to the last resort character of criminal law, since it omits and prevents the consideration of other more suitable ways for the protection of life in gestation, under a public health perspective that involves education on sexual and reproductive rights and access to quality medical services. In addition, they indicate that on that occasion the Court could not foresee that new recommendations and pronouncements on the matter would be made by international human rights protection organizations, which point to the decriminalization of the practice of voluntary abortion, as a measure in favor of women's rights and as a way to eradicate the violence that this population faces on a daily basis; such is the case of the committees on Human Rights[175], CEDAW[176], CESCR[177] and persons with disabilities[178].

[174] According to them, "the crime and its threat of imprisonment do not discourage or diminish the commission of the criminalized conduct, that is to say, it does not protect the expectation of human life represented by the nasciturus, and in fact it has been proven that criminalization achieves the complete opposite result, that is to say, it increases the number of abortions as confirmed by worldwide data" (file 122 of the lawsuit).
[175] Human Rights Committee. General Comment No. 36 on the right to life. CCPR/C/GC/36. Para. 8.
[176] CEDAW Committee. Inquiry on United Kingdom and Northern Ireland (Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women). 2018. CEDAW/C/OP.8/GBR/1. para. 58.
[177] Committee on Economic, Social and Cultural Rights. General Comment No. 22. On the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights). E/C.12/GC/22. Para. 34.
[178] Joint Statement of the Committee on the Rights of Persons with Disabilities and the CEDAW Committee. Ensuring the sexual and reproductive health and rights of all women, in particular women with disabilities. August 29, 2018.

227. In summary, in relation to this claim, despite the fact that the Court Ruling C-355 of 2006 refers, in general, to the legislative competence in criminal matters, it does not evaluate the general preventive purpose of the punishment -related, in particular, to the unsuitability of the provision to effectively protect the life of the unborn child-. On the other hand, except for some interventions in the mentioned constitutionality process, Ruling C-355 of 2006 only refers on one occasion to the expression last resort -as indicated above-, and only to provide a general background on this requirement, without having the scope assigned to it by the plaintiffs on this occasion, associated with the subsidiary nature of criminal sanctions that requires, before resorting to the punitive power of the State, to resort to other less harmful controls to achieve an analogous standard of protection than that provided by the exercise of criminal law, and more respectful of women's rights.

6.3.2. A modification in the material meaning of the Constitution regarding the understanding of the problematic constitutional relevance of the crime of consensual abortion is evidenced.

228. Despite the sufficiency of the previous argument to justify a decision on the merits, given the complexity of the issue of constitutional relevance being addressed, the Court also identifies two reasons that, in accordance with constitutional jurisprudence, justify a substantive examination of the charges in the lawsuit, as the constitutional res judicata has been overcome. On one hand, a modification in the material meaning of the Constitution regarding the understanding of the constitutional issue posed by the crime of consensual abortion is evidenced, and on the other hand, a change in the normative context in which Article 122 of the Criminal Code is inserted is also evident. These two circumstances, as indicated by the Court, justify a decision on the merits.[179]

229. The Court shows a modification in the material meaning of the Constitution regarding the understanding of the issue of constitutional relevance posed by the crime of consented abortion, as a consequence of the following four phenomena.

230. Firstly, there is a significant jurisprudential transformation regarding the consideration of the right to health as an autonomous fundamental right, particularly in the terms of the judgement T-760 of 2008, C-313 of 2014, and T-361 of 2014. At the time when court ruling C-355 of 2006 was issued, the status of the right to health as a fundamental right was recognized only in cases where life depended on its protection. However, in recent decades, constitutional jurisprudence has advanced to acknowledge that "health acquires a fundamental connotation as an essential right to guarantee individuals a dignified and quality life that allows for their full development in society." This understanding recognizes that economic, social, and cultural rights are not mere complements to rights of freedom, but rather are true fundamental rights in themselves.[180]

231. The above position is based on a conception of fundamental rights grounded in the dignity of individuals and the full realization of the Social Rule of Law. Thus, currently, the right to health "is configured as an autonomous and non-waivable fundamental right that must be guaranteed in accordance with the guiding principles of accessibility, solidarity, continuity, comprehensiveness, among others, which characterize the Healthcare System and are contemplated in Articles 48 and 49 of the Political Constitution, Articles 153 and 156 of Law 100 of 1993, and Article 6 of Law 1751 of 2015.[181]"

[179] Cf., among others, court rulings C-073 of 2014, C-007 of 2016 and, especially, the recent Court ruling C-233 of 2021.
[180] Court ruling T-171 of 2018.
[181] Court ruling T-402 of 2018.

232. Secondly, after 2006 and through the resolution of specific cases, the constitutional jurisprudence has expanded its understanding of the constitutionally relevant issue of consensual abortion, based on the close relationship between the conducts that continue to constitute a criminal offense and those that do not.

233. In this sense, according to the plaintiffs, the 2006 decision was made at a time when it was not possible to verify the multiple barriers faced by women to access the VIP within the authorized grounds -recognized as part of reproductive health-, from which the constitutional jurisprudence has specified for fifteen years the duties of the State and of the individuals to guarantee it.[182] At that time, for the same reasons, it was not possible to appreciate the different legal and regulatory developments on the subject, nor was it possible to count on the interpretation of that provision and its close relationship with reproductive rights.

234. As evidenced by the jurisprudential line constituted by court rulings T-171 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-388 of 2009, T-585 of 2010, T-636 of 2011, T-959 of 2011, T-841 of 2011, T-627 of 2012, T-532 of 2014, T-301 of 2016, T-731 of 2016, T-697 of 2016, T-931 of 2016 and SU-096 of 2018 -as well as in court rulings C-754 of 2015 and C-327 of 2016-, the Constitutional Court has found a deficit of constitutional protection of the fundamental rights of the girls and women who are the plaintiffs, which has rendered ineffective the minimal exceptions intended to safeguard their dignity and other rights, as addressed in Court ruling C-355 of 2006. In fact, it has shown that these restrictions also affect, in abstract, the legal interest that the challenged provision seeks to protect, as the delay in the performance of the VIP (IVE) procedure, in cases that do not constitute a crime, allows for the gestational age to advance and becomes much more detrimental to the interests that the timely realization of said procedure seeks to protect.

235. Thirdly, as pointed out by the plaintiffs, there are international documents of different normative value that, unlike in 2006, have advocated for the decriminalization of abortion beyond the three grounds defined in Court ruling C-355 of 2006 and, therefore, have an impact on a new constitutional understanding of the phenomenon. Hence, according to the plaintiffs, such a claim finds sufficient support in International Human Rights Law.

236.Among these documents, the plaintiffs refer to the special report of 2011 on the interaction between criminal laws and other legal restrictions on sexual and reproductive health and the right to health, by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the concluding observations on the combined fourth and fifth periodic reports of Chile of 2015, by the Committee on the Rights of the Child; General Observation No. 22 of 2016 on the right to sexual and reproductive health, by the Committee on Economic, Social and Cultural Rights[183]; General Observation No. 36 of 2017 on the right to life, by the Human Rights Committee; General Recommendation No. 35 of 2017, through which General Recommendation No. 19 of 1992 on violence against women was updated, by the Committee on the Elimination of All Forms of Discrimination Against Women[184];

[182] Cf., especially, Court ruling SU-096 of 2018.
[183] The observation is motivated by "the numerous legal, procedural, practical, and social obstacles to access to all facilities, services, goods, and information on sexual and reproductive health" that the Committee has identified, and therefore aims to provide guidance to States - particularly to normative bodies such as administrations and legislators - to "ensure that all individuals enjoy the right to sexual and reproductive health as prescribed under Article 12" of the International Covenant on Economic, Social and Cultural Rights (ICESCR).
[184] The recommendation intends to provide the "States parties with additional guidance to accelerate the elimination of gender-based violence against women" (para. 3), by complementing and updating "the guidance formulated to the States parties in the general recommendation num. 19" (para. 8).

236. Among such documents, the petitioners refer to the 2011 special report on the interaction between criminal laws and other legal restrictions on sexual and reproductive health and the right to health, by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health; the concluding observations on the combined fourth and fifth periodic reports of Chile of 2015, by the Committee on the Rights of the Child; General observation No. 22 of 2016, on the right to sexual and reproductive health, of the Committee on Economic, Social and Cultural Rights183; General Observation No. 36 of 2017, on the right to life, of the Human Rights Committee; General Recommendation No. 35 of 2017, updating General Recommendation No. 19 of 1992, on violence against women, of the Committee on the Elimination of All Forms of Discrimination against Women184; the Inquiry on the United Kingdom and Northern Ireland (Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women) of the year 2018, of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) ; the final Observations on the sixth periodic report of Mexico of 2019 of the Human Rights Committee and the Joint Declaration of the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination against Women on guaranteeing the sexual and reproductive health and rights of all women, in particular women with disabilities, of the year 2018. Although this type of documents are not binding *per se*, they constitute international hermeneutic criteria that can facilitate the internal constitutional interpretation, as derived from the provisions of Article 93, paragraph 2°, of the Constitution. Hence, this is the scope that the Chamber grants to this type of reports, observations and recommendations in the present decision. This does not exclude the duty of the administrative and legislative authorities to comply in good faith with the international treaties and conventions ratified by the Colombian Congress, as provided for in paragraph 1 of the aforementioned constitutional provision.

237. Finally, after 2006, a constitutional jurisprudence has been outlined with greater precision to assess gender violence against women, of which the court rulings C-297 of 2016, C-539 of 2016, C-117 of 2018, C-519 of 2019 and C-038 of 2021 are particularly relevant.

238. In Court Ruling C-297 of 2016, the Court declared the enforceability of a section of Law 1761 of 2015, "Whereby the criminal type of femicide is created as an autonomous crime and other provisions are issued. (Rosa Elvira Cely)", which added Article 104A of Law 599 of 2000, after considering, among other reasons, that structural patterns of discrimination,

> "are manifested in various forms of violence, which may or may not be systematic in nature. This violence is evidenced both in elements of periodicity as well as in treatments that assume a vision of stereotyped or culturally rooted gender roles that position women as objects or disposable property with certain functions that are seen as inferior to those of men. The reality indicates that the conditions of discrimination suffered by women are not always open, explicit, and direct, not because they are not present, but because they are part of cultural dynamics that have been normalized".

239. In Court Ruling C-539 of 2016, the Court declared the enforceability of another section of Law 1761 of 2015, "Whereby the criminal type of femicide is created as an autonomous crime and other provisions are enacted (Rosa Elvira Cely)". It is especially relevant to highlight from this ruling the characterization it makes of several provisions of the ordinance, which evidence assumptions of gender violence against women. Reference is made, for example, to the provisions of civil law that obliged women to adopt their

spouse's surname, with the addition of the particle "*de*" (of) as a symbol of ownership. It also points out that women could only exercise parental authority in case of the husband's absence and were equated to minors in the administration of their property and the exercise of their rights, as they were subject to marital authority. Similarly, civil rules are mentioned that established that the "husband" had the right to force "his wife" to live with him and follow him wherever he moved his residence, while the woman only had the right to be received in the man's home. Likewise, it is mentioned that the "husband" owed "protection" to the woman, while the woman owed "obedience to the husband". In the workplace, the possibility of women "married" to work was subject to the authorization of the "husband". It is also mentioned that women did not attain the status of citizens until 1945 and had their political rights restricted until the early 1950s. As a result of these types of treatment, the Court emphasized that "the legal field not only clearly reflected gender stereotypes and was another space for discrimination, but it also became a powerful scenario for the reproduction, legitimation, and guarantee of the continuation of the subordination that women experienced in other areas."

240. In Ruling C-117 of 2018, the Court declared the unconstitutionality of provisions that imposed value-added tax (VAT) on sanitary towels and tampons, considering that such measures had “a disproportionate impact on women, especially those with limited resources, since the exclusive use of these products is restricted to women of fertile age, which implies a distinction regarding the burdens that men must bear. Thus, since these particular goods are not a matter of free choice, imposing a tax on only one group was not constitutionally justified.”

241. In Ruling C-519 of 2019, the Chamber declared the unconstitutionality with deferred effects of the expression "*seguido del*" (followed by), contained in article 53 of Decree 1260 of 1970 (substituted by article 1 of Law 54 of 1989), as it evidenced the disregard for the principle of equality, due to the discriminatory treatment that was granted to women based on their gender, as the provision privileged the father's surname followed by the mother's surname in the birth registry.

241. In Ruling C-038 of 2021, the Constitutional Court declared the unconstitutionality of the expression "*las mujeres y*" (women and) in numeral 13 of article 108 of Decree Law 2663 of 1950 (Substantive Labor Code), which allowed the State and employers to specify in work regulations the activities that were prohibited for women, as it was evident that this authority was granted without any other justification other than resorting to treatment based on sex.

243. As stated in the first cited ruling- C-297 of 2016 -, the Chamber advanced the following ideas regarding gender-based violence against women based on the evaluation of multiple provisions of international human rights instruments: *(i)* “gender-based violence is an ongoing social phenomenon that is rooted in discrimination against women and has serious consequences for the enjoyment of their fundamental rights”; *(ii)* women have the right to “be free from violence, which in turn entails the State's obligation to adopt all measures to protect them from violence and provide comprehensive care to survivors"; *(iii)* the challenged provision, which criminalizes the offense of femicide, includes the State's obligation to “prevent, address, investigate and punish violence against women”, and therefore, encompasses measures of a criminal nature as well as social, economic, and cultural measures that are suitable and effective to “reverse the social conditions that foster negative gender stereotypes and hinder the enjoyment of substantive equality, particularly in the field of administration of justice”; *(iv)* finally, it clarified that it is the State's responsibility to adopt

> “(i) affirmative actions to protect women from disproportionate risks and threats of violence in the context of armed conflict, particularly those of sexual abuse; (ii) comprehensive health and psychosocial care protocols for victims of any type of violence, as a minimum constitutional standard;

(iii) a differential approach in witness protection programs in the framework of access to justice in armed conflict; (iv) policies to eliminate gender stereotypes in the administration of justice, particularly those that revictimize women, and (v) measures, beyond punitive measures, to eradicate violence against women, such as social sanctions".

244. These reasons, which show a modification in the material meaning of the Constitution in terms of understanding the problem of constitutional relevance that the crime of consensual abortion entails, justify a pronouncement of merit in the present matter.

6.3.3. There is evidence of a change in the normative context in which Article 122 of the Criminal Code is inserted.

245. The hypothesis of a change in the normative context of the provision under review may occur when, on the one hand, "a norm that has already been judged is subsequently issued, in a different normative context,"[185] and, on the other hand, the provision previously judged maintains its formal content, i.e., it does not transform, but the legal system in which it is part of undergoes modifications, resulting in a change in its material content. In other words, in this case, the provision under examination ANNEXs an identical formal content to the previously analyzed one; however, it reveals a different material content by being part of diverse normative contexts[186].

246. In the face of a variation in the normative framework, the need arises to conduct a new examination to determine whether a different constitutional assessment is required in light of the new context.[187] This assessment is essential in order to avoid unconstitutional results in the process of integrating into that context, as "a legal provision cannot be analyzed in isolation, but must be interpreted systematically, taking into consideration the entire normative framework of which it forms part"[188]. Therefore, there is a need to conduct a new weighing of constitutional values or principles based on the change in context in which the challenged norm is incorporated[189].

247. As indicated, the second reason that justifies a substantive ruling in the present matter is related to the evidence of a change in the normative context in which Article 122 of the Criminal Code is inserted, as a consequence of the following phenomena[190]:

248. In first place, the enactment of the Statutory Health Law in 2015. In the current context of the discussion on the constitutionality of Article 122 of the Criminal Code, health is presented as an autonomous and non-waivable fundamental right, both individually and collectively[191], while in the

[185] Court Ruling C-233 of 2021.
[186] Court Ruling C-1046 of 2021.
[187] Court Ruling C-233 of 2021.
[188] Court Ruling C-1046 of 2001.
[189] Court Ruling C-073 of 2014.
[190] According to the claimants, the following provisions, norms, documents, and jurisprudence are the ones that determine the change in normative context in which the challenged provision is inserted: (i) articles 7, 8, and 13 of Law 1257 of 2008, article 1 of Law 1412 of 2010, article 54 of Law 1448 of 2011, article 23 of Law 1719 of 2014, articles 6 and 11 of Law 1751 of 2015; (ii) Agreement 350 of 2006 of the National Council of Social Security in Health, Document CONPES 147 of 2012, Document CONPES 161 of 2013, Document CONPES Social 3783 of 2013, the National Public Health Plan for the 2007-2010 quadrennium, the Decennial Public Health Plan 2012-2021, the National Policy on Sexuality, Sexual Rights and Reproductive Rights for 2014-2021; (iii) from the Ministry of Health and Social Protection, resolutions 3280 of 2018, 0459 of 2012, 652 of 2016, and 1904 of 2017, Circular 016 of 2017, the Protocol for the Prevention of Unsafe Abortion in Colombia of 2014, the Technical Guideline for Comprehensive Care for VIP at the first level of complexity, the Technical Guideline for Post-Abortion Care and its complications, the Technical Guideline for Counseling and Advice on VIP; (iv) from the National Health Superintendence, Circular 003 of 2013; (v) from the Office of the Attorney General of the Nation, Directive 006 of 2016; (vi) from the District Health Secretariat, Circular 043 of 2012; (vii) from the National Institute of Family Welfare, Annex 2 of the Administrative Technical Guideline on the route of actions for the restoration of the rights of unobserved, threatened or violated children, girls, and adolescents, (viii) the court rulings T-171 of 2007, T-636 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-009 of 2009, T-388 of 2009, T-585 of 2010, T-841 of 2011, T-959 of 2011, T-636 of 2011, T-627 of 2012, T-532 of 2014, C-754 of 2015, T-301 of 2016, C-327 of 2016, T-697 of 2016, T-731 of 2016, C-341 of 2017 and C-088 of 2020 of the Constitutional Court; (ix) the court ruling of October 13, 2016, of the First Section of the Council of State (Case No. 11001-03-24-000-2013-00257-00, R.P. Guillermo Vargas Ayala).
[191] Article 2 of Law 1751 of 2015.

analysis carried out in Court Ruling C-355 of 2006, health was considered a “fundamental right due to the link with life”.

249. Consequently, in accordance with the new scope established by Law 1751 of 2015, health is a prerogative that generates duties of respect, protection, and fulfillment for the State, as well as the obligation to adopt policies to ensure equal treatment and opportunities in terms of promotion, prevention, diagnosis, treatment, rehabilitation, and palliation for all individuals. These aspects create a new constitutional, legal, and regulatory context in which the challenged provision is inserted.

250. The autonomous fundamental nature of the right to health requires that institutions, norms, procedures, participants, and actors of the healthcare system focus on the dignity of individuals as the central axis for the full realization of the purposes of the Social Rule of Law. That is why currently the actions of the healthcare system are governed by the principles of accessibility, solidarity, continuity, and comprehensiveness, as set forth in Article 6 of Law 1751 of 2015. In these terms, the challenged provision has been introduced into a new normative context of health insurance, which was not present at the time of the debate that culminated in Ruling C-355 of 2006.

251. In second place, after Ruling C-355 of 2006, multiple international organizations - including the Committee on Economic, Social and Cultural Rights, the Special Rapporteur regarding the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the CEDAW Committee - have advocated for the decriminalization of abortion as a measure in favor of the health and sexual and reproductive rights of this population, as well as a way to act against violence against women. In particular, as brought to the attention of the plaintiffs, there are international documents of varying normative value that have advocated for the decriminalization of abortion beyond the three causes defined in Ruling C-355 of 2006, and therefore influence a new constitutional understanding of the phenomenon.

252. In third place, criminal policy has seen a revaluation of the meaning of proportionality and the purposes of punishment. This can be inferred, among other things, from the information provided by the Advisory Commission on Criminal Policy, the data on the prosecution of the crime of abortion in Colombia between 1998 and 2019, provided by the Attorney General's Office, and the information contained in the legislative initiative presented by the latter entity to partially decriminalize the crime of consensual abortion (Bill 209 of 2016, House of Representatives).

253. In relation to these two aspects, various national and international normative and technical references highlight the need to reconsider the terms in which the criminalization of voluntary abortion is regulated, considering the diverse impacts that this norm generates for women's rights. These references include the Special Report of 2011 on “The interaction between criminal laws and other legal restrictions on sexual and reproductive health and the right to health” by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, General Observation No. 22 on “The right to sexual and reproductive health” by the Committee on Economic, Social and Cultural Rights, General Recommendation No. 35 on "Gender-based violence against women, updating general recommendation No. 19” by the Committee on the Elimination of Discrimination Against Women, General Observation No. 36 on “The right to life” of the Human Rights Committee; the Joint Declaration on “The guarantee of health and sexual and reproductive rights of all women, particularly women with disabilities” of the Committee on the rights of persons with disabilities and CEDAW, and the Report on "Determinants of Unsafe Abortion and barriers to access for the attention to VIP in Colombian women” by the Ministry of Health and Social Protection.

254. In fourth place, the enactment of Law 1257 of 2008, with the purpose, among others, of fulfilling the international commitments of the State regarding freedom, autonomy, and sexual and reproductive health. As pointed out by the plaintiffs, the interpretation of article 122 of the Criminal Code must take into account the provisions of Law 1257 of 2008, through which normative instruments were established for sensitization, prevention, and punishment of forms of violence and discrimination against women.[192]

255. Given that the purpose of this provision is to adopt rules that guarantee all women a life free from violence, both in private and public spheres, the exercise of rights recognized in domestic and international legal systems, access to administrative procedures for their protection and adoption, and the establishment of public policies aimed at their realization, it is not possible to assess the text of Article 122 of the Criminal Code without considering these relevant purposes pursued by the Legislator. Arguing otherwise would imply consenting to an omission that goes against the aforementioned purposes, by disregarding the imperative of protecting women from violence, which promotes their rights to freedom, autonomy, and sexual and reproductive health.

256. Finally, the progressive and constant process of jurisprudential evolution that has taken place after the issuance of Ruling C-355 of 2006, aimed at developing the contents of women's rights to sexual and reproductive health, as well as defining the scope of the State's obligations to address the structural barriers to access to these superior guarantees for this population, cannot be ignored. To argue otherwise would mean denying the dynamic nature of the Constitution, of which the challenged provision certainly became part of.[193]

257. Based on the above, the Court appreciates that in the described context, Article 122 of the Criminal Code has acquired a new scope or different effects, which justifies a substantive decision in the present case.

7. Substantial legal issue, analysis structure, and decision thesis

258. It is the responsibility of the Court to determine whether, despite the conditioning of Ruling C-355 of 2006, the classification of the crime of abortion with consent, in the terms of Article 122 of the Criminal Code, *(i)* goes against the obligation to respect the right to health and reproductive rights of women, girls, and pregnant individuals (Articles 49, 42, and 16 of the Constitution); *(ii)* disregards the right to equality of women in vulnerable situations and irregular migratory status (Articles 13 and 93 of the Constitution, Article 1 of the American Convention on Human Rights, and Article 9 of the Convention of Belem do Pará); *(iii)* violates the freedom of conscience of women, girls, and pregnant individuals, particularly in relation to the possibility of acting in accordance with their convictions regarding their reproductive autonomy (Article 18 of the Constitution), and *(iv)* is not compatible with the preventive purpose of punishment and fails to satisfy the constitutional requirements attached to the *ultima ratio* (*last recourse*) character of criminal law (preamble and Articles 1 and 2 of the Constitution).

259. Since the protection of fetal life - the legal interest safeguarded by the challenged provision - is an imperative constitutional purpose, it is the responsibility of the Court to assess whether the current classification of abortion as a crime, as the only legislative measure to discourage VIP and thereby protect the life of the unborn, affects the constitutional guarantees underlying the arguments raised in the present lawsuit examined by the Court.

[192] Article 1 of Law 1257 of 2008.
[193] In Ruling C-200 of 2019, this Court held that "An approximation that denies the dynamic nature of the Constitution is not only unrealistic, but also undesirable."

260. If that is the case, at least with respect to one of the arguments, it is appropriate to assess whether it constitutes a disproportionate infringement - which would, in principle, justify declaring the provision unconstitutional - or if it is justified by the constitutional purpose it seeks to achieve: protecting fetal life - which would justify upholding its constitutionality. It is also possible that, despite evidence of such infringement of those guarantees, declaring the provision unconstitutional may result in a deficit of protection for the imperative constitutional purpose that the criminal offense seeks to protect, which would justify a different solution.

261. The Court finds that the criminalization of abortion with consent is *prima facie* compatible with the Constitution, as a measure to protect fetal life - for which purpose, in any case, the Legislator may resort to other forms of assistance and support. However, its criminalization at all stages of pregnancy and in an absolute manner - except for the three exceptions established in Court Ruling C-355 of 2006, which condition the normative content of the current provision - raises a significant constitutional tension between the protection of fetal life - an imperative constitutional purpose sought to be safeguarded by Article 122 of the Criminal Code - and guarantees related to health and reproductive rights, the equality of women in situations of vulnerability and irregular migratory status, freedom of conscience, the constitutional purpose of general prevention of punishment, and the principle of *ultima ratio* of criminal law. This constitutional tension cannot be resolved in an absolute manner through the preference of any of these interests because it entails the absolute sacrifice of the other, not only because it fails to take into account that these legal interests have different importance and relevance at each stage of pregnancy, but also because it fails to consider the existence of other alternative legislative measures that may be more appropriate to ensure the proper balancing of conflicting interests and rights.

262. To resolve this tension, the Court will clarify, on the one hand, why the protection of life in gestation is an imperative constitutional purpose (which is analyzed in title 8) and, on the other hand, based on the current normative framework, why the criminalization of abortion with consent comes into strong tension with the legal interests that underpin the claims of the petition (analysis carried out in titles 9 to 12). In title 13, based on these reasons, the Court will justify why from the 24th week of gestation, when a higher probability of extrauterine autonomous life is established, there is an increased need for qualified protection of life in gestation, even through criminal law, as the Court stated in Ruling C-355 of 2006 and reiterates in this opportunity, “the life of the unborn is a protected interest under the constitutional order, and therefore the decisions made by pregnant women regarding the interruption of life in gestation transcend the sphere of their private autonomy and are of interest to the State and the legislator.”

263. On the other hand, considering that the challenged provision fails to reconcile this tension, the Congress of the Republic and the national Government will be urged to formulate and implement a comprehensive public policy that avoids broad margins of lack of protection for the dignity and rights of pregnant women, while also protecting life in gestation, without manifestly disproportionate or unreasonable disregard for such guarantees. As the Court stated in Ruling C-355 of 2006, and reiterated here,

> “The life of the unborn is a constitutionally protected interest and for that reason, the legislator is obligated to adopt measures for its protection [...] it could be debated whether the nature of these measures for protecting life in gestation should be of a criminal nature or if provisions of a different kind, such as social or welfare policies that ensure the life of the pregnant woman through guarantees of medical care, nutrition or income, would be more effective. In this regard, it should be noted that it is primarily up to the legislator to decide among the universe of possible measures which ones are most appropriate for protecting constitutionally relevant interests, and its decision,

in principle, can only be subject to scrutiny when it is manifestly disproportionate or unreasonable."

8. The protection of life in gestation is a compelling constitutional objective (Articles 11 of the Constitution and 4.1 of the American Convention on Human Rights).

264. For the Court, Article 122 of the Criminal Code pursues a compelling constitutional objective, which is to protect life in gestation, as it seeks to prevent the occurrence of abortion by threatening imprisonment to a woman "who causes her own abortion or allows another person to do so", and to "anyone who, with the woman's consent, performs the act", with the ultimate aim of ensuring that pregnancy results in the birth of a new being.

265. The compelling nature of this objective is derived from the provisions of Article 11 of the Constitution and Article 4.1 of the American Convention on Human Rights. According to the former, "The right to life is inviolable"[194], and according to the latter, "Every person has the right to have their life respected. This right shall be protected by law and, in general, from the moment of conception"[195]. These provisions aim to protect life, including that which is in formation during the gestation period.

266. As constitutional and inter-american jurisprudence has clarified, life is a legal asset that must be protected in all stages of its development, but not necessarily with the same intensity. Therefore, the protection of prenatal life as an imperative constitutional purpose, even through criminal law, must also be gradual and incremental, depending on the stage of pregnancy development, with particular emphasis on its guarantee in the most advanced stage of gestation where greater protection is possible in relation to other legal interests that may come into tension[196].

267. This is because, as the Court has indicated, life "does not have the character of an absolute value or right[197] or, in terms of inter-american jurisprudence, "the protection of the right to life [...] is not absolute, but gradual and incremental according to its development, as it does not constitute an absolute and unconditional duty but implies understanding the appropriateness of exceptions to the general rule"[198].

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[194] The protection of life from birth was a matter of debate in the National Constituent Assembly. Constituent Augusto Ramírez proposed that the protection of the "right to life is from its origin, and the unborn should be considered born for everything that favors them." In relation to this aspect, Constituent Darío Mejía Agudelo stated that "when talking about the right to life, it should be emphasized that it is a dignified life, otherwise it is meaningless to defend life from gestation." Similarly, Constituent Jaime Ortiz Hurtado pointed out that "enthusiasm in defending life would be more meaningful if complemented with its social and economic dignification." The proposal of Constituent Augusto Ramírez was not included in the text approved by the First Commission, which opted to accept the proposal presented by Constituent Juan Carlos Esguerra: "The right to life is inviolable. There shall be no death penalty. || No one shall be subjected to enforced disappearance, torture, or cruel, inhuman, or degrading treatment or punishment." Records from the National Constituent Assembly, Volume 126, pp. 8 to 10.

[195] As clarified by the Inter-American Court of Human Rights (IACHR), this is the scope that should be given to the expression "in general" contained in the aforementioned Article 4.1 of the American Convention on Human Rights (ACHR). Case Artavia Murillo and Others ("In Vitro Fertilization") vs. Costa Rica, Court ruling of November 28, 2012. As stated, the clause "in general" seeks a balance in the guarantee of rights and interests when they are in conflict, which is why the norm does not constitute an absolute and unconditional duty.

[196] As indicated by the Court in Ruling C-355 of 2006, "Human life passes through different stages and manifests itself in different ways, which in turn have different legal protections."

[197] Ruling C-355 of 2006. The Constitutional Court has expressed a similar view in decisions C-239 of 1997, C-177 of 2001, C-251 of 2002, C-899 of 2003, C-233 of 2014, C-327 of 2016, C-430 of 2019, and C-233 of 2021. Based on the provisions of Article 4.1 of the American Convention on Human Rights (ACHR), in ruling C-355 of 2006, the Plenary Chamber explained the following: "Article 4.1 of the American Convention on Human Rights cannot be interpreted in such a way as to give absolute precedence to the duty to protect the life of the unborn over the other rights, values, and principles enshrined in the 1991 Constitution [...] In conclusion, from the various provisions of international human rights law that form part of the constitutional block, an absolute and unconditional duty to protect prenatal life does not arise; on the contrary, both its literal and systematic interpretation show the need to balance prenatal life with other rights, principles, and values recognized in the 1991 Constitution and in other instruments of international human rights law, a balance that the Inter-American Court of Human Rights has privileged. || Such balancing requires identifying and weighing the conflicting rights against the duty to protect life, as well as appreciating the constitutional importance of the holders of such rights, in these cases, pregnant women."

[198] As specified by the Inter-American Court, this is the scope that should be given to the expression "in general" contained in the aforementioned article 4.1 of the ACHR. Case of Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica, Judgment of November 28, 2012. As stated, the clause "in general" seeks a balance in the guarantee of rights and interests when they are in conflict, hence the rule does not constitute an absolute and unconditional duty."

268. In this sense, an appropriate, necessary, and proportionate use of the legislator's competence in criminal policy requires reserving it for the most harmful behaviors, whenever it is not possible to resort to “less burdensome controls”[199] that are "equally suitable and less restrictive of freedom”[200], or when alternatives have been offered for the exercise of conflicting rights.

269. It is the task of the Legislator, in any case, to “decide among the universe of possible measures those that are most suitable for protecting constitutionally relevant legal interests, and its decision, in principle, can only be subject to control when it is manifestly disproportionate or unreasonable.”[201]

270. However, if the Legislator decides to resort to criminal law to protect gestational life, due to the seriousness of such measures and their potential to restrict other constitutional guarantees, its margin of discretion is more limited. Therefore, in the case of gestational life, its protection implies the state's duty to implement public policy measures to safeguard it and, if necessary, to adopt complementary criminal provisions. Indiscriminate use of criminal law is arbitrary and contrary to the requirements of the Social Rule of Law, as stated in the preamble and articles 1 and 2 of the Constitution. As recently clarified by the Chamber when declaring the unconstitutionality of Legislative Act 1 of 2020[202]:

> “[…] the constitutional mandate of the prevalence of the rights of children and adolescents over others, and the adoption of measures aimed at achieving their special protection, does not imply curtailing other constitutional principles or abolishing the enjoyment and exercise of other rights, such as the human dignity of the offender. The use of criminal law should be the last resort within a State of Law founded on human dignity.”[203]

271. Regarding the protection of this legal interest, it is important to reiterate that, as constitutional jurisprudence has pointed out, its protection through criminal provisions is not *inherently* unreasonable or disproportionate[204], which does not mean that the legislator is not subject to limits in its margin of discretion. Since “neither life as a value, nor the right to life have an absolute character”[205], the Legislator has defined and sanctioned different behaviors with varying degrees of severity for their protection.”

In other words, in order to safeguard the same constitutional interest, the classification and punitive sanction have been balanced taking into account the severity of the injury and other values, principles, and rights involved, as evidenced below:

272. To protect not only the life of the unborn, but also the reproductive autonomy of the woman, her dignity, health, and freedom of conscience, the Legislator has classified the offense of abortion without consent, regulated by Article 123 of the Criminal Code. According to this provision, “Anyone who causes abortion without the consent of the woman shall incur imprisonment of four (4) to ten (10) years.”[206] It is because of this dual impact on the legal interests of the unborn and the pregnant woman that a high penalty of imprisonment is attached to this offense. It is important to note that this provision was not challenged and, therefore, the Constitutional Court is not required to make any pronouncement regarding it.

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[199] Court Ruling C-742 de 2012.
[200] Court Ruling C-070 de 1996.
[201] Court Ruling C-355 de 2006.
[202] "By means of which article 34 of the Political Constitution is modified, suppressing the prohibition of Life Imprisonment and establishing reviewable life imprisonment."
[203] Court Ruling C-294 de 2021.
[204] Cf., in particular, the rulings C-013 of 1997, C-355 of 2006, C-829 of 2014, and C-327 of 2016.
[205] Ruling C-327 of 2016; similarly, among others, rulings C-239 of 1997, C-177 of 2001, C-251 of 2002, C-899 of 2003, C-355 of 2006, C-233 of 2014, C-430 of 2019, and C-233 of 2021.
[206] This penalty was increased in accordance with the provisions of Article 14 of Law 890 of 2004, "by one third at the minimum and half at the maximum."

273. The same protection, but limited to the life of the unborn, is sought to be guaranteed by Articles 125 and 126 of the same code when injuries are caused to the fetus. In accordance with the former, “Anyone who, by any means, causes harm to the body or health of a fetus that impairs its normal development, shall incur imprisonment of two (2) to four (4) years” and in accordance with the latter, “If the conduct described in the preceding Article is committed through negligence, the penalty shall be imprisonment for one (1) to two (2) years.”[207]

274. Unlike homicide[208], the Legislator has established a distinct penalty for a "mother" who abandons her child within 8 days of birth, if the conception resulted from non-consensual sexual intercourse, abusive act, or non-consensual artificial insemination or transfer of a fertilized egg.[209] As clarified by constitutional jurisprudence, this distinct penalty is justified by the fact that the conduct not only violates the sexual freedom and personal autonomy of the woman[210], but also reflects the “lack of protection by the State in preventing such attacks against the integrity of women.”[211] In fact, in Ruling C-013 of 1997, when declaring the constitutionality of Article 348 of the Criminal Code of 1980 (Decree Law 100 of 1980), which regulated aggravating circumstances for abandonment crimes, the Court rejected the plaintiff's argument that the provision in question violated “Articles 1, 2, 4, 5, 11, 12, 13, 14, 16, 22, 42, 43, 44, 45, 46, 47, 50, 83, 94, 95, 96, 228 and 229 of the Political Constitution” because, “if as a result of an omission of duties, death or personal injuries occur (Article 348 of the Criminal Code), the criminal legal treatment must be to punish the respective offense as homicide and personal injuries.”

275. To support the declaration of constitutionality of the challenged provision at that time, the Court considered that the classification of an aggravating circumstance was “a provision that cannot in any way be considered contrary to fundamental prescriptions, because it simply attributes stronger sanctioning effects when the resulting injury is more serious and causes worse effects.”[212] As the Court clarified, “The absolute norm, which does not establish distinctions and grants the same legal treatment to different situations, could be criticized, more appropriately, for breaking equality and distorting the concept of justice, than the one [sic] oriented towards gradation and distinction based on different hypotheses”.

276. Recently and in line with that interpretation, when assessing the substitute provision for that one - article 130 of Law 599 of 2000, as amended by article 41 of Law 1453 of 2011 - in Ruling C-093 of 2021, the Constitutional Court declared two aggravating circumstances that equated the crime of child abandonment, under certain circumstances, to “attempted homicide” and “homicide”, as unconstitutional for disregarding “the mandate of *lex stricta*, which defines the constitutional principle of legality, and the

[207] It is important to note that these penalties were increased in accordance with the provisions of Article 14 of Law 890 of 2004. Furthermore, with regard to both types of offenses, the second paragraphs of the aforementioned provisions specify identically that if the conduct is committed by a healthcare professional, “they shall also be disqualified from practicing the profession” for the duration of the penalty for each offense.
[208] Article 103 of Law 599 of 2000 states: “Whoever kills another person shall be punished with imprisonment from thirteen (13) to twenty-five (25) years.” This penalty was increased in accordance with the provisions of Article 14 of Law 890 of 2004.
[209] In this regard, Article 128 of the Criminal Code stipulates: "Abandonment of a child conceived from violent carnal abuse, abusive act, or non-consensual artificial insemination or transfer of a fertilized egg. A mother who abandons her child conceived from violent carnal abuse, abusive act, or non-consensual artificial insemination or transfer of a fertilized egg within eight (8) days after birth shall be punished with imprisonment from one (1) to three (3) years.” These penalties were increased in accordance with the provisions of Article 14 of Law 890 of 2004.
[210] Ruling C-829 of 2014, which reiterates the jurisprudence contained in Ruling C-013 of 1997 for relevant purposes.
[211] Ruling C-829 of 2014. As clarified by the Court, in these cases it must be taken into account that “the perpetrator of these crimes in these circumstances is also a victim. She faces a cruel paradox: on the one hand, the legislator punishes the unjust behavior of the mother towards a defenseless being whom she kills or abandons, and on the other hand, there is the woman who has been attacked in her freedom, integrity, and dignity. In many cases, the State has been absent and failed in its duty to guarantee the integrity and fundamental rights of the woman who has been so severely assaulted.” Therefore, in these cases, as indicated by the Court, “not granting relevant consequences to this fact in order to mitigate the reproach of guilt, and therefore the penalty, would imply, as already mentioned, a revictimization of the woman.”
[212] Court Ruling C-013 of 1997.

mandate of proscription of any form of objective liability, which is a corollary of the constitutional principle of criminal culpability."[213]

277. Along the same lines of these precedents, it can be observed that in our legal system, for example, simple homicide[214] is not punished with the same severity as that committed under circumstances of punitive aggravation[215] or, in contrast, in a premeditated[216] or culpable[217] manner, nor is mercy killing[218]. This group of provisions shows that in the protection of life, not only the result of the offense -death- must be evaluated, but also the other circumstance, values, principles and rights that must be considered that may come into tension with the recourse to criminal law.

278. In relation to this last idea, it is especially relevant to refer to the jurisprudence of the Chamber regarding the last crime, mercy killing. In the 1980 Criminal Code, in Ruling C-239 of 1997, the Constitutional Court declared the conditional executory validity of article 326 of the aforementioned codification[219] by considering, among other reasons, that "The fundamental right to live in a dignified manner implies the right to die with dignity, since condemning a person to prolong his existence for a short time, when he does not wish it and suffers deep afflictions, is equivalent not only to cruel and inhuman treatment, prohibited by the Constitution (PC art. 12), but also to an annulment of its dignity and autonomy as a moral subject". Recently, in relation to this criminal offense, but in the manner in which it was introduced in Law 599 of 2000 -article 106-, in Ruling C-233 of 2021, the Constitutional Court expanded the scope of the conditioning to which it was subject. According to this ruling, the conduct described by the criminal offense is not typical when it is performed by a physician, with the consent or by the will of the patient, suffering from a serious and incurable illness or injury that causes intense suffering. In addition, the Chamber referred to the need to issue a detailed regulation of this procedure attached to the health system, which, therefore, could not only be limited to the regulation of the conduct in the Criminal Code. Hence, the relevance of the positive regulation of certain problems for which the exclusively criminal response is clearly insufficient.

279. In synthesis, as the Chamber specified in Ruling C-327 of 2016, based on the previously cited Inter-American standard:

> "The protection of the value of life does not impose the recognition of prenatal life, as the holder of the rights of persons from conception. Nor does it imply a disregard of the duty to protect potential life, despite which, such guarantee involves a gradual and incremental character [...] life as a value is a constitutionally relevant good, but it does not have an absolute character, but has a gradual and incremental protection according to its development".

280. In addition to these considerations, there is a semantic precision that has obvious repercussions in the legal debate. Article 11 of the Political Constitution warns that "the right to life is inviolable", a term,

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[213] Court Ruling C-093 of 2021. The Chamber based the last inference that served as the basis for the declaration of unconstitutionality on the following reasoning: "Thus, the challenged provision is a paradigmatic case of a dogmatic incongruence that amalgamates a complete criminal type of result -art. 103 of the Criminal Code- or of attempted result -arts. 27 and 103 of the Criminal Code- with a subordinate criminal type of mere conduct -arts. 127 and 128 of the Criminal Code-, since it is difficult and indeterminate to infer *animus necandi* -the intent to kill- from the mere abandonment in an unpopulated place, while ignoring the subjective aspect of the aggravating circumstance. If this is so, then [... the Legislator] not only encroaches on the court ruling of the prosecutor's and the judge's obligation to make a court ruling on the specific act - by virtue of which they articulate the objective description of the conduct (objective type) with the way in which the will of the agent of the crime has been manifested (subjective type) - but also disregards the mandate of proscribing all forms of objective liability, a corollary of the aforementioned constitutional principle of culpability - Article 29 of the Constitution-."

[214] Law 599 of 2000, article 103.

[215] Law 599 of 2000, articles 104 and 110.

[216] Law 599 of 2000, Article 105.

[217] Law 599 of 2000, Article 109.

[218] Law 599 of 2000, Article 106.

[219] The Court ordered "To declare Article 326 of Decree 100 of 1980 (Criminal Code) CONSTITUTIONAL, with the warning that in the case of terminally ill patients in which the free will of the passive subject of the act concurred, no liability could be derived for the authoring physician, since the conduct is justified".

that of inviolability, which implicitly carries the legal burden of illegitimacy". Thus, when the Constitution states that life is inviolable, it means that life cannot be affected "illegitimately" and that the State cannot be "illegitimately" affected and that the State must protect it against any violation or, in other words, against any unlawful aggression.

281. If it were not understood in this way, for example, the legal regime could not have included self-defense in the criminal regime. Only to the extent that the act is unlawful, that is, illegitimate, is the aggression unjust.

282. Similarly, despite the obvious difference in degree, a similar constitutional provision is regulated in Article 15 of the Constitution. This guarantees the right to privacy of correspondence and other forms of private communication; therefore, in accordance with this provision, they are inviolable. However, this constitutional guarantee does not prevent, for example, a judge from ordering the lifting of the veil of privacy in search of possible criminal acts.

283. Thus, the concept of violation, which refers to unjust infringement, does not prevent such right from being affected by legitimate actions or actions authorized by the legal system.

284. These considerations also serve to refute the argument that resorts to the textual meaning of the constitutional Article 11 to argue that the Colombian Political Constitution establishes an absolute protection of the right to life from conception, because what is being debated in the abortion debate is precisely whether its infringement is legitimate or not.

285. Based on this characterization of life in gestation as an imperative and meritorious constitutional purpose of criminal protection, it is the responsibility of the Court to assess how the protection of this guarantee may conflict with the guarantees sought by the plaintiffs.

9. Analysis of the first charge: the obligation to respect the right to health and reproductive rights of women, girls, and pregnant individuals (Articles 49, 42, and 16 of the Constitution)

9.1. Summary of the argument

286. The criminalization of abortion with consent in the current normative context creates significant tension with the right to health and reproductive rights of women, girls, and pregnant individuals, for the following reasons:

287. The State's duty to respect the right to health implies, among other things, the obligation to remove normative barriers that prevent access to necessary services for women, girls, and pregnant individuals to enjoy reproductive health. As multiple international human rights organizations have pointed out, one of these barriers is the criminalization of VIP under the terms of Article 122 of Law 599 of 2000, as it contributes to unsafe abortions that endanger the health, integrity, and life of this population.

288. The right to health, which includes VIP in the grounds established in Court Ruling C-355 of 2006, is essential for the guarantee of a dignified life for women, girls, and pregnant individuals. The criminalization of abortion, as categorically stated in the norm under review, pushes them to unsafe and clandestine abortions[220], resulting in a serious public health problem that impacts maternal mortality and morbidity rates, as evidenced by data provided, among others, by the Ministry of Health and Social Protection.

[220] Ministry of Health and Social Protection, Comprehensive Care for Voluntary Interruption of Pregnancy (VIP) at the First Level of Complexity. Technical Document for Health Service Providers, 2014, p. 14.

289. Therefore, despite seeking to achieve a compelling constitutional purpose, such as protecting life during pregnancy, the challenged provision, as the only measure, significantly affects the right to health enshrined in Article 49 of the Constitution, as well as reproductive rights recognized in Articles 42 and 16 of the Constitution, despite the existence of alternative means that, as a whole, would be more effective in protecting, respecting, and guaranteeing that constitutional purpose without significantly affecting these rights. Such alternative means could include the adoption of a comprehensive public policy aimed at protecting life during pregnancy through various means that provide genuine alternatives to abortion, as well as the provision of reproductive health services for the procedure, under conditions established by the legislature. In other words, the Legislator, when faced with a factual reality that significantly impacts fundamental rights, has other legal alternatives, other than criminalization -without excluding it in certain cases[221]-, in the exercise of its freedom to shape the legal order, as long as it is suitable, necessary, and proportionate, and less harmful to these rights, and therefore, proportional.

9.2. State duties to satisfy the fundamental right to health and its structural elements

290. The initial rulings of the Constitutional Court were pronounced regarding the importance of health as a public service provided by the State, in terms of articles 48 and 49 of the Constitution, mainly due to its relationship with the guarantee of the right to life, and exceptionally as a fundamental right of girls and boys, by express provision of article 44 of the Constitution. The above, based on an interpretation based on the hierarchical and artificial division of the so-called first-generation rights - immediately applicable and directly protected by means of an action of tutela (Chapter I of Title II of the Constitution) - and second-generation rights - of a programmatic nature and subject to progressive development (Chapter II of Title II of the Constitution).

291. Nevertheless, this Court progressed towards a conception of fundamental rights based on the dignity of persons and the consequent full realization of the Social Rule of Law. In this way, despite the nature of health as a public service, it was recognized that its effective provision constituted a fundamental right that could be protected through a constitutional action (*tutela*).

292. In this jurisprudential evolution, which coincides with the development of the protection of the right to health at the international level, Court Ruling T-760 of 2008 represents a milestone. In this ruling, the Court definitively advanced from the service-oriented conception of the right to health to considering it as an autonomous fundamental right. This ruling characterized the right to health based on the block of constitutionality, referring to its content, scope, and the type of state obligations it requires.

293. For this purpose, the General Observation No. 14 (2000) of the DESC Committee[222], on "the right to the enjoyment of the highest attainable standard of health, as the most comprehensive development of the right to health, its scope and meaning" was particularly highlighted. This General Observation clarifies that health is a fundamental and indispensable right for the exercise of other human rights, highlights the elements it encompasses, takes into account the progress in its understanding after its stipulation in the ICESCR and in the PIDES[223], and clarifies the content of the States' duties for its effective satisfaction.

294. Likewise, it refers to the concept of the “highest attainable standard of health” as addressed in the ICESCR, which is not restricted to simply ensuring the enjoyment of “good health”, but rather, taking into

[221] As currently contemplated, *Inter alia*, the practice of abortions without the consent of the pregnant person or the injuries inflicted on the fetus. Currently, the first conduct is classified in article 123 of the Criminal Code, and the second in articles 125 and 126.
[222] Since 1989, the Committee has issued "general comments" on the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) as part of its primary function, which is to monitor the implementation of the Covenant by States parties.
[223] Regarding this last point, the mentioned general observation specifies the specific areas of protection of the right to health as outlined in Article 12 of the ICESCR, including maternal and reproductive health, stating that they should include “(i) sexual and reproductive health services, including access to family planning, (ii) prenatal and postnatal care, (iii) emergency obstetric services, and (iv) access to information and resources necessary to act on that information.”

account the biological and socio-economic conditions of every person, as well as the resources available to the State, it is the responsibility of the State to provide "a range of facilities, goods and services" that ensure precisely the "highest attainable standard of health". Based on this characterization, it specifies

> "The right to health entails freedoms and rights. Among the freedoms is the right of individuals to control their health and body, including sexual and reproductive freedom, and the right not to be subjected to interference, such as the right not to be subjected to torture or non-consensual medical treatments or experiments. On the other hand, among the rights is the right to a health protection system that provides equal opportunities for all individuals to enjoy the highest attainable standard of health."[224]

295. Therefore, this general observation, in interpreting the ICESCR in light of the obligations arising from the right to health for States, recalls that these obligations are of three types: (i) the obligation to respect, (ii) the obligation to protect, and (iii) the obligation to fulfill, also known as the obligation to guarantee."[225]

296. The obligation to respect requires States to refrain from directly or indirectly interfering with the enjoyment of the right to health, which implies, in particular:

> "[refraining] from denying or limiting equal access for all persons, including prisoners or detainees, representatives of minorities, asylum seekers or undocumented immigrants, to preventive, curative, and palliative health services; refraining from imposing discriminatory practices as a state policy; and refraining from imposing discriminatory practices in relation to the health status and needs of women. In addition, the obligation to respect includes the obligation of the State to refrain from prohibiting or preventing preventive care, curative practices, and traditional medicines, marketing dangerous drugs, and applying coercive medical treatments, except in exceptional cases for the treatment of mental illnesses or the prevention and control of diseases which may be transmitted. || Furthermore, States must refrain from limiting access to contraceptives or other means of maintaining sexual and reproductive health, censoring, intentionally concealing or distorting information related to health, including sexual education and information in this regard, and preventing the participation of the people in health-related matters".

297. The obligation to 'protect' requires States to take measures to prevent third parties from interfering with the realization of the guarantees provided for in Article 12. According to General Observation No. 14, these obligations:

> "include, among others, the obligations of States to adopt laws or other measures to ensure equal access to health care and related services provided by third parties; ensuring that privatization of the health sector does not pose a threat to the availability, accessibility, acceptability, and quality of health care services; regulating the marketing of medical equipment and drugs by third parties; ensuring that health practitioners and other health professionals meet the necessary conditions of education, experience, and ethical standards; states also have an obligation to ensure that harmful social or traditional practices do not affect access to pre- and post-natal care or family planning, and to prevent third parties from inducing women to undergo traditional practices such as female genital mutilation; adopting measures to protect all vulnerable or marginalized groups in society, particularly women, children, adolescents, and older persons, taking into account acts

[224] Committee on Economic, Social and Cultural Rights. General Observation 14. The right to the highest attainable standard of health: E/C.12/2000/4, CESCR, para. 8. 225.
[225] In this regard, see also Committee on Economic, Social and Cultural Rights, General Observation No. 3, No. 4, No. 5 and No. 6; as well as the Limburg Principles (1986) and the Maastricht Principles (1997).

of gender-based violence; states must also ensure that third parties do not limit people's access to health-related information and services."

298. Finally, the obligation to "comply" requires that States undertake positive steps to enable and assist individuals and communities to enjoy the right to health. States parties are also under an obligation to satisfy (ease) a specific right set forth in the Pact in cases where individuals or groups are unable, for reasons beyond their control, to exercise that right themselves by the means at their disposal".

299. In addition, it is important to note that the observation indicated above also referred to some "core obligations"[226], which may be understood as included within the essential levels of health, whose fulfillment cannot be deferred, as well as some of the "priority obligations" in relation to this[227]. Likewise, it referred to the obligation of States not to adopt "deliberately regressive" measures[228].

300. For the Constitutional Court, the classification of the obligations derived from the right to health is useful, among other reasons, because it makes it possible to characterize their breach and their legal implications. In this regard, it has specified, for example, that the State fails to protect the right to health when it keeps gaps or regulatory voids, which give rise to access barriers to health services, and that, strictly speaking, this right is not respected when, despite the existence of an applicable regulation, it becomes an obstacle to health services access[229].

301. Likewise, this classification shows that every fundamental right has positive and negative sides. Within the obligations of respect, protection and guarantee, for example, both sides can be intermingled: obligations that demand "to do something" (positive), and obligations that demand "refraining from doing something" (negative)[230].

302. General Observation No. 14 also states that the right to health "in all its forms and at all levels" encompasses four basic and interrelated components: (i) availability, (ii) accessibility, (iii) acceptability, and (iv) quality.

303. Availability means that States must have "a sufficient number of public health facilities, goods and services and health care facilities, as well as programs"[231].

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[226] Reference is made to the following: "(a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially with regard to vulnerable or marginalized groups; (b) To ensure access to the minimum essential food which is nutritious, adequate and safe and ensures that no one suffers from hunger; (c) To ensure access to shelter, housing and basic sanitation, as well as an adequate supply of safe and potable water; (d) To provide essential drugs, as regularly defined in the WHO Action Program on Essential Drugs; (e) To ensure equitable distribution of all health facilities, goods and services; (f) Adopt and implement, on the basis of epidemiological evidence, a national public health strategy and plan of action to address population-wide health concerns; the strategy and plan of action should be developed, and periodically reviewed, on the basis of a participatory and transparent process; the strategy and plan should provide for methods, such as the right to health indexes and data bases, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as the content of both, should pay particular attention to all vulnerable or marginalized groups. General Comment No. 14, paragraph. 43.

[227] The following are mentioned: "(a) To ensure reproductive, maternal (prenatal and postnatal) and child health care; (b) To provide immunization against the major infectious diseases occurring in the community; (c) To take measures to prevent, treat and fight epidemic and endemic diseases; (d) Providing education and access to information concerning the major health problems in the community, including methods of preventing and fighting such diseases; (e) Providing adequate training for health sector staff, including health and human rights education". General Comment No. 14, paragraph. 44.

[228] In this regard, it states: "If any deliberately retrogressive measures are taken, the burden is on the State party to demonstrate that they have been applied after the most careful consideration of all alternatives and that such measures are duly justified by reference to the totality of the rights established in the Pact in relation to the full use of the State party's maximum available resources. General Observation No. 14., paragraph. 32.

[229] Ruling T-760 of 2008.

[230] In this regard, in Ruling C-313 of 2014, the Court stated: "The right to health has a strong positive dimension, although it also has negative dimensions. Constitutional case law has recognized from the outset that State, or individuals, may violate the right to health, either by an omission, by failing to provide a health service, or by an action, when they perform a conduct whose result is to harm a person's health. Regarding the negative dimensions of the right to health, from which the obligation to perform a positive action is not derived, but rather, obligations of abstention, inasmuch as they do not imply that the State does something, but rather that it stops doing it, there is no reason for them to be obligations whose compliance is postponed until the State, entity or person has sufficient resources and adequate administrative capacity".

[231] For the Committee, "such services shall include the underlying determinants of health, such as clean drinking water and adequate sanitation, hospitals, clinics and other health-related facilities, trained and well-paid medical and professional staff, considering the conditions existing in the country, as well as essential drugs as defined in the WHO Action Program on Essential Drugs (See WHO

304. Accessibility comprises the following four items that health facilities, goods and services must prove:

> *"(a) 'non-discrimination', health facilities, goods and services should be accessible, in fact and in law, to the most vulnerable and marginalized sectors of the population, without discrimination; (b) 'physical accessibility', health facilities, goods and services must be geographically accessible to all sectors of the population, especially vulnerable or marginalized groups; (c) 'economic accessibility' (affordability), health facilities, goods and services must be accessible to all, especially, the principle of equity demands that poorer households do not bear a disproportionate burden, in terms of health expenditures, compared to richer households (d) 'access to information', the right to seek, receive and impart information and ideas on health-related matters, subject to appropriate confidentiality".*

305. Acceptability means that "health facilities, goods and services must be (acceptable) medically ethical and culturally appropriate, this is, respectful of the culture of individuals, minorities, and communities, while being sensitive to gender and life cycle requirements, and should be designed to respect confidentiality and improve the health status of the treated people".

306. Finally, quality requires that health facilities, goods and services must be "of good quality" and "scientifically and medically appropriate".

307. Court Ruling T-760 of 2008, and subsequent court rulings[232], along with social demands and related international advances, especially contained in the general observation quoted, inspired the issuance of Law 1751 of 2015, "Statutory Law of Health ", which set forth the State obligation to adopt all necessary measures to provide people with comprehensive access to health service[233]. Thereof, the Court has specified:

> *"Articles 1 and 2 of this law set out the nature and content of the right to health and recognized it, on the one hand, as an autonomous and inalienable fundamental right, which includes access to health services in a timely, effective and quality manner for the preservation and promotion of health; and on the other hand, as a mandatory essential public service whose efficient, universal and solidarity-based provision is carried out under the responsibility of the State "[234].*

308. Regarding Article 2, constitutional precedents have emphasized:

> "*First, [the aforementioned article] characterizes the fundamental right to health as autonomous and inalienable, both individually and collectively. Secondly, it states that it includes health services in a timely, effective, and quality manner for the preservation, improvement and promotion of health. Thirdly, the State has the duty to adopt policies that ensure equal treatment and opportunities in the access to promotion, prevention, diagnosis, treatment, rehabilitation and mitigation activities for all individuals. Finally, it warns that the provision of this mandatory essential public service is carried out under the non-delegable direction, supervision, organization, regulation, coordination and control of the State"[235].*

Model List of Essential Drugs, revised December 1999, WHO Drug Information, vol. 13, No. 4, 1999)". General Observation No. 14, paragraph. 12.

[232] Specifically, Court Rulings T-607 of 2009 and T-016 of 2017.

[233] In ruling C-313 of 2014, by which the Statutory Health Law was reviewed, the Court highlighted the "importance given to Observation No. 14 of the Committee on ESC Rights in the drafting of the Bill."

[234] Court Ruling T-171 of 2018.

[235] Court Ruling C-313 of 2014.

309. Article 5 provides that the State is responsible for (i) respecting, (ii) protecting and (iii) guaranteeing the full enjoyment of the right, obligations that derive from the characterization made by the Committee on ESC rights in the General Observation No. 14, previously described. Regarding these, the Court warned:

> *"the precept adopted by the legislator must involve a broad interpretation of the right being regulated, therefore, the rule, according to which only the three obligations stipulated in the legal statement would be under the State's responsibility, is not acceptable in the Colombian constitutional order. In a different sense, there is an interpretation according to which the responsibilities set forth in the legal precepts are non-exhaustive, but are part of an open set of obligations oriented by the provisions of the general observation No. 14, so that the specific legal obligations, the international obligations and the basic obligations integrated in the international pronouncement are part of the obligations of the Colombian State in relation to health, in accordance with the principles of progressiveness and non-regression, typical for rights such as the one herein analyzed"*[236].

310. Article 6 of the Statutory Law of Health "determines and legally structures the content of the right to health", since it considers the characteristics with which it must comply with, as well as its elements and principles. The provision states that the right to health includes the elements of availability, acceptability, accessibility, quality and professional suitability[237] and must comply with the principles of universality, *pro homine* or *pro persona*, equity, continuity, solidarity, sustainability, efficiency and progressiveness of the right, among others, which must be interpreted harmoniously.

311. In brief, the statutory regulation of the fundamental right to health harmonizes the domestic legal system with the characterization of this right and the State's duties for its fulfillment, in accordance with the interpretation made in the General Observation No. 14 of the Committee on ESC rights.

9.3. The specific duties derived from the right to reproductive health and its relation to VIP.

312. Based on the right to freedom of personal development, set forth in Article 16 of the Colombian Constitution, and on the right of couples to freely and responsibly decide the number of their children, provided in the ninth paragraph of Article 42 of the Constitution, the case law of the Court has recognized the fundamental nature of reproductive rights[238] and has specified that these rights are especially provided in two guarantees[239].

313. The first, related to reproductive self-determination, which refers to anyone's ability to decide whether or not to have children, as well as the time to do so. This guarantee implies the prohibition of any external interference, of a disproportionate nature, in making reproductive decisions, such as acts of discrimination, coercion or physical or psychological violence[240]. When the woman is the holder of this guarantee, she understands "the power she has to make, freely and personally, the decision to reproduce or not"[241], without being admissible any type of coercion from third parties or the State[242]. Specifically, the

[236] Court Ruling C-313 of 2014.
[237] Court Ruling C-313 of 2014. The decision refers to the interrelation between them and qualifies them as essential to the health service. Based on this characterization, the Court stated that, "these notions do not conflict with the constitutional provisions, since the Committee on ESC Rights, in paragraph 12 of Observation No. 14, assigned this classification of essential and interrelated elements to the same elements. For the Court, the essential condition is important to the extent that from these elements the essential content of the right is established, which appears as a limit for majorities, so that decisions of the majority principle that cut any of these elements can eliminate the right itself and therefore must be banned from the legal system". Court Ruling C-313 of 2014.
[238] Ruling C-355 of 2006.
[239] Ruling T-398 of 2019.
[240] Ruling C- 531 of 2014.
[241] Ruling T-627 of 2012.
[242] Ruling T-627 of 2012.

constitutional case law has established that "reproductive self-determination is breached when the exercise of personal autonomy is hindered and coercion is used to obtain a decision regarding the development of the progenitor. Likewise, when the necessary means and services are not offered to decide on this power; and finally, when the necessary information is not provided to make a decision based on true facts, or when it is provided in a false or inaccurate manner"[243].

314. The second guarantee includes the right of access to reproductive health services, which "includes medical treatment for diseases of the reproductive system, pregnancies without risks, and access to information and contraception methods"[244]. In relation to this guarantee, the Committee on ESC rights has indicated that reproductive (and sexual) health is an integral part of the right to health, established in Article 12 of the ICESCR, from which derives the States' obligation to respect, protect and guarantee it[245]. It has also emphasized that "since women's reproductive capacity, the satisfaction of women's right to sexual and reproductive health is essential to the satisfaction of all their human rights"[246], so that "to eliminate discrimination against women, it is necessary to ensure them, particularity, access to reproductive services, for which the State must refrain from limiting it and remove the barriers that prevent it, even when they come from third parties"[247].

315. Likewise, the CEDAW Committee has indicated that "access to health care, including reproductive health care, is a basic right set out in the Convention on the Elimination of All Forms of Discrimination against Women"[248] and has specified that "the refusal of a State Party to foresee the provision of certain reproductive health services to women under legal conditions is discriminatory"[249]. Based on these considerations, it has indicated that one of the duties of the State is to ensure the elimination of all barriers to women's access to health services in the area of sexual and reproductive health[250].

316. Similarly, the Inter-American Court of Human Rights has specified that "sexual and reproductive health is certainly an expression of health that has particular implications for women due to their biological capacity for pregnancy and childbirth. It is related, on the one hand, to autonomy and reproductive freedom, in terms of the right to make autonomous decisions about their life plan, their body and their sexual and reproductive health, free from all violence, coercion and discrimination. On the other hand, it refers to access, both to reproductive health services and to information, education and means that allow them to exercise their right to decide freely and responsibly on the number of children they wish to have and the time frame between births"[251].

317. In the Court Ruling SU-096 of 2018, the Court indicated that sexual and reproductive rights in the legal system are built on two pillars: the first, related "to freedom, which implies the impossibility of the State and society to implement groundless restrictions against the determinations adopted by each person" and, the second, of a benefit nature, "which involves the responsibility to adopt positive measures to ensure the full enjoyment of these rights"[252].

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[243] Court Ruling SU-096 of 2018.
[244] Court Ruling T-398 of 2019.
[245] Committee on ESC Rights. General Observation No. 14, The Right to the Highest Attainable Standard of Health: E/C.12/2000/4, CESCR, paragraph. 7.
[246] Committee on ESC Rights. General Observation No. 22. on the right to sexual and reproductive health (article 12 of the International Pact on ESC Rights). E/C.12/GC/22. 2016. Introduction and paragraph. 25.
[247] Ibid. paragraph, 21.
[248] CEDAW Committee. General Recommendation No. 24. Women and Health. 02/02/99, paragraph.1.
[249] Ibid. paragraph, 11.
[250] Ibid. paragraph, 31.
[251] IACHR Court. Case of Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica, Judgment of November 28, 2012, fj 147.
[252] As indicated in the Court's case law for review, these rights include the following elements: "(a) education and information on the full range of contraceptive methods, access to them and the possibility of choosing the one of their preference; || (b) access to voluntary interruption of pregnancy services in a safe, timely and quality manner, as established by law and this Court's case law; || c) measures that guarantee a risk-free maternity during the periods of gestation, childbirth and breastfeeding and that provide the

318. Based on this characterization, the constitutional case law has specified that the abortion "is not limited to the performance of a medical procedure, but also involves basic components of information, accessibility and availability of services by the EPS"[253] and, therefore, given that "it is not limited to the materialization of a medical procedure that terminates the gestation process, in the three cases foreseen in Ruling C-355 of 2006 [...] its performance is closely linked to the rights to human dignity and to individual autonomy (Art. 1 Constitution); to life in dignity (Art. 11 Constitution); not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Art. 12); to personal and family privacy (Art. 15 Constitution); the right to freedom of personal development (Art. 16 Constitution); to freedom of belief and of religion (Art. 18 and 19 Constitution); to social security (Art. 48 Constitution), to health (Art. 48 and 49 Constitution) and to education (Art. 67 Constitution)"[254]. This is why it has specified that "the VIP protects the autonomy and women's freedom of decision, being in any of the three grounds for decriminalization provided for in Ruling C-355 of 2006, decides to terminate the process of human gestation"[255].

9.4. The current criminalization of the consented abortion crime is in strong tension with the obligation to respect the right to reproductive health of women, girls and pregnant women.

319. The current conception of the right to health, of reproductive health, and of the VIP under the assumptions addressed in Ruling C-355 of 2006, as one of the components of the right to health, represents a different scenario from the one faced by the Court fifteen years ago when it analyzed the constitutionality of Article 122 of Law 599 of 2000.

320. Currently, there is a broad case law development on the right to health in intrinsic relation to the enjoyment of other fundamental rights, over which the specialized bodies that oversee the application of such international human rights that have been ratified by the Colombian State, have also stated their opinion related to the need to prevent women and girls from resorting to unsafe abortions. These recommendations and observations, among others, acquire the utmost relevance, especially when the situations presented are not alien to the national reality.

321. In this regard, the study carried out by the Ministry of Health and Social Protection, entitled "Determinants of unsafe abortion and barriers to access to VIP care in Colombian women"[256] highlights that the World Health Organization assess that in countries where abortion is illegal, women are forced to refer to unsafe medical procedures that jeopardize their lives and health and result in "67,000 women dying annually from unsafe abortions, which amounts to 13% of maternal deaths. In Latin America, unsafe abortion is responsible for 17% of maternal deaths"[257]. Likewise, it underlines that this organization has considered that "medical advances and advances in safe and effective technologies, and the capacity to perform induced abortions in particular, could fully eliminate unsafe abortions and related deaths, as long as there is universal access to these services"[258].

322. According to the figures presented by the Ministry previously mentioned, this is a serious problem if it is considered that "in general, it is estimated that each year, a total of 132,000 women experience complications due to induced abortions performed in underground, and probably, unsafe conditions,

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maximum possibilities of having healthy children, and; || d) treatment of diseases of the female and male reproductive system". Ruling T-627 of 2012.
[253] Court Ruling SU-096 of 2018.
[254] Court Ruling SU-096 of 2018.
[255] Court Ruling SU-096 of 2018.
[256] Ministry of Health and Social Protection. Determinants of unsafe abortion and barriers to access to care for voluntary interruption of pregnancy in Colombian women. Bogotá, 2014. P. 12. Cf., in this regard, the intervention presented by this ministry in the reference file.
[257] Ibid. paragraph, 12.
[258] Ibid. paragraph, 12. In this sense, the World Health Organization has stated that some of the conditions that limit access to safe abortion and contribute to the increase in these practices include, among others, restrictive legislation, low availability and high costs of these services. World Health Organization. Prevention of unsafe abortion. September 2020. At: https://www.who.int/es/news-room/facT-sheets/detail/preventing-unsafe-abortion

despite the existence of legislation that partially decriminalizes abortion"[259]. In this regard, it states that "in countries where abortion is illegal, the risk of death and injury for women seeking abortion services is, on average, 30 times higher than in countries where abortion is permitted by law. Restrictive laws criminalizing abortion do not prevent women from undergoing unsafe abortions to terminate unwanted pregnancies"[260]. In any case, it emphasizes the following:

> "*Laws that legalize or partially decriminalize abortion do not always guarantee access to abortion services, as it is the Colombian case. Seven years after the partial decriminalization of abortion, most abortions continue to be performed secretly. Legalization or partial decriminalization of abortion and policies to prevent unsafe abortion are insufficient in itself to reduce maternal deaths. Women who wish to terminate their pregnancies within the grounds established by law, or women who have had an abortion, need to receive timely and quality care within sexual and reproductive health services, to prevent complications that threaten their health and lives.*

323. The Criminal Policy Advisory Commission[261] has agreed on this assessment of the phenomenon by stating that:

> *"[The] decriminalization is constitutionally possible and the Commission considers that it is advisable, since in this scenario, comparative experience and studies of the Colombian reality show that it is better, both to reduce abortions and to protect women's rights, to adopt a public health perspective, combining vigorous campaigns to promote sexual and reproductive health and to prevent unwanted pregnancy, with a broad decriminalization of VIP that allows women access to safe abortion in cases where they are legally entitled to interrupt the pregnancy. By contrast, the severe criminalization of abortion, especially when it is unaccompanied by campaigns to prevent unwanted pregnancies, does not prevent abortions and instead, causes underground abortion practices that affect the health of women, especially the poorest women, who suffer the most unwanted pregnancies and have to have abortions in the worst health conditions "*[262].

324. Over the last fifteen years, the Committee on ESC rights, the CEDAW Committee, the Human Rights Committee and the Rapporteur on the right of every individual to the full enjoyment of physical and mental health, have spoken about abortion, particularly, in warning of the risks to the physical and mental health of women and girls, when, due to prohibitive or punitive rules such as Article 122 of the Criminal Code, they resort to underground procedures that represent one of the causes of maternal deaths and maternal morbidity and serious violations of their rights.

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[259] Ministry of Health and Social Protection, "Atención integral de la interrupción voluntaria del embarazo (IVE) en el primer nivel de complejidad". Technical document for health service providers, 2014. p. 14.
[260] Ibid. p. 14.
[261] By Auto of October 19, 2020, the substantive magistrate, Antonio José Lizarazo Ocampo, admitted the complaint in the referenced file and, in addition, invited the Superior Council of Criminal Policy to present an opinion. Specifically, he requested the opinion issued by the mentioned council on the legislative initiatives presented from 2006 to date, both to criminalize abortion in Colombia, as well as for its decriminalization and those related to the abortion practice. In addition, it was requested to inform what has been, in terms of criminal policy, the orientation, criteria and elements to be considered in relation to the criminalization of abortion. Although, in an official letter dated December 16, 2020, the Director of Criminal and Penitentiary Policy of the Ministry of Justice informed that the referred Council, through the Observatory of Criminal Policy, elaborated an action plan and methodological guidelines, for purposes of giving scope to the invitation of intervention raised by this Court, he did not provide what was requested by the Constitutional Court, nor any other document, different from the previously mentioned. The foregoing, despite the fact that in this official letter it was stated that the plan had been approved in the sessions of November 10 and 24, 2020 and that, consequently, three joint and collaborative work tables had been created, integrated by members of the 13 state entities represented in the Council, and the representatives of the 4 member congressmen, to work on 3 thematic axes: (i) the phenomenon of res judicata with respect to Court Ruling C-355 of 2006 and the concepts of the Superior Council of Criminal Policy on legislative initiatives, (ii) the charges set forth in the lawsuit and (iii) the orientation, criteria and elements in criminal policy matters, to be considered with respect to the criminalization of abortion.
[262] Criminal Policy Advisory Commission. Final Report. Diagnosis and proposal of criminal policy guidelines for the Colombian State, June 2012, p. 75.

325. The Committee on ESC rights, which issued the General Observation No. 14 several times quoted herein, in General Observation No. 22, related to the sexual and reproductive health rights, after reflecting on the indivisibility and interdependence of sexual and reproductive rights with respect to other human rights, stated:

> *" The right to sexual and reproductive health is also indivisible from and interdependent with other human rights. It is intimately linked to civil and political rights underpinning the physical and mental integrity of individuals and their autonomy, such as the rights to life; liberty and security of person; freedom from torture and other cruel, inhuman or degrading treatment; privacy and respect for family life; and non-discrimination and equality. For example, lack of emergency obstetric care services or denial of abortion often leads to maternal mortality and morbidity, which in turn constitutes a violation of the right to life or security, and in certain circumstances can amount to torture or cruel, inhuman or degrading treatment"*[263].

326. Likewise, it indicated that within the "violations of the obligation to respect", "[i]t is worth mentioning as examples [...] the establishment of legal obstacles that prevent the access of individuals to sexual and reproductive health services, such as the criminalization of women who undergo an abortion"[264].

327. Similarly, in General Recommendation No. 35, about gender-based violence against women, the CEDAW Committee noted:

> *" Violations of women's sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment"*[265].

328. Based on this assumption, it recommended that the States Parties repeal the legal provisions that lead to gender-based violence, including expressly those that criminalize abortion[266].

329. This same body, in the last Observations made to the Colombian State in 2019, stated:

> "In line with its general recommendation No. 24 (1999) on women and health, the Committee calls upon the State party: […] || c) In line with Ruling C-355 of the Constitutional Court, of 2006, adopt a law legalizing abortion in cases of rape, incest, risk to the physical or mental health or life of the pregnant woman and severe impairment of the fetus and decriminalize abortion in all other cases"[267].

330. Similarly, in General Observation No. 36, on the right to life[268], the Human Rights Committee indicated that, although States may adopt measures to regulate VIP, these should not result in a violation of the right to life or other rights of pregnant women or girls, nor should lead to "subjecting them to physical

[263] Committee on ESC Rights. General Observation No. 22. About the right to sexual and reproductive health (article 12 of the International Pact on ESC Rights). E/C.12/GC/22. 2016, para. 10. This statement was made by the Committee when referring to "II. Context" in which the observation was framed and, in particular, to the interdependence of the right to sexual and reproductive health "with other human rights."
[264] Ibid. para, 57.
[265] CEDAW Committee. General Recommendation No. 35, on gender-based violence against women, updating General Recommendation No. 19, CEDAW/C/GC/35. 2017. Paragraph. 18. This reference is available in section "II. Scope", in which the Committee specifies, on the one hand, that the recommendation "complements and updates the guidance provided to States parties in general recommendation No. 19 and should be read along with it" and, on the other, the meaning of the expression "gender-based violence against women".
[266] Ibid. para, 29, C) i).
[267] CEDAW Committee. Concluding Observations. Colombia. CEDAW/C/COL/CO/9. 2019. para. 38. c).
[268] By means of which General Comment No. 6 is updated.

or mental suffering or pain in violation of Article 7 of the CCPR, or involve discrimination against them or arbitrary interference in their private life"[269]. Thus, in addition to the grounds for allowing an abortion, related to the physical and mental health and sexual violence they may have suffered, the Court noted:

> "*States Parties may not regulate pregnancy or abortion in all other circumstances in a manner that is contrary to their duty to ensure that women and girls do not have to resort to unsafe abortions and should review the relevant legislation accordingly. For example, they should not adopt measures such as [...] applying criminal sanctions to women and girls who undergo abortions, or to medical service providers who assist them in doing so, since taking such measures compels women and girls to resort to unsafe abortion"*[270].

331. In this regard, the Committee on the Rights of Individuals with Disabilities, after noting the differential and more burdensome risks to which they are subjected when they must resort to unsafe abortions, stated that "in order to respect gender equality and disability rights, in accordance with the CEDAW and CRPD Conventions, States Parties should decriminalize abortion in all circumstances and legalize it in a manner that fully respects the autonomy of women, including women with disabilities"[271]. Therefore, together with the CEDAW Committee, they requested the States Parties to "adopt a human rights-based approach that protects the reproductive choice and autonomy of all women, including women with disabilities"[272].

332. Finally, the Rapporteur, about the right of every individual to the full enjoyment of physical and mental health spoke against the absolute criminalization of consensual abortion, after stating that:

> *"Criminal laws penalizing and restricting induced abortion are the paradigmatic examples of impermissible barriers to the realization of women's right to health and must be eliminated. These laws infringe women's dignity and autonomy by severely restricting decision-making by women in respect of their sexual and reproductive health. Moreover, such laws consistently generate poor physical health outcomes, resulting in deaths that could have been prevented, morbidity and ill-health, as well as negative mental health outcomes, not least because affected women risk being thrust into the criminal justice system. Creation or maintenance of criminal laws with respect to abortion may amount to violations of the obligations of States to respect, protect and fulfil the right to health."*[273].

333. As can be seen, the State's duty to respect the right to health implies, amongst other, the duty to remove the regulatory obstacles that prevent access to the services that women and girls need to enjoy their reproductive health. One of these barriers is the current mean of categorical criminalization as the only social regulatory measure of the complex social and public health problem of abortion with consent. This mean of regulation, as stated by the international human rights organizations mentioned above, has an impact on the unsafe abortions practices that endanger health, integrity and lives of women, girls and pregnant women.

334. Punishing, categorically speaking and without any options, those who have access to VIP, even within the first weeks, represents a serious influence of the State in the enjoyment of the right to health of this population, which increases the risk of unsafe abortions that endanger those guarantees. This practice constitutes a serious public health problem, whose high rates, both in Colombia and globally,

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[269] Human Rights Committee. General Comment No. 36 on the right to life. CCPR/C/GC/36, para. 8.
[270] Ibid.
[271] Joint Statement of the Committee on the Rights of Individuals with Disabilities and the CEDAW Committee. Ensuring the sexual and reproductive health and rights of all women, in particular women with disabilities. August 29, 2018.
[272] Ibid.
[273] United Nations General Assembly. Report of the Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. A/66/254. 3 August 2011, para.21.

have serious consequences on women's rights, which has led many human rights protection organizations to recommend that States adopt measures to discourage it, including the decriminalization of consensual abortion and the adoption of public policies that include administrative and sanitary provisions for the performance of this procedure within the framework of reproductive health services.

335. For the foregoing reasons, the Court finds that the criminalization of abortion with consent, in the terms of Article 122 of the Criminal Code and in the current regulatory context, characterized by the absence of a comprehensive public policy aimed at the protection of life in gestation and, at the same time, of the rights and guarantees of women, girls and pregnant women, is in strong tension with their right to health and their reproductive rights.

10. Analysis of the second charge: the right to equality of women in vulnerable situation and in irregular migratory status (Articles 13 and 93 of the Constitution, 1 of the ACHR and 9 of the Convention of Belem do Para).

10.1. Summary of the argument

336. The criminalization of the crime of consensual abortion in the current regulatory context is in strong tension with the right to equality of women in vulnerable situation and in an irregular migratory status, for the following reasons:

337. The criminalization of abortion with consent has been in force since the first Criminal Code of 1837, issued after the organization of Colombia as an independent republic. This means, it was regulated under the influence of political ideas and legal conceptions that did not consider the rights of women and, since then, it has remained in the legal system only with some changes. Currently, excluding very exceptional cases identified by the Constitutional Court in its Ruling C-355 of 2006, in the exercise of the State's *ius puniendi*, the policy of subjecting women, without offering alternatives for the exercise of their rights, to a term of imprisonment if they decide not to continue with the gestation process, a criminalization that impacts differently -clearly more disproportionately- on the most vulnerable women, including those in an irregular migratory status, as evidenced by the information provided to the process. According to this official information, women who have been accused of the crime of consensual abortion and those who suffer the most serious health consequences are exposed to intersectional factors of discrimination that make them even more vulnerable. Due to these intersectional factors, the categorical prohibition of abortion with consent, provided for in the regulatory content under review, affects this population in a particularly serious and evident manner, whose criminalization intensify their situation of vulnerability.

338. The consideration mentioned above, is especially relevant if it is considered that these girls and women are the ones who are least likely to have access to state services associated with their sexual and reproductive health, whether educational, related to family planning or VIP in the cases foreseen in Ruling C-355 of 2006. In addition, they are the ones who are most exposed to underground abortions practices in deplorable sanitary conditions, which exposes them to a greater degradation of their dignity. The discriminatory effect of the categorical prohibition becomes even more evident if it is considered that underground abortion practice is one of the main causes of maternal deaths. It is only reasonable to infer that the likelihood of death from unsafe procedures increases exponentially.

339. In this sense, it is up to the State, rather than resorting primarily to criminalization, to promote and guarantee a policy with a gender focus and an intersectional scope, in the sense that it benefits especially those who are exposed to more than one factor of vulnerability, such as women, girls and pregnant women who live in the rural areas or remote communities; those with disabilities; minors who are out of school;

those who are in a condition of forced displacement, refugees, irregular migrants or in a situation of destitution; those detained in institutions or in detention; indigenous, Afro-descendants or members of the Roma population; and those who have already had a pregnancy and are heads of households. Constitutional case law has recognized that the convergence of structural factors of vulnerability has repercussions in the creation of additional risks against women and girls, in such a way that their combination creates a situation of a concrete nature with greater burdens of discrimination due to the confluence of such factors.

10.2. The affectation to the right to equality due to indirect discrimination and its impact on the most vulnerable women

340. The plaintiffs argue that the structural barriers to access to the VIP procedure created by the law under review, clearly affect women and girls in vulnerable situations and with an irregular migratory status disproportionately. This, as they warn, opposes the State's obligation to guarantee access to VIP procedures under equal conditions and without discrimination. To support their argument, they state that the right to equality includes both a mandate to refrain from discriminatory treatment -formal equality- and a mandate to intervene that obliges the State to overcome conditions of inequality -material equality-. Furthermore, Article 13 of the Constitution prohibits indirect discrimination, i.e., that the application of apparently neutral rules causes adverse and disproportionate consequences on traditionally marginalized or discriminated groups.

341. Constitutional case law has ruled on this type of regulations and on those including discriminatory provisions exclusively based on gender. For example, in Ruling C-754 of 2015, the Court decided a lawsuit filed against the term "ability / power" established in Article 23 of Law 1719 of 2014, based on which the health system could apply the Protocol and the Model of Comprehensive Health Care for Victims of Sexual Violence, without being obliged to do so. The plaintiffs argued, among other reasons, that such expression gave rise to an indirect discrimination against women, especially to such most vulnerable, which implied a regression in the guarantee of their right to health, specifically, in the obligation to adopt and apply protocols aimed at ensuring the right to health of victims of sexual violence under conditions of availability, accessibility and quality.

342. At that time, the Court warned that the Legislator is not only prohibited from issuing regulations that discriminate or exclude particular groups of individuals whether openly or directly, seeking nullifying or reducing the recognition, enjoyment or exercise of fundamental rights based on suspicious criteria such as gender, race, socioeconomical status, etc., but also from indirectly discriminating against them through regulations that give rise to a disproportionate impact on the guarantee of their rights. In this regard, it specified that "the prohibition of direct or indirect discrimination and the reinforced duty of protection also extends to cases where action or omission of the State results in multiple and intersectional discrimination. That is, situations where a person is subjected to greater risks or disadvantages due to the confluence of different suspicious criteria that worsen or add obstacles to the exercise of a fundamental right "[274].

343. Based on what was mentioned above, it concluded that, although the challenged provision had a neutral content, since it referred in general to the victims of sexual violence, it caused an indirect and intersectional discrimination against women and, in particular, against those belonging to marginalized groups, who suffered the most severe and strong effects of the lack of a health care protocol in cases of

[274] Court Ruling C-754 of 2015.

sexual violence. Consequently, it declared the term under review as unconstitutional and, instead, stated that the adoption of the referred protocol was an "obligation" of the health system entities.

344. Subsequently, in Court Ruling C-586 of 2016, which reviewed the constitutionality of numeral 3 (partial) of Article 242 of the Substantive Labor Code, which excluded women from performing certain dangerous, unhealthy or hazardous work, the Court restated that indirect discrimination exists "when from formally non-discriminatory treatments, unequal factual consequences are derived for some people, that injure their rights or limit the full enjoyment of them. In such cases, neutral measures that, at the beginning, do not imply differentiated factors between individuals, may produce inequalities *de facto* between them, due to their exclusive adverse effect, which lead to an indirect type of discrimination".

345. The ruling explained that this type of discrimination is comprised of two criteria: (i) the existence of a measure or practice that is applied to all in an apparently neutral manner, and (ii) the fact that this measure or practice places a protected group of individuals at a disadvantage. In such cases, it added, the analysis of discrimination does not focus on the existence of differential treatment, but on the differential effects caused by the challenged rule. This time, the Court declared the challenged rule unconstitutional, arguing, among other reasons, that the prohibition adopted by the legislator was unnecessary and disproportionate and, therefore, contrary to the right to equality.

346. Recently, Ruling C-117 of 2018 declared unconstitutional the item established in Article 185 of Law 1819 of 2016 that taxed sanitary napkins and tampons with a 5% VAT rate and, consequently, ordered to include those products in the list of goods exempted from this tax. This time, the Court warned that when discrimination against women is argued due to a specific circumstance, it is necessary to verify: "(i) The context and the different factors that may contribute or determine the situation; and || (ii) The impact that the measure has, not only towards women in general, but from an intersectional perspective, that analyzes the consequences related to other possible categories of discrimination such as race or socioeconomical status".

347. In the case analyzed herein, the Court concluded that charging VAT on sanitary napkins and tampons, which are exclusively feminine hygiene products, had a disproportionate impact on women, particularly on poor women. In this vein, it stated that, although the tax regulation was apparently abstract and general, it only affected a part of the population based on their gender, since it imposed a tax burden exclusively on women, which affected to a greater extent, those with scarce economic resources. Thus, it concluded that the measure was unreasonable and disproportionate and, therefore, unconstitutional.

348. In sum, although sometimes the rules issued by the Legislator have the appearance of neutrality, since they are not explicitly aimed at a particular social group, they end up indirectly excluding and discriminating against certain vulnerable groups, on which they cause differentiated, disproportionate or exclusive effects that hinder the enjoyment of their fundamental rights.

10.3. The impact of the criminalization of consented abortion on the most vulnerable women

349. As previously indicated, the policy of subjecting women, without offering alternatives for the exercise of their rights, to a term of imprisonment if they decide not to continue with the gestation process, has a different impact -clearly more disproportionate- on the most vulnerable women due to their socioeconomical condition, their rural origin, their age or their migratory status, among other factors. In other words, although the criminal offense of elective abortion establishes a term of imprisonment for any woman who causes her abortion or allows another to cause it, the measure places at a disadvantaged position those women who, due to their vulnerable situation, do not have access to sexual and

reproductive health services, including the VIP procedure in the three circumstances that, according to Court Ruling C-355 of 2006, do not give rise to this offense. In fact, from the information submitted within the process, it is possible to derive that the women reported for the crime of consensual abortion and those who suffer the most serious consequences in their health due to the irregular practice of this procedure are exposed to intersectional factors of discrimination that increase their vulnerability.

350. According to figures on criminal proceedings for the crime of consensual abortion provided by Profamilia, 75% of the convictions were imposed on women of legal age, most of whom were vulnerable due to their rural origin, their poverty or their status as irregular migrants. The applicable information to Bogota, for example, reveals that "85% of the abortion entrances into the Criminal System are woman of social groups 1, 2 and 3. This means, that the most vulnerable women are those to whom the criminal prosecution of abortion affects the most"[275].

351. According to the report on the prosecution of abortion in Colombia, issued by the Attorney General's Office, until 2020, 50.93% of the women reported were under 28 years of age, of which 31.7% were minors. Most of the women reported were engaged in activities related to home or domestic services (34.3%), were students (13.6%), others were unemployed (2.75%) or engaged in sex work (2.75%)[276]. At the same time, four criminal records for the crime of abortion refer to girls under 14 years of age[277] but, incomprehensibly, do not refer to them as victims of sexual violence in terms of article 209 of the Criminal Code, which set out the crime of "[a]cts with a minor under fourteen years of age".

352. Additionally, in the most recent report submitted to the Court in 2021, it states that "of the 5,646 cases for the crime of abortion (art. 122) that have been registered in the mission systems of the [Attorney General's Office] since 2006, 1,675 register the location of the events as a rural area and 1,611 as an urban area[278]. In other words, according to the submitted figures, this behavior is proportionally more prevalent in rural areas. This number is especially pressing if it is considered that, according to the "national population and housing census 2018", 22.9% of the country's population lives in rural areas - "populated areas" (7.1%) and "dispersed rural" areas (15.8%)-, compared to 77.1% who live in "municipal capitals" or urban areas[279].

353. However, the criminalization of abortion with consent, does not show a relevant impact on its reduction or, therefore, on a greater protection of life in gestation. By contrast, it encourages the irregular practice of VIP, which results in serious harm to women, girls and pregnant women, not only as a discriminated group exposed to multiple factors of violence, but also individually considered, with special incidence on the most vulnerable, including those who are in an irregular migratory situation. These women, girls and pregnant women face a public health problem that exposes them to suffer complications from the procedure and even to lose their lives.

354. In this regard, by 2012, the Criminal Policy Advisory Commission had stated the following:

> *"The severe criminalization of abortion has discriminatory consequences since the evidence in Colombia and in other countries shows that women with few economic resources suffer*

[275] Technical opinion of Profamilia, in response to the invitation made by means of an order dated October 19, 2020, fl. 27.
[276] Policy and Strategy Direction of the Attorney General's Office (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office. p. 49. In relation to this last group, of people engaged in sex work activities, this is a high percentage, if it is considered that the number of people in this group is relatively low in the country.
[277] Ibid. p. 26.
[278] Ibid. p. 6.
[279] National Department of Statistics. Available at: https://www.dane.gov.co/files/censo2018/infografias/info-CNPC-2018total-nal-colombia.pdf

mostly from unwanted pregnancies and are the ones who access abortions in worse conditions. Indeed, in Colombia, according to a recent report by the Guttmacher Institute, which since 2009 has been an official partner in reproductive health of the WHO (World Health Organization), each year an estimated 132,000 women suffer complications that can be very risky due to underground abortion. This represents 30% of women who have abortions under these conditions, but this percentage reaches 53% in the case of poor rural women and is lower ('only' 24%) in the case of urban women who are not poor".

355. Regarding post-abortion complications, the Ministry of Health has specified that:

"Each year, the Colombian health system provides post-abortion treatment to 93,000 women [...]. Currently, nine women put of every 1,000 receive postabortion care in health institutions. The highest rate of treatment and the greatest burden on the health system occurs in the Pacific region, where 16 out of every 1,000 women receive post-abortion treatment each year "[280]*.*

356. These information match with other data submitted within the process. In Colombia, some 400,400 underground abortions are registered each year[281]. "The consequences of unsafe and underground abortions translate into 132,000 women with complications that must be treated annually in the Colombian health system for events that could have been avoided"[282]. In this last group of cases, 53% of those affected are women of countryside origin[283]. This last percentage prove the differentiated incidence of unsafe and underground abortions for countrysid women, compared to women living in urban areas, since, as indicated above, only 22.9% of the country's population lives in rural areas - "populated areas" (7.1%) and "dispersed rural areas" (15.8%)-[284].

357. However, the information applicable to the Pacific region of the country is relevant, considering that, according to Profamilia, the possibility of accessing health services, including sexual and reproductive health services, is only 11.7%[285]. It should be noted that, according to DANE data published in 2018, Afro-Colombian women live on average 11 years less than the rest of women and the maternal death rate for this population group is 109.18 cases per 100,000 live births, which contrasts with the rate of 51 cases per 100,000 births for the general population[286].

358. In fact, the discriminatory effect of the categorical prohibition of voluntary abortion becomes even more evident if is considered that the practice of consensual abortions is precisely one of the main causes of maternal death. Indeed, it is only reasonable to infer that the probability of death from unsafe procedures of this type increases exponentially. According to information reported by DANE, among the

[280] Ministry of Health and Social Protection (2014). Determinants of unsafe abortion and barries to access to care for voluntary interruption of pregnancy in Colombian women p., 28. Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/SM-Determ-aborto-inseguro.pdf [last accessed: 22 June 2021].
[281] The study referred to the following: Elena Prada, Susheela Singh, Lisa Remez and Cristina Villarreal (2011). Unwanted pregnancy and induced abortion in Colombia: causes and consequences. Guttmacher Institute. Available at: https://www.guttmacher.org/sites/default/files/report_pdf/embarazo-no-deseado-colombia_1.pdf [last accessed June 22, 2021] This Guttmacher Institute study is referred to in the legislative initiative presented by the Attorney General's Office to partially decriminalize the crime of abortion (Bill 209 of 2016, House of Representatives) and in the following study by the Ministry of Health and Social Protection: Determinants of unsafe abortion and access barriers to care for voluntary interruption of pregnancy in Colombian women, p. 28. Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/SM-Determ-aborto-inseguro.pdf [last accessed June 22, 2021].
[282] Technical opinion of Profamilia, in response to the invitation made by means of an order dated October 19, 2020, fl. 21.
[283] Ibid.
[284] National Department of Statistics. Available at: https://www.dane.gov.co/files/censo2018/infografias/info-CNPC-2018total-nal-colombia.pdf
[285] Ibid. f., 33.
[286] Intervention by Dayana Blanco Acendra and Eliana Alcalá de Ávila, general director and researcher of Ilex Acción Jurídica, Luz Marina Becerra, Coordinadora Mujeres Afrocolombianas Desplazadas en Resistencia La COMADRE de AFRODES, Ángela Solange Ramírez, Gender Coordinator, La Comadre - Cali, María Fernanda Escobar Rodríguez, representative of the International Institute for Race, Equality and Human Rights (Raza e Igualdad) and Ana María Valencia, president of the Association of Black Economists "Mano Cambiada".

obstetric conditions classified, "pregnancy ending in abortion" was the fourth leading cause of maternal death in year 2019[287].

359. This situation is not new. A couple of years after Ruling C-355 of 2006 was issued, the Ministry of Health estimated 75 cases of maternal deaths per 100,000 live births. Even though these figures are difficult to estimate, according to experts in the field, they are close to the calculation made by the World Health Organization which, for the same year, estimated 85 cases per 100,000 live births[288].

360. The information mentioned above are especially relevant if it is considered that underground abortions that were performed before 2006 -specifically, before the issuance of Court Ruling C-355 of that year-, are still currently being carried out -*ceteris paribus*, according to the data widely referred to in this providence- and produce serious consequences for the rights of women and girls. Thus, in the face of the merely formal effectiveness of criminal law, the State ends up turning the perpetrator of the VIP into a victim, since her fundamental rights are seriously affected.

361. In this regard, it is worth recalling the recommendation to decriminalize the crime of voluntary abortion that in 2012 -after the issuance of Court Ruling C-355- was made by the Advisory Commission for the Drafting of the Criminal Policy of the Colombian State[289], considering it an unjustified criminal offense, contrary to international standards and the commitments made by Colombia. According to the report, this criminalization, even after 2006, led to unsafe and underground abortions, and it also stated that less restrictive criminal regimes had a direct relationship with fewer unsafe abortions and lower abortion rates.

10.4. The current manner of criminalization of the crime of consented abortion is in strong tension with the right to equality of women in vulnerable situations and with an irregular migratory status.

362. For the Court, it can be inferred from the information mentioned above that reported women for the crime of consensual abortion -who suffer the most serious consequences on their health- are exposed to intersectional factors of discrimination that make them even more vulnerable.

363. In fact, it is possible to argue -based on experience and observation- that the most vulnerable female population is the one most affected by the criminal sanction. This is because it is rural women, women from the lowest socioeconomical stratum, migrant women, refugees, women who do not attend school and others, followed by the long etcetera already listed in this ruling, who have the fewest resources and alternatives to terminate an unwanted pregnancy without the criminal authorities becoming aware of the fact. Conversely, favorable socioeconomical conditions may have an impact on the impunity of the conduct, since thanks to these conditions it is possible to access quality medical services and qualified information on abortion methods or to travel abroad to terminate a pregnancy where the practice is not criminalized.

364. The above, of course, without considering the disadvantages that socioeconomic disparity brings to women whose conditions of vulnerability have prevented them from accessing quality education on the

[287] DANE (20201). Final figures 2019 - Figures from January 1 to December 31, 2019 (published on December 23, 2020). Table 7 - Maternal deaths, by age group, by department of residence and cause of death groups. Available at: https://www.dane.gov.co/index.php/estadisticas-por-tema/salud/nacimientos-y-defunciones/defunciones-no-fetales/defunciones-no-fetales-2019 [last accessed June 23, 2021].
[288] According to the Guttmacher Institute, "When abortion is performed by trained professionals and under hygienic conditions, less than 0.3% of procedures lead to complications that require care in a health institution". Elena Prada, Susheela Singh, Lisa Remez and Cristina Villarreal (2011). Unwanted pregnancy and induced abortion in Colombia: causes and consequences. Guttmacher Institute, p. 19. Available at https://www.guttmacher.org/sites/default/files/report_pdf/embarazo-no-deseado-colombia_1.pdf [last accessed June 22, 2021].
[289] Criminal Policy Advisory Commission. Final Report. Diagnosis and proposal of criminal policy guidelines for the Colombian State, June 2012, p. 170.

responsible exercise of their sexual and reproductive rights or to access the VIP procedure in the cases referred to in Court Ruling C-355 of 2006.

365. It is clear from these examples, that criminalization increases the vulnerability of those whose human dignity is already affected or threatened by this situation (of vulnerability). And the impact not only of the criminal sanction, but also of the decision to assume maternity for socioeconomically vulnerable women, is not only felt by them as individuals, but also by their families, who, in many cases, must take charge of feeding, raising and educating a new member of the family, given the decrease in the woman's work force in proportion of her new responsibilities as a mother.

366. If, in view of these realities, which do not need to be contrasted with statistics, since, as was said, they are evident from observation and experience, the only response of the State is the criminal one, it could be contrary to the constitutional regime since it fails to protect the dignity of women who have been discriminated against or marginalized by the adversity of circumstances.

367. Due to these intersectional factors, the categorical prohibition of consensual abortion, provided for in the regulatory content under review, affects this population in a particularly serious and evident manner, whose criminalization, as the only public policy measure, further aggravates their situation of vulnerability.

368. The above consideration is especially relevant if it is considered that it is these girls and women who have the lowest probability of access to state services associated with their sexual and reproductive health, whether educational, related to family planning or VIP in the cases provided for in Court Ruling C-355 of 2006. In addition, they are the ones who are most exposed to the practice of underground abortions in deplorable sanitary conditions, which exposes them to a greater degradation of their dignity.

369. Consequently, keeping the current criminalization of consensual abortion and, therefore, using criminal law as a *prima ratio*, exposes women to one of the main causes of maternal death, that is, to the practice of unsafe abortions, which can harm their personal integrity, health and life[290] and which affects in a more evidently disproportionate manner those in a situation of socioeconomic vulnerability. For these reasons, the Court finds that Article 122 of the Criminal Code, in the current regulatory context in which it is contained, is in strong tension with the right to equality of women in vulnerable situations and with an irregular migratory status.

11. Analysis of the third charge: the freedom of conscience of women, girls and pregnant women, especially in relation to the possibility of acting in accordance with their convictions about their reproductive autonomy (Article 18 of the Constitution).

11.1. Summary of the argument

370. The criminalization of abortion with consent in the current regulatory context is in strong tension with the freedom of conscience of women, girls and pregnant women, for the following reasons:

371. The power of the legislator in criminal matters is not absolute and its limits become more evident when the criminalization of conduct interferes with the exercise of freedoms intrinsically associated with human dignity, among them, freedom of conscience, an autonomous constitutional provision, in terms of Article 18 of the Constitution

[290] According to the Ministry of Health, abortion mortality "is the only totally preventable cause of maternal mortality". Ministry of Health and Social Protection (2014). Determinants of unsafe abortion and access barriers to care for voluntary termination of pregnancy in Colombian women p. 30. Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/SM-Determ-aborto-inseguro.pdf [last accessed: 22 June 2021].

372. To evaluate whether a person, in the abstract, can legitimately act or refrain from acting to preserve his system of convictions and beliefs, the importance of the legal interest to be preserved by the criminalization must be assessed against the sacrifices that derive from it. In this exercise, the guarantee and weight of freedom of conscience will be greater the more intense the connection with the bodily, physical and emotional integrity of the person claiming its protection and with its human dignity.

373. Freedom of conscience, with respect to the decision to procreate or not to do so, and therefore to assume maternity or paternity, is a highly personal, individual and non-transferable matter that corresponds to one of the dimensions of reproductive rights, specifically, reproductive autonomy, with respect to which the State and individuals are in first instance prohibited from intervening through coercion or violence.

374. In the case of women, the decision to assume maternity is a matter that impacts them in a very personal way, because it affects their life project; it is an individual matter, because it has physical and emotional consequences on their own existence, and it is non-transferable, because the autonomy of the decision cannot be transferred to a third party, except in exceptional cases in which prior consent has been provided or there are solid reasons to infer it. It is, therefore, an intimate decision closely linked to the value system of the person who can gestate and represents one of the main expressions of human nature, and both those who decide to assume maternity and those who choose not to do so exercise their freedom and put into practice their individual system of beliefs and values. This decision, clearly an intimate one, is a manifestation of reproductive autonomy, even of couples, closely linked to their personal value system.

375. In the present case, the challenged rule allows judging and punishing the woman who, during pregnancy, decides to act according to her moral judgments or intimate convictions, which generates an evident tension of constitutional relevance with the aforementioned freedom, since it gives rise to the imposition of a specific way of proceeding which, in this case, implies the duty to assume maternity, even against her own will, without, among others, taking into account the woman's knowledge of her condition or the progress of the gestational process. These two circumstances are especially relevant, if it is considered that the exercise of this freedom supposes, on the one hand, to know the pregnancy status so that it is possible to make a decision about its continuity or not and, on the other hand, to act in accordance with the duty of gradual and incremental protection of life in gestation.

11.2 Constitutional characterization of freedom of consciousness

376. Freedom of consciousness is provided in article 18 of the Constitution in the following terms: “Freedom of consciousness is granted. Nobody shall be bothered due to its convictions or beliefs nor forced to reveal them nor obliged to act against its consciousness”.

377. This freedom protects the autonomy of thought and individual, voluntary and conscious action, as opposed to the imposition of a determined conduct. In this way, is allowed to every person to control their life according to its beliefs and thoughts, that not necessarily match a belief, faith or certain religion[291].

[291] Regarding to religious freedom, in its individual element, this Court has pointed out that the person “as a projective, estimative, and temporal being, adjusts its conduct to the standards of a certain religion to obtain the satisfaction of a full, transcendent and spiritual life” (Court Ruling T-823 of 2022). Based on this idea, it has specified that is the duty of the State “to ensure that all believers have the freedom to act according to their own convictions and to prohibit any coercion or impediments that limit the commitment assumed by them to conduct themselves according to their own beliefs” (Court Ruling T-823 of 2002). Despite the similarity of this last duty of the State with those of freedom of thought, it does not imply that in all events the consciousness of an individual is related to a particular religious belief. In this regard, the constitutional case law has specified: “even if the ideology adopted by a person, or its religion, could determine his consciousness, meaning, his personal way of casting practical moral judgements, this does not mean that freedom of thought is to be confused with the freedom of religion right, since it is not necessary to be enrolled

Therefore, does not protect a certain moral system, or an objective moral rule, but protects a set of beliefs and convictions of each individual, safeguarding its own system of values and the way it determines his actions[292].

378. According to the constitutional case law, the concept "*consciousness*" mentioned in the quoted constitutional provision, comprehends the own and intimate discernment of what is good and what is wrong; thus, this provision protects the moral consciousness right, this is, the moral judgement on one's own conduct[293]. This is the reason why this freedom endorses the power to cast practical moral judgments in relation to what is a right action of a given event. In other words, it refers to the power of every person to discern between the moral right or wrong of a given situation, and in accordance with this, to guide his own conduct[294], without any of these determinations to be encouraged or to be subject of a disproportionate State or third-party intervention. Regarding this last aspect, as specified by the constitutional case law, the exercise of this freedom shall be made always within the framework of the Constitution and the law and the duty to observe other people's rights and not to abuse one's own rights, in accordance with the provision of Article 95 of the Constitution, "on the basis, implicit in every right and in every freedom, that its exercise is limited to the rights of others and by the needs of public order, peace, public health and safety"[295].

379. This freedom protects three fundamental guarantees: in first place, to maintain its convictions secret, without anyone being obliged or coerced to disclose them. Thus, the State and third-party interventions are prohibited in the personal sphere and, unless the express consent of its owner is granted, it is not possible to access to his thoughts. Secondly, once the thoughts are expressed or transmitted, the guarantee is extended to not being pressured or bothered for the statement of such convictions. Lastly, protects the right of not being forced to act against his intimate personal convictions, from which the conscientious objection has derived.

380. Likewise, according to the constitutional case law, this freedom is exercised in an individual basis, it is a personal right or, better, it is the subjective moral rule that governs a person, regardless of, and even against, the social customs and conventions in which its immersed[296].

381. From the above, the three-part configuration of thought, expression and behavior, that characterize the freedom of consciousness is fundamental not only for the individual development but also for the social interaction and integration. In relation to this last aspect, it is important to note the importance that the constitutional case law has given to this freedom in order to build the democratic, participatory and pluralistic character of the Colombian State[297]. Thus, it has indicated that the pluralistic formula that characterizes democracy is expressed in three dimensions: "(i) the diversity that is admitted

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in a particular religion, nor in a particular philosophical, humanistic or political system to cast judgements about what is right or wrong, because the atheists and agnostics also did." (Court Ruling SU – 108 of 2016)

[292] Court Ruling C-616 of 1997.

[293] Court Ruling C-409 of 1992.

[294] Court Ruling C-616 of 1997.

[295] Court Ruling C-409 of 1992.

[296] In both abstract and concrete constitutional control processes, the Court has repeated its characterization of this freedom. In Court Ruling C-616 of 1997 was stated: "the freedom of consciousness has as its object the power of each person to 'discern what turns out to be moral good or bad, but in relation to what concretely, in a given situation, we must do or not do". In the Court Ruling T-353 of 2018 it was provided that "There is no need to be enrolled in a certain religion […] to cast judgements in relation to right and wrong. Atheist and agnostics do the same, since freedom of consciousness is a necessary predicate of the free dimension proper to human nature, which allows man to self-determine in accordance with his rational needs". In this regard, Court Ruling SU-108 of 2016 stated that the freedom of consciousness "shall be construed beyond the simple scope of religious assessments or beliefs. Furthermore: Shall start from any consideration that the individual considers valid and legit within its system of principles and values". Finally, it was noted that the freedom of conscience is not a synonym of freedom of thought or religion, not only due to the own and autonomous content of each, but also because the first is exercised individually, while the other two freedoms have an individual and collective or institutional dimension (Cf., Court Ruling C-616 of 1997 and C-346 of 2019).

[297] Court Ruling SU-108 of 2016.

and proved (Art. 7 Political Constitution); (ii) the different aspirations and assessments[298] that are valued in a positive way, specially, freedom of religion[299], of consciousness and thought[300], as well as freedom of speech[301], and (iii) judicial, political and social procedures that will be used to solve any possible conflict that may arise under the different concepts[302].

11.3. Freedom of consciousness can be strongly influenced by coercion derived from criminal rules.

382. Freedom of conscience guarantees a first level of intangibility in which its holder may set and adopt its own system of convictions and beliefs that can be as intimate and private as wished, which nobody has the right to know or interfere, unless its holder consents it.

383. The second level of protection of this freedom implies that, in relation to the own's system of convictions and beliefs, its holder cannot be bothered. This means that the State cannot establish limitations related to the freedoms of speech, broadcast, and public communication of thoughts and opinions (Article 20, Political Constitution). In any case, assumes two duties for its protection: A positive one, associated with the duty of protecting those who have disclosed in whole or in part their convictions and beliefs, and a negative one, related to the duty of refraining of performing actions with the purpose of modifying them.

384. The third level of protection of this freedom is related with the individual guarantee of not acting against its own system of values and beliefs. This phase is associated, in particular, with conscientious objection and finds its critical point when its exercise interferes with other legal interests – rights, principle and values-, since enters in conflict with physical or spiritual integrity of the person who faces the dilemma of whether or not acting against his conscience. As a limit to this action of the State, the conscientious objection has been subject of analysis of the constitutional case law. Recently, in Court Ruling C-370 of 2019, the Court stated:

> "the conscientious objection, in general, is a an autonomous right and provided in the final part of Article 18 of the Constitution that states that people have the right of not being forced to act against its conscience. || The possibility of conscientious objection is not absolute, it can be restricted by the Legislator, as long as it observes the principle of proportionality and the limitations are not so restrictive as to render this right null and void, but neither too broad as to disregard the principle of equality before the law and the needs to be satisfied, as long as the legal interests that are being protected with the measures have legal or constitutional basis"[303].

385. Due to the intimate relation between the conscientious objection with the own's system of convictions and beliefs, its exercise can be based in religious, moral, ethical, humanitarian or similar

[298] "The purpose of a constitutional rule as that of 1991 is to obtain, as far as legally, factually and economically possible, the full realization of the principles and values enshrined in the preamble of the Constitution: The people of Colombia || in exercise of its sovereign power, represented by its delegates in the Constitutional National Assembly, invoking God's protection, and with the purse of strengthening the National unity and to ensure to its members life, coexistence, work, justice, equality, knowledge, freedom and peace (…)."
[299] "Article 19. Freedom of worship is guaranteed. Every individual has the right to freely exercise his/her religion and to disseminate it individually or collectively. || All religious faiths and churches are equally free before the law."
[300] "Article 18. The freedom of conscience is guaranteed. No one shall be disturbed on account of his/her convictions or beliefs or compelled to reveal them or obliged to act against his/her conscience."
[301] "Article 20. Every individual is guaranteed the freedom to express and diffuse his/her thoughts and opinions, to transmit and receive information that is true and impartial, and to establish mass media. || These are free and have social responsibility. The right to make corrections under conditions of equity is guaranteed. There shall be no censorship."
[302] Court Ruling T388 of 2009.
[303] Court Ruling C-370 of 2019.

motives. Nevertheless, it is possible for the Legislator to provide limitations to this right, as long as reasonable and proportional[304]; in other words, it is possible to limit the performance of the conscientious objection to certain beliefs, if necessary to protect a higher legal interest[305]. This means, then, that the general principle is that before the silence of the Legislator in relation to the characteristics of beliefs, any profound conviction that opposes to the legal interest protected by a rule that provides a legal duty, of doing or of refrain of acting, may be argued for excusing its fulfillment. The conscientious objection, nevertheless, cannot be argued by judicial authorities and notaries in the fulfillment of their public functions or, in certain cases, by doctors in events of voluntary interruption of pregnancies, among other situations[306].

386. As general rule, then, the Legislator may interfere in the scope of the freedom of conscience by means of criminal rules in those events in which the intervention in the intimate and moral convictions of the person is not so intense as to disregard them. This is the reason why the State's sanctioning power is not absolute; in fact, is exceptional, in attention to its last resort nature that characterize it.

387. This characterization is relevant, since criminal rules may result in such coercion that determines the conduct of the people, even against their conscience. This is so, since they show the capacity to control social behavior by means of rules with force of law and its non-compliance or performance shall result in sanctions that limit a broad scope of fundamental rights, in special, freedom rights.

388. Said provisions show an ideal of society adopted by those constitutionally authorized to establish it through law and, in most cases, they reflect the social or public morality that is accepted by the majority. They are almost always in force as long as they are supported; otherwise, if they distance from said standard, they end up being expelled from the legal system, as it happened, among others, with the crimes of statutory rape, bigamy and adultery[307]. This is so, since the system of values and beliefs of the population, in general, and the citizenship, in particular, change over time for different reasons.

389. Within the public order rules, those that provide for the criminal conducts are mainly characterized for establishing a punishment derived from the performance of a certain conduct. The criminal sanction provided for committing certain conduct has an influence, although not in an absolute way, in the public conduct of people. Hence the general preventive purpose of sanctions.

390. Therefore, one of the factors that affect the decision-making process about carrying out certain actions is related with the possibility of being criminally and socially punished or sanctioned. This is despite the fact that the rules allow that in not all events in which a criminal conduct occurs shall result in

[304] Cf. In this matter, Court Rulings C-370 of 2019 and SU-108 of 2016.
[305] Cf. Court Ruling C-370 of 2019.
[306] In relation to doctors, Cf. Court Rulings T-209 of 2008, T-388 of 2009 and SU-096 of 2018. Regarding judicial officers, Cf. Court Ruling T-388 of 2009. The Court has broadly referred to this protection in relation to the mandatory military service, Cf. Court Ruling SU-106 of 2018.
[307] These are referred to in more detail in the study related to the claim related to the alleged lack of knowledge of the preventive constitutional purpose that penalties have and the constitutional characteristic of criminal law as last resort mechanism. In any case, is important to highlight the relation between certain criminal rules and other rules of the legal system. This was the case of the adultery crime, that was provided in the Criminal Code of 1890 (that was repealed with the issuance of the Criminal Code of 1936) and the event of nullity of the marriage "between the adulterous women and her accomplice" that was regulated in numeral 7 of the Article 140 of the Civil Code. This last Article provided the following event for marriage annulment: "Events of annulment: The marriage is null and without effect in the following events: […] 7. When it has been celebrated between the adulterous women and her accomplice, provided that before the marriage took place, adultery had been declared proven in court". This provision was declared unconstitutional by the Constitutional Court in Court Ruling C-082 of 1999. For the Court, the rule implied "an undue interference in the sphere of individual freedom"; according to the court, such event may have certain function "when adultery was penalized" (in the Criminal Code of 1890, Article 712, which punished with imprisonment the "married woman" that committed adultery, "for as long the husband wanted, provided that it did not extend for four years"). However, as the Court correctly said, "in light of the Constitution of 1991, it is not reasonable to dismiss or obstruct the decision of any person in relation to its marital union, and much less, doing it so due to her sex."

a sanction, and that the criminalization, unlawfulness and responsibility shall be assessed by the competent judicial authority in each case.

391. Due to this special disturbance to the autonomy, the constitutional judgement regarding the general, impersonal and abstract criminal conducts shall be made in a more restrictive and thorough way when it does interfere in the exercise of freedoms intrinsically related with the human dignity, especially when they imply a coercion over intimate and personal convictions that have constitutional protection.

392. If the sanctioned conduct was not exceptional, but was practice on a massive and general way, the criminal response as the only measure would not be compatible with the requirement of last resort of criminal law, for assuming a disproportionate limitation to the people's dignity, as derived from the preamble and Articles 1 and 2 of the Constitution[308]. Under this assumption, more than a criminal problem, we would be in the presence of a cultural issue that should be solved through a combination of strategies, where education is fundamental.

11.4.The current form of the consented criminal conduct of abortion has a strong clash with the freedom of conscience of women, girls and pregnant people.

393. Without prejudice of the clause provided in Article 42, ninth section of the Constitution[309], the decision to assume or not motherhood is a personal, individual and inalienable matter. As mentioned in the assessment of the affectation to the health right, it is related to a dimension of the reproductive rights, specially, with the reproductive autonomy, to which, *prima facie,* is prohibited to the State or third-parties to interfere. As noticed by the Court in the Court Ruling C-355 of 2006, when the interference is based upon the exercise of violence or strength, is categorically prohibited:

> "It should be remembered, that the right to be free of any form of violence or coercion that affect sexual and reproductive health, has a clear gender perspective and is derived from several international human right instruments, mainly the Convention on the Elimination of All Forms of Discrimination against Women. It does imply the right to make decisions related the reproductions without discrimination, coercion or violence, in this way has a straight relation with the right to personal integrity"[310].

394. The decision to assume motherhood, in consequence, is (i) personal, because has an impact in the life project of the woman, kid, teenager, or the pregnant person that decides to continue and to complete the pregnancy, not only during the pregnancy period, but beyond; (ii) individual, because of the

[308] In this matter, recently, the Criminal Court reiterated the essential relation between the human dignity and the last resort character of criminal law: "the exercise of the punitive power is considered one of the extreme powers of the state for the regulation of social life, which is why is often referred as the last resort (or *ultima ratio*). The marginal charact that criminal law should have, is due to its capacity to interfere intensely in the fundamental right to the personal freedom and to affect others, due to the conditions of serving the sanction for the person, which is why the characteristic related to the punitive power of the state has its basis and limits in the human dignity" (Court Ruling C-233 of 2021). Likewise, Court Ruling C-294 of 2021 highlights not only the defining nature of the "human dignity" clause of the Constitution, related to the Social State under the Rule of Law model, but its practical importance as constitutional control standard and fundamental axial axis: "the Social State under the Rule of Law based on human dignity as axial axis of the Constitution, means the adoption of more favorable rules to the effective protection and respect to the fundamental rights of people; as well as, the refraining from adopting regulatory changes that imply its disregard or regression of the measures provided for its full realization and exercise. Thus, these minimum values provided in the Constitution recognize the moral, universal, irreversible, inalienable and indefeasible nature of the human dignity and nature. || The constitutional values and principles concur with several international instruments ratified by Colombia such as Article 10 of the International Covenant on Civil and Political Rights and Articles 5, 6 and 11 of the American Convention on Human Rights, which reaffirm the universal and indivisible character of human dignity and the recognition of every person as a rational being with the capacity to define his or her individual identity and to set his or her own life plan in accordance to his experiences. This has led to mandatory international rules such as the prohibition of slavery, torture and cruel, inhuman and degrading treatments."

[309] In this regard, "[t]he couple has the right to freely and responsibly decide the number of children, and shall support and educate them as long as they are underage or disabled."

[310] Court Ruling C-355 of 2006.

physical and emotional impact that pregnancy have on their life experience and their own existence; and (iii) inalienable, because the autonomy of the decision to assume motherhood cannot be assigned to any third-person, unless exceptional events in which a prior consent has been granted or there reasonable reasons to infer it. In this way, it is understood that this is a decision not subject to the approval of the State or third-parties[311], without disregard of the constitutional duty of the gradual and incremental protection of life in gestation, the fulfillment of which commits not only the State and society, but individuals, in general, even woman, girls and pregnant people.

395. As informed, the decision to assume or not motherhood is an intimate and deeply rooted with the personal system of values and ethical and religious convictions of whom can gestate and constitutes the main expression of the human nature, and both those who choose to do so and those that don't exercise their sexual and reproductive freedom and, in doing so, put into practice their individual system of beliefs and values.

396. The importance of this relation is related with the intensity on which a personal live project can be affected, which have an impact on the kind of human, social, cultural and legal relations, that will be perfected upon birth, many of them of indefinite nature. The impact of these relations, that may be characterized as privileges, rights, burdens and duties of different kind, and that shall be assumed in first place by the person who decides to assume motherhood, which implies the full respect of the individual scope and his personal decision. In fact, such decision has multiple and deep personal, family, social, cultural and religious implications. This is the reason why the consequences of a decision so relevant to a person's life can only be assessed individually by the person that is in this specific situation, since it will be her the one that will mainly assume its effects[312].

397. In this point, the State to coerce a woman, girl, teenager or pregnant person in a categorical way to complete the pregnancy, at risk of incurring in a crime and, eventually, be punished, clearly evidence the constitutional tension with the purpose that the challenged provision pretends to protect.

398. In this way, beyond the three events in which the Constitutional Court, in a general and abstract manner, established its sanctions is unconstitutional, is observed that there are additional events in which the generic and absolute criminalization of consensual abortion, contained in article 122 of the Criminal Code, without alternatives for the exercise of the freedom of conscience, is excessive and overinclusive, because of the intensity of the affectation of said freedom protected by Article 18 of the Constitution.

399. This tension is clear, since the rule that is being claimed implies the state's imposition of a decision not necessarily accepted and that can attack woman, girl, teenager or pregnant person intimate and profound convictions, including couples, and partially substitutes its right to choose how to life and define their life's plan. Ultimately, restricts, with said elements -excessiveness and overinclusion-, the power of these people to distinguish from moral good and wrong in or related to the decision to continue or not with

[311] Regarding this element, the following statement of Canada's Supreme Court is an example, made upon the assessment to impose sanctions for the voluntary interruption of pregnancy: "Not only does the removal of decision-making power threaten women in a physical sense; the indecision of knowing whether an abortion will be granted inflict emotional stress. Section 251 clearly interferes with a woman's bodily integrity in both a physical and emotional sense. Forcing a woman, by threat of criminal sanction, to carry a fetus to term unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman's body and thus a violation of security of the person." Case *Morgentaler v. The Queen* (1998), p. 56-57.
[312] On this matter, the Supreme Court of Justice of the United States, in Planned Parenthood v. Casey (1992) stated that the "suffering" assumed by women when adopting this kind of decisions is "too intimate and personal for the State to insist, without more, upon its own vision of the woman's role, however dominant that vision has been in the course of our history and our culture. The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society." (p. 852)

the pregnancy, from a state's imposition that does not include the knowledge of the woman about her pregnancy status nor the progress of the gestational process nor, much less, the protection of life in gestation which is a duty to be fulfilled gradually and incrementally.

12. Analysis of the fourth claim: The preventive purpose of punishment and the constitutional requirements related to the last resort character of criminal law (preamble and articles 1 and 2 of the Constitution)

12.1 summary of the argument

400. The current criminalization of the consented abortion crime in the regulation context, is in tension with the constitutional purpose of the preventive goal of penalties as a last resort mechanism, for the following reasons:

401. The criminal policy finds from a constitutional character its formal and material limits from the preamble and Articles 1 and 2 of the Constitution, as they raise the human dignity as a base of the State and the protection of personal rights as its essential purpose, hence, these are two binding mandates in the exercise of the powers of the authorities, including the Legislator, when criminalizing the criminal offenses.

402. The preventive purpose of the punitive power of the State constitutes a "minimum constitutional standard that must be observed by the Colombian criminal policy to respect human and constitutional rights"[313]. Thus, in the event criminal measures are adopted, its fitness shall be based in the effective protection of the legal interests and discourage people to incur in the censored conducts-general preventive purpose of punishment[314]-.

403. Despite the fact that Article 122 of Criminal Code pursuits an important constitutional purpose, consisting in the protection the life in gestation -judicial interest which protects this provision-, the current criminalization of the consented abortion crime is not fit for the achievement of the purposes of the punishment because, despite the fact the rule looks to fulfill a constitution mandate, is not clear that this criminalization is effective-this is, suitable- for the achievement of those purposes, specially the preventive one, as it is clear the intense effect over the health and reproductive rights, equality and the referred freedom of conscience. In other words, is not clear the criminalization of the consented abortion is effective to protect life in gestation, if it is taken into consideration the low impact over the fulfillment of the general preventive purpose of the punishment included in its criminalization. From this, is clear the constitutional tension between the challenged provision and the preventive purpose of penalties.

404. The subsidiary, fragment or last resort character of the criminal penalties requires that, before using the punitive power of the State, "other less restrictive controls"[315] are used; thus, if "other preventive means equally suitable, and less restrictive to the freedom"[316] exist, the criminal law intervention shall be the last resort[317]. In this matter, the claimed provision pretends to achieve an important constitutional

[313] Court Ruling T-762 of 2015, that declared the Unconstitutional State of Things of the Penitentiary and Prison System of the country. Cf. in relation with this matter, in a more recent decision, Court Ruling C-294 of 2021.
[314] Cf. In this regard, Court Ruling T-275 of 2017, repeated in Court Ruling C-407 of 2020.
[315] Quote of Court Ruling C-742 of 2012.
[316] Court Ruling C-070 of 1996.
[317] Cf. Court Ruling C-897 of 2005 and C-575 of 2009, both repeated by Court Ruling C-233 of 2019.

purpose, that is protecting life in gestation, makes a first use of criminal law that clearly clash with the constitutional characteristic of criminal law as last resort mechanism, for four reasons.

405. The first reason is related to the omission of the Legislative to regulate in a positive and complete way the complex social problem, of constitutional relevance, that implies the consented abortion, and not only as a criminal law measure. The current way to regulate this social problem, exclusively in terms of Article 122 of the Criminal Code, has assumed an omission of the democratic power in one of the most sensitive matters of the Colombian society, that is incompatible with an adequate constitutional exercise of criminal law a last resort measure.

406. The second reason is related with a higher regulation requirement from the Legislator following Court Ruling C-355 of 2006, whose systematic omission has been evidenced by the constitutional case law in the review of specific cases.

407. The third reason is related with two relevant constitutional circumstances that demanded an integral regulation of this problem from the Legislative, not only through the criminal way: (i) human dignity, as a material criterion that explain the last resort character of criminal law and (ii) the criminalization of the conduct is based on suspected discrimination criteria: sex.

408. The fourth reason is related to the existence of less harmful alternative mechanisms to the health, reproductive, equality and freedom of conscience rights, that, at the same time, protects in a progressive and incremental way the life in gestation, from the important criminalization of abortion as provided in the claimed provision.

12.2 The legislative power to criminalize which conducts constitutes a crime and which should be the applicable punishment, have a constitutional formal and material limit.

409. The criminal policy comprehends the answers that the "State consider necessary to adopt in order to face reprehensive or conducts causing social damage with the purpose to guarantee the protection of the essential interests of the State and the rights of the residents of the territory under its jurisdictions"[318]. One of the means for its concretization is the exercise of legislative competence to criminalize which conducts constitute crimes and what the applicable penalties should be, as suitable, necessary, and proportional measures, to protect certain legal interests.

410. Such power, however, as mentioned, has formal and material limits of constitutional nature.

[318] Court Ruling C-646 of 2001, repeated by, among others, Court Rulings C-936 of 2010 and C-224 of 2017. As recently stated by the Full Chamber: "The criminal and penitentiary policy is one of the subjects that do not escape from the essential constitutional principles. The Court in Court Ruling C-038 of 1995[318] acknowledged that with the Constitution of 1991 there was a constitutionalization of criminal law that imposed limits on the legislator's power to regulate, since the 'Constitution include precepts and mention values and statements -particularly in human right matters- that affect in a significant matter criminal law, and guides and establish its scope'.[318] Based on this, the Social State under the Rule of Law model and the human dignity principle set limits to the punitive power of State." (Court Ruling C-294 of 2021)

411. The *formal limits* are related, in particular, with the principle of legality requirements[319], where crimes and punishments are not only to be previously determined by the Legislator[320] -legal reserve as expression of the democratic principle, but must be unequivocal[321], clear, specific and precise.[322]

412. The *material limits* are related to the necessary exercise of the punitive power join with the last resort concept of criminal law[323], prone to the achievement of the functions and purposes of the penalties[324] and its proportional exercise[325]. As provided by the constitutional case law, when criminal law is applied, that should be the last resort, it is required that, to define crimes and penalties, the Legislator shall guarantee that "the criminal law answer is not a contingent measure that the political power use to its discretion without debate"[326]. From this, the use of this legal discipline assumes, as possible, to reach to "other existing measures that are less restrictive"[327] that are "equally suitable, and less restrictive to freedom"[328].

413. The foregoing, is due to the human dignity -as referred to in Article 1 of the Constitution-[329] and other values, principles and fundamental rights -mentioned in the preamble and Article 2 of the Constitution-, are substantive limits of the punitive power of the state, constitutes the teleological parameter to rationalize its exercise[330] and, thus, punish a conduct with a criminal sanction without the Legislator to value and assess the effect over them, can be dismissed[331]. From the foregoing, criminal law cannot become the first resort mechanism of the criminal policy. In the Social State under the Rule of Law, "only the measured, just and weighted use of state coercion, used to protect rights and freedom, is compatible with values and goal of the system"[332].

414. Applying the last resort criteria in the criminalization of crimes imply considering that, since "criminal types are human behaviors […] (determination mandate)"[333], establishing a conduct subject to

[319] As provided in the first section of Article 6 of the Constitution, "Individuals are responsible before the authorities only for violations of the Constitution and the law.".
[320] As provided in Article 29, subparagraph of the Constitution "No one may be judged except in accordance with laws that were in force prior to the alleged act".
[321] This word was specially considered in one of the proposals that was used to establish the final content of Article 29 of the Constitution. In the inform No. 1 of the Secretary of the IV Commission, *De Justicia*, of the Constitutional National Assembly a reference was made to the fact that one of the "minimum principles of criminal law" should be the following: "2-Criminal law shall describe punishable conducts in a precise and unequivocal way, without leaving any doubt about the prohibition or the duty to act". Constitutional Gazette No. 74 of May 15, 1991, p. 9.
[322] Cf. among others, Court Ruling C-559 of 1999, C-843 of 1999, C-739 of 2000, C-1164 of 2000, C-205 of 2003, C-897 of 2005, C-742 of 2012, C-181 of 2016, and C-093 of 2021.
[323] Cf. among others, Court Ruling C-542 of 1993, C-070 of 1996, C-559 of 1999, C-468 of 2009, C-742 of 2012, and C-407 of 2020.
[324] Cf. specially, Court Ruling C-646 of 2001, C-226 of 2002, C-335 of 2006, C-936 of 2010, C-224 of 2017, and C-407 of 2020.
[325] Cf. specially, among others, Court Ruling C-070 of 1996, C-468 of 2009, C-488 of 2009, C-742 of 2012, C-108 of 2017, and C-233 of 2021.
[326] Court Ruling C-559 of 1999.
[327] Court Ruling C-742 of 2012.
[328] Court Ruling C-070 of 1996. In more recent times, to analyze this constitutional characteristic related to the punitive power of the state, applied to the homicide case for mercy, Court Ruling C-233 of 2021, the Court stated: "378. The double dimension of the legal problem is transcendental to the necessity and last resort principle of criminal law, according with, if the Legislator has the power to set criminal law, establish protected interest, create criminal descriptions, as well as the justifiable causes of the conducts in the center of the democratic process, shall not use tools that affect with a higher intensity personal freedom to face conducts that do not cause harm or an incompatible with the human dignity notion, bases for and limit to said characteristics related to the punitive power of the state.|| 379. In fact, criminal law, as last resort, cannot take care of all relations or legal situations that rise among people; on the other hand, fundamental rights have a broadening character and, thus, they can only be limited to reach constitutional goal, through proportional means".
[329] Cf. in particular, Court Rulings C-407 of 2020, C-233 of 2021, and C-294 of 2021.
[330] Cf. in this regard, as stated by Court Ruling C-468 of 2009.
[331] As the Court recently pointed out in Court Ruling C-294 of 2021: "In sum, in the framework of a Social and Democratic State based on human dignity, criminal policy must obey certain minimum values, since the premise has as its essential principles human dignity and the freedom of the person Thus, the punitive power of the State must be exercised with criteria of reasonableness, proportionality and legality. At the same time, the penalties that are imposed as a consequence of a criminal conduct previously established in the law must have the purpose of prevention - general and particular - and resocialization".
[332] Court Ruling C-070 of 1996. As provide by Court Ruling C-542 of 1993, "the social organization is only justifiable when it is considered as the means to the service of [human beings], an end in itself"; because, as provided by the Court in Court Ruling C-292 of 1997, by virtue of the prohibition of excess -due to the intense effects to the dignity and freedom assumes the exercise of criminal law as social control means-, only the most serious conduct that injures legal interest can be subject of criminal penalties. On the contrary implies an arbitrary limitation of freedom, for lacking of constitutional justification; hence, the use of criminal law to encourage a perfectionist conception of the person is constitutionally forbidden.
[333] Court Ruling C-407 of 2020.

a criminal sanction and, thus, shall be repressed by the limitation of freedom cannot be but the exception. This mandate prohibits the penalization as the general and main alternative in order to protect relevant legal interest[334] - legal interests[335]- and, by virtue of the excessive prohibition, in addition, the classification of conduct as crime shall be only to those that constitutes the most serious attack against them[336], it is reaffirmed, as long as it is not possible to use "other less burdensome controls"[337], that are equally suitable, and less restrictive to freedom"[338].

415. Only this way, the punitive power is compatible with human dignity and other values, principles and fundamental rights -provided in the preamble and Articles 1 and 2 of the Constitution- since the criminalization of the conduct takes into account the fact that each person is "an end in itself and cannot be considered a means in relation to other ends different than itself"[339] and its conducts cannot be an object of an undue state's interference. In consequence, the necessary use of criminal law mandates that its compatible with the functions and social end of the penalties. Repeating the constitutional case law, in a recent case, the Court has stated that "penalty is not an end in its selves; the recognition of human dignity as foundation of the state power of penalty, make them have specific functions related to and, thus, excluding legislative or judicial whim"[340].

416. In these terms, guaranteeing the achievement of the last resort of criminal law corresponds to the need of penalties having certain social goals or functions, of general prevention, just retribution, especial protection, social rehabilitation and protection of the convicted[341], which, "being tied to the human dignity content, is a limitation to the punitive power of the state in all its expressions (legislative, judicial and executive)"[342]. Otherwise, this is, the criminalization of a certain conduct does not correspond to the social goals of the punishment implying the instrumentalization of individuals for a pretended social benefit,

[334] Cf. In this regard, Court Ruling C-292 of 1997 and the final report "Diagnose and guideline proposal of criminal policy for the Colombian State", June, 2012, of the Advisory Commission of Criminal Policy, p. 64.
[335] The legal interests that criminal law pretends to protect cannot be compared, constitutionally speaking, to the abstract value or status assigned by the Constitution to certain constitutional rights -individuals and collective, unless that this are the main purpose of protection of criminal law-, if it's taken into account that the first are the main purposes of criminal law, while the seconds are of the constitutional law. In this regard, the relation between them is of graduation, from there that the first are subject to the performance of the seconds -especially individual rights, and particularly those of fundamental character- and, this, in case of conflict among them, the seconds have epistemic priority over the first, due to its abstract high value.
[336] Is for this reason that, as considered by the constitutional case law, due to the fragmentary character of criminal law, "it can only be exercised to the most serious attacks against legal interests" (quote in Court Ruling C-742 of 2012) and, once it has been defined which of said interests requires criminal protection, the criminalization of the conduct and the penalty are applicable before "the main hypothesis of the behavior, that deserve censure and punitive sanction" (Court Ruling C-599 of 1992, repeated in Court Ruling C-646 of 2001).
[337] Court Ruling C-742 of 2012.
[338] Court Ruling C-070 of 1996.
[339] Court Ruling C-542 of 1993.
[340] Court Ruling C-407 of 2020. Equally relevant in this regard the most recent rulings C-233 of 2021 and C-294 of 2021. From the mentioned limited is concluded that the Legislator do not have compulsory duty to criminalize, since it can "decriminalize, without breaching the Constitution for it". (Court Ruling C-226 of 2002).
[341] In relation to the scope of all of these purposes, cf. Court Ruling T-275 of 2017, repeated in Court Ruling C-407 of 2020 and, in particular, in relation with special preventive purpose, cf. Court Ruling C-294 of 2021, main purpose in the Court's argument to declare unconstitutional the Legislative Act 1 of 2020, "By means of which it is modified Article 34 of the Constitution, eliminating the prohibition of the life in prison penalty and including the revisable life in prison".
[342] Court Ruling C-407 of 2020. Article 4 of the Criminal Code, with evident foundation in constitutional case law, positivizes such purposes. This does not mean that this provision has the scope of a parameter of constitutional control. In any case, it is important to emphasize that such a provision raises to legal rank in a reasonable manner the scope of the constitutional case law prior to the legislative amendment, which, in addition, has been maintained over the years, as, in fact, is shown in the mentioned ruling.

which is clearly against the inherent dignity of the human condition[343], axial axis of the Constitution[344], as derived from the preamble and Articles 1 and 2 of the Constitution.

417. Finally, as with all powers assigned to the Legislator[345], the exercise of the criminal power shall be reasonable and proportional. In relation with this requirement, is bast the constitutional case law that points that, for example, the definition of crime and penalties are subject to explicit and implicit limits. Among the first, as provided, is the "political decision of setting the penalty death (Article 11 of the Constitution) torture or cruel, inhuman or degrading behaviors (Article 12 of the Constitution), slavery (Article 17 of the Constitution), exile, life imprisonment, or seizure (Article 34 of the Constitution)"[346]. Among the implicit, it has been provided that "the criminal law legislator has to look for the achievement of the essential goal of the State as protecting the effectiveness of the principles, rights and constitutional duties, and to ensure the peaceful coexistence and the duration of the just order"[347]. Additionally, it has been referred that, in its exercise, the Legislator shall respect, protect and guarantee the human rights provided in the Constitution and international treaties as provided in Article 93, paragraph 1; and, also, the criteria related to prohibiting excesses related to the suitability, necessity and proportionality, and the principle of extract legality[348].

418. Furthermore, it is to be noted that the challenged provision not only criminally sanctions the conduct of the woman that ends her pregnancy, but is punished with prison, circumstance that burden even more the condition of the person that takes this decision.

419. If, according to the preceding arguments, the criminal punishment constitutes an extreme measure, or last resort measure, under the constitutional order, even so, when the punishment is the lost of freedom, since the legal sanction that involves the criminal punishment, the social sanction related to the natural guilty that usually accompanies the negative experience of the abortion procedure, is accrued to the temporary lost of fundamental right to the personal freedom, required to the exercise of many other fundamental rights.

420. In such conditions, and notwithstanding the imposition of a sanction to deprive from freedom it can be subject of an independent constitutional analysis, it is clear that the circumstance to constitute the criminalization of the conduct studied herein, aggravates the analysis of the challenged provision. This is

[343] Recently, on one side, Court Ruling C-294 of 2021, the Court considered that Legislative Act 1 of 2020, ""By means of which it is modified Article 34 of the Constitution, eliminating the prohibition of the life in prison penalty and including the revisable life in prison", was not aware of the defining axis of the Constitution of the social and democratic State governed by the rule of law based in the human dignity, that guarantees the right to resocialization of the convicted person is the main purpose of the penalty prison. In this decision was necessary certain references to Court Ruling C-144 of 1997, in which emphasized the abandonment of the idea of criminal law as instrument of retribution, to a humanitarian one. It was provided therein: "humanist law abandons retributionism as essential basis for penalties, since is not a task of the legal order to provide an absolute justice, more adequate to gods than human beings. The function of Criminal Law in a secular society and State under the rule of law, is simpler, since only pretends to protect, with a coercive social control, certain fundamental legal interests, and certain social basic functioning conditions. Therefore, is concluded that, such as provided by this Court in several occasions, the legislative definition of penalties of a State under the rule of law is not focused by rigid retribution goal but for general preventive objectives, this is, it should have dissuasive effects, since criminal law pretends 'that associates refrain from engaging in the criminal behavior at the risk of incurring the imposition of sanctions". On the other hand, Court Ruling C-407 of 2020, the Court said, among others, that it was not in compliance with the function of resocialization of the penalty to determine as imprescriptible the inability to hold positions, trades or professions that involved a direct and habitual relationship with minors, imposed on those convicted of crimes against the sexual freedom, integrity and education of minors (Law 1918 of 2018, Article 1). In the ruling the provision was condition "to the understanding that the length of the accessory penalty[…], shall observe the temporal limits that for said penalties is provided by the Criminal Code", after considering, among other arguments, that, "the rule that eliminates any possibility of imposing imprescriptible penalties[...] is a constitutional guarantee that obliges the State to focus on the resocializing function of penalties, which [...] is in turn based on the preponderant content of human dignity."
[344] As neatly provided in Court Ruling C-294 of 2021.
[345] See, specially, those specifically attributed in Article 150 of the Constitution.
[346] Court Ruling C-108 of 2017 that quoted Court Rulings C-070 of 1996 and C-468 of 2009.
[347] Court Ruling C-108 of 2017.
[348] In relation with this last one, Cf. in relation to, Court Ruling C-742 of 2012, C-488 of 2009 and C-108 of 2017.

so, because the woman that voluntarily stops its pregnancy will face the most sever sanction designed by the legal order for more serious conducts against the social order.

421. The worsening of the analysis if based upon the subsidiary, fragmented or last resort character that criminal law has – *last resort*-, as well as the international trend of this discipline to keep the deprivation of liberty to those conducts worthy of a grater social punishment.

422. Regarding the last resort character of criminal law, the State may reach out for criminal sanctions when it has exhausted all the preventive available mechanism to reduce the commission of conducts that attempt against the legal protected interest or when it has offered alternatives for the exercise of the rights with which the criminal sanction clashes. The fragmentary character imposes to the State to exercise its punitive power in those cases that with higher seriousness affect the social interest (Court Ruling C-356 of 2003). According to this nature of criminal law, it is only possible to apply the criminal sanction of loss of liberty to the most serious cases of the protected interests.

423. Finally, it is important to note how the international community has understood the importance of these characteristics of criminal law upon approval, for example, the framework of the United Nations, rules that seek to increase the requirements to impose criminal sanctions of loss of liberty over the conviction that this measure delay the achievement of the resocializing purpose of penalties.

424. In this regard, the called Tokyo Rules, approved by the Assembly of the United Nation by means of Resolution 45/110 of December 14, 1990, highlighted the importance for national legislations to find criminal law alternatives other that loss of liberty and to reduce its unnecessary application, looking for the rehabilitation needs of the offender, the protection of society and the needs of the victim.

425. For instance, Article 9, of said international instrument, offers several alternatives to replace the prison sanctions, that should be referred to by the member States, in order to avoid prison with the purpose to assist offenders with their social reintegration process.

426. The Tokyo Rules provides a legislative standard in criminal law that seeks to reduces as much as possible the prison sanctions with alternative sanctions, according to the resocialization scope of the punishment and according with the purpose to leave this type of sanction for the perpetrators of conducts that most seriously harm social interest.

12.3 The current criminalization of the consented abortion crime is in tensions with the preventive purpose of the penalty.

427. The preventive function of the punitive power of the State -to which special emphasis is made in the claim- constitutes a “minimum constitutional standard that shall comply with the Colombian criminal policy to respect human and constitutional rights”[349]. In this way, in the event that it’s decided to adopt

[349] Court Ruling T-762 of 2015. As consequence the representation of the Unconstitutional State of Things of the Penitentiary and Prison System of the country, the Constitutional Court has found serious flaws in the criminal policy, that has been characterized as “reactive, lacking an adequate factual basis, incoherent, prone to hardening the penalties, populist, has little flexibility to the challenges of the national context, subordinated to the safety policy, volatile and weak”. It has provided that the preventive character is essential, because “the Colombian criminal policy has been characterized for being an answer to the punishing populism. Thus, one of the aspects that need to be transformed is the scope of the criminal policy, that must stop being considered as the main answer to the problems of the social life”. These characteristics of the criminal policy has been exposed, and recently, in Court Ruling C-294 of 2021. On the other hand, the Advisory Committee of Criminal Policy has noted: “Is important to leave behind the idea that the crime is essentially fought by increasing penalties. The criminal policy shall foresee adequate instances for the State to design and enforce treatment of crimes from perspectives different from criminal law, for which high level institutions of technical

criminal law measures, its relevance is determined in its possibility to safeguard in an efficient way the protected legal interests and to dissuade people to incur in punishable conducts[350]-general preventive purpose of sanctions[351]-.

12.3.1 The suitability or effectiveness of criminal offenses as a prerequisite for their preventive purpose of their preventive purpose

428. In relation with the suitability or effectiveness of the criminal conducts as necessary requirement for its compatibility with the Constitution, the following is the relevant background of constitutional case law:

429. In Court Ruling C-542 of 1993, the Court considered that it was not suitable nor effective to penalize the payment of kidnapping for ransom -Articles 18, 19, 20, 21 and 24 of Law 40 of 1993., since, among others, “in extreme scenarios where the life of family members or close ones is in imminent danger, the thread of a penalty lacks of effectiveness, and because, anyhow, the fight against kidnapping demands other type of measures, specially, the sophistication of investigation tools and penalties”. As stated by the Court, is not recognized by the “Constitution a rule that addresses as a crime the reasonable conduct of a person to protect its life and freedom, or of third parties”.

430. In this way, Court Ruling C-107 of 2018, the Constitutional Court ruled the unconstitutionality of a provision that provided that, the injuries caused with chemical agents, acid or similar substances, the term of the security measures for o unaccountable, at least, the same as for the people provided in this criminal conduct (Article 116A of Law 599 of 2000, added by article first of Law 1774 of 2016). For the Constitutional Court, "with this measure the legislator attempt to avoid that people responsible for this crime to simulate its unaccountability to circumvent the penalty, this measure will not have the effectiveness to avoid frauds to the judicial system and much less the occurrence of this crime, […] on the other hand, through criminal conducts such as procedural fraud, misrepresentation offense in public or private documents, or perjury, can be used to prevent and sanctions this conducts”.

431. Other relevant case law is Court Ruling C-061 of 2008. In which the Constitutional Court ruled the unconstitutionality of numeral 2 of Article 48 of Law 1098 of 2006, “Children and Adolescent Act”, that legally justified the known “shame walls”, that imposed to the radio and television broadcasters the duty to include, at least once a week, the full names and recent pictures of the people convicted in the last month for any crime provided in Title IV “Offences Against the Freedom, Integrity and Sexual Development”, of the quoted law, when the victim was under age. The Court witnessed this measure was not relevant to achieved the desired purpose -protect minors- since not enough evidence was presented in the legislative procedure to prove that the mentioned broadcasts will dissuade or reduce these criminal conducts.

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level and with experts in other matters, according to the analyzed issue, whom will be responsible to design such different measures”. In other words, as stated by the quoted commission, “the idea that justice is only achieved through the restriction and setting as basis of the system the prevention of crime, through effective and inclusive public policies that preserve for criminal law its subsidiary and last resort character” shall be left behind. Advisory Commission of Criminal Policy. Final Report. Diagnose and guideline proposal of criminal policy for the Colombian State, June, 2012. p. 64.

[350] In the analysis of criminal policy, the reviewed case law of the Court has evidenced that the measures “are generally based in the need to respond promptly to social phenomena affected by the public opinion and to show results against crime, to increase the popularity of a determined political sector. It does not have the main purpose to impact the criminality index and, rarely, has solid bases that allow relate the issuance of a rule to the real reduction of the criminal phenomena”. Court Ruling T-762 of 2015.

[351] As referred, according to Case Ruling T-275 of 2017, repeated by Court Ruling C-407 of 2020, “The general preventive function of penalty, [sic] is focused to avoid the committing [sic] of criminal conducts, meaning, act before they are born. In this sense, the penalty is understood as a mean serving its goal and is justified since its application make citizens to desist or restrict for coming punishable acts.”

432. Finally, recently, the Court Ruling C-294 of 2021, when arguing the substitution of the Constitution that Legislative Act 1 of 2020 entailed, “By means of which it is modified Article 34 of the Constitution, eliminating the prohibition of the life in prison penalty and including the revisable life in prison”, and that was ruled unconstitutional; one of the arguments used by the Court was the one related with the lack of relevance for life in prison penalty as mean to dissuade the commission of crimes that attempted to prevent, when stating “the revisable life prison penalty included in Article 34 of the Constitution is not a relevant measure to ensure the protection of children and adolescent victims of the criminalized conducts; and in contrast, it creates serious effects to the human dignity to the convicted person and the current prison system, is not a proportional nor effective measure”[352]. The Court Ruling provides:

> “The Court found that during the legislative procedure that gave place to the constitutional amendment, the main objective to amend the Constitution was to dissuade the occurrence of crimes against the life and physical, sexual integrity committed against children and adolescents and, thus, establishing a more severe penalty. As a generic argument, the revisable life in prison was argued as a measure to protect the high interest of minors. Nevertheless, it is noticed the lack of practical evidence to prove that this penalty is the most adequate penalty to dissuade the recurrence of these crimes, as well as its effective prevention. Furthermore, it is not clear why to achieve the protection of childhood, this penalty is preferred over other penalties with a lower effect over the sentenced person”[353].

433. To justify the reasoning, among others, the Court Ruling noticed the following:

> “The High Council on Criminal Policy has stressed-out that despite the enforcement of the law that increased the penalties of the crimes of carnal abuse against minor under fourteen years (12 years has lapsed with a maximum of 20 years with Law 1236 of 2008), did not dissuade the population to commit this criminal conducts. […] Thus, it has recommended ‘strengthening’ the operational capacities of the competent authorities for the judicialization of crimes against children and adolescents and to focus the work on public policies addressed to protect the population through preventive measures of the crimes. […] || It is to be noted that sexual crimes against children and adolescents are a multifactor phenomenon, in which access to education, socioeconomical opportunities, social, family and institutional networking, of the underage, among other, has an effect. The measures and prevention of these crimes demands from the State a wholesome answer, and with the attention from different angles and perspectives”[354].

12.3.2. It is not clear that the penalization of the consented abortion will be effective to protect life in gestation if it is taken into account its low effect in the achievement of the preventive purpose of penalties regarding its criminalization.

434. Despite Article 122 of the Criminal Code pursuing an urgent constitutional goal, that consists in the protection of life in gestation -legal interest protected by the provision-, the current form of criminalization of the consented abortion is not adequate for achieving the purposes of penalties, despite the fact that the criminal rule seeks to develop such constitutional purpose, it is not clear that these penalties are effectively appropriate -this is, suitable- for achieving such purposes, specially the general

[352] Court Ruling C-294 of 2021.
[353] Court Ruling C-294 of 2021.
[354] Court Ruling C-294 of 2021.

prevention, as it is clear the strong effect that it has over the health and reproductive rights, the equality and freedom of conscience that has been referred to. In other words, it is not clear that the penalization of the consented abortion is effective to protect the life in gestation, if it is taken into account its low impact in the achievement of the general preventive purpose of the penalty regarding to its criminal conduct.

435. As provided, the protection of life in gestation by means of the penalization of the consented abortion, in the current terms provided by Article 122 of the Criminal Code, it has not had a relevant effect in reducing the performance of consented abortions and, in contrary, it has contributed to an unhealthy and illegal practice.

436. According to the national and compared data contributed to the process, the outright ban of the conduct does not evidence a relevant impact in its reduction and, thus, in the protection of the legal interest that pretends to guarantee. On the contrary, as provided in assessment of the first claim accepted in the lawsuit -related with the right to reproductive health of women, teenagers and pregnant person- and as made explicit, encourage its illegal practice, outside the health system, that gave place to serious damages to woman and teenagers[355], not only as a discriminated group and exposed to several violence factors, but individually considered, with special effect in the most vulnerable due to its socioeconomic conditions, countryside origin or immigration situation, due that they are exposed to suffer complications on the procedure and, even, lose their lives, as described when the claim related to the equality rights of women in vulnerability and irregular immigration situation was assessed.

437. According with the information assessed by the Advisory Commission of Criminal Policy, “the compared data shows that the highly restrictive laws against abortion are not related with low rates of performed abortion. The absolute prohibition of abortion does not prevent them. In the contrary, it makes abortions to be performed in poor and in underground conditions”. To support the data, it was highlighted that: “the abortion rate is 29 for each 1.000 women in gestational age in Africa and of 32 for each woman in Latin America, where abortion is greatly penalized in most countries. On the other hand, this rate is of 12 for every 1.000 women in Western Europe where the abortion is allowed generally in most countries. The reason of this wide difference is the sexual and reproductive health policies in Western Europe”[356]. Further, in this way, it was provided:

> “the severe penalization of abortion leads to illegal abortions, that greatly affect women health, causing in no few cases their death. Thus, in all countries where abortion has been broadly decriminalized, the result has been a mayor reduction of the serious health implications related to the illegal abortion practices. For example, in South Africa, the number of deaths related to abortion dropped 91% after the liberalization of the laws that regulated the VIP”[357].

[355] According to the data provided in the opinion presented by the researcher Isabel Cristina Jaramillo, a little more than a quarter of the total of abortion crime convictions was imposed to teenagers (women under 18 years), despite they just correspond to 14% of the mentioned figure. This is, in comparison with other age ranges, teenagers are those that suffer more convictions for the consented abortion crime.
[356] Advisory Commission of Criminal Policy. Final Report. Diagnose and guideline proposal of criminal policy for the Colombian State, June, 2012. p. 75.
[357] Advisory Commission of Criminal Policy. Final Report. Diagnose and guideline proposal of criminal policy for the Colombian State, June, 2012. p. 75. At the international level, the Supreme Court of Justice of Mexico (2008) referred to the relevance of the criminal policy and in abortion matters when studying the lawsuit of unconstitutionality proposed against the legislative amendment of articles 144, 145, 146 and 147 of the Criminal Code for the Federal District of Mexico, as well as the addition to articles 16 Bis 6, third paragraph, and 16 Bis 8, last paragraph, of the health law for the Federal District, made through decree, published in the Official Gazette of April 26, 2007, issued by the Legislative Assembly and enacted by the Government Chief, both of the Federal District, in which, among other, the mentioned Article 144 was amended, as follows: “Abortion is the interruption of pregnancy after the twelfth week of gestation. || For purposes of this code, the pregnancy is part of the human reproductive process that starts with the implantation of the embryo in the endometrium”. The quoted authority stated: “the criminal sanction, this is, the imposition of the penalty in the quoted case, [sic. In abortion matters] does not work to ensure the correct development of the gestation process” and, in contrary, “confirm the discrimination against women”. As provided, “constitutes a social reality that women that do not want to be mothers resort to the illegal pregnancy practice interruption with the subsequent effects of its health and, even, with possibility

438. According to the data of prosecution of abortion in Colombia provided by the Attorney General's Office[358], between 1998 and 2019 the criminal news has been constant from 2009[359]. If this is right, it is reasonable to deduce not only the low impact on the increase of the penalty as consequence of the issuance of Law 890 of 2004 -Article 14-, but also the acknowledgement of the three non-prohibited assumptions of the consented abortion, as consequence of the issuance of Court Ruling C-355 of 2006.

439. From the same data[360], from the total 5.833 criminal news of this crime, 76,60% of the procedures are inactive. As mentioned, the main cause are the archive of the process and the preclusion of the process (75%). The condemnatory rulings, only reach up to the 10% of the cases. Therefore, from the short number of finished claims, it is possible to confirm, at the same time, the low suitability of the categoric penalization provided in the claimed regulation to efficiently protect life in gestation.

440. In the same report, the Attorney General's Office states that only 23,4% of the procedures remain active, from which 94% do not have indictment and, from those, 23,05% are related to facts that occurred five or more years ago, thus, "are facts that have reached its statute of limitations"[361].

441. On the other hand, according to the figures of the Guttmacher Institute, quoted by the Attorney General's Office[362] and the Health and Social Protection Ministry[363], to which have been already referred to in this ruling, 44% of not planned pregnancies end up in an induced abortion, that means 400.400 abortions during the year, from which only 322 are practiced in health institutions[364]. If this is right, it is not clear that the penalization of the crime as a first resort legal tool to protect life in gestation is relevant, since it does not allow an effective protection of this legal interest, but it does not dissuade the conduct and, in contrast, creates a harmful effect to health rights, reproductive rights, equality and freedom of conscience of women, as broadly provided above, and subsequently emphasized. Thus, it is not clear that the challenged provision achieves the preventive purpose that shall characterize the exercise of the legislative function.

442. In relation with this idea, as provided in the legislative proposal presented by the Attorney General's Office to partially decriminalize the abortion crime (Draft Law 209 of 2016, Chamber of

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to lose their lives. From this consideration, it was stated that the decriminalization adopted pretended to "end with a public health problem derived from the illegal abortion practice, considering that the decriminalization of abortion will allow women to voluntarily interrupt their pregnancies in hygienic and safe conditions; as well, granting an egalitarian treatment to women, especially those of low income". From these reasons specified: "it cannot be argued that the criminal threat is the first and only solution to the eradication of clandestine practices of voluntary termination of pregnancy […] the sanction cannot ignore the rationality and necessity, otherwise, the criminal system would enable the entry of vengeance as an immediate basis for the sanction". Court Ruling of August 28 of 2008. This quote is regarding to the specific matter that want to be presented and, thus, do not have the purpose to make an exhaustive presentation of the ruling, an neither a presentation of the basis that gave place to the ruling.

[358] Policy and Strategy Direction of the Attorney General's Office (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office. P. 22.

[359] As provided in the quoted report, "Since 1998 to 2019, 5.833 criminal news for the abortion crime has been entered to the Attorney General's Office. From 2005 to 2008, 1.056 entries were registered (18%), representing an increasing trend that reached its highest point in 2008 with 436 entries, with probably correspond to the progressive implementation of the missional information system SPOA between 2005 and 2008 and not to change the occurrence of the crime. Hereinafter, from 2009 to 2019 the abortion entries were stabilized around 410,9 annual average entries, having high point in 2011 with 459 entries, in 2015 with 437 entries and in 2018 with 424 entries" (p.22).

[360] Policy and Strategy Direction of the Attorney General's Office (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office.

[361] Policy and Strategy Direction of the Attorney General's Office (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office. P.44.

[362] These are quoted in the legislative initiative presented by the Attorney General's Office to partially decriminalize the abortion crime (Draft Law 209 of 2016, Chamber of Representatives).

[363] Health and Social Protection Ministry (2014). Determinants of unsafe abortion and barriers to access to voluntary interruption of pregnancy in Colombian women, p.28. Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/SM–Determ–aborto–inseguro.pdf [último acceso: 22 de junio de 2021].

[364] The quoted study corresponds to the following: Elena Prada, Susheela Singh, Lisa Remez and Cristina Villarreal (2011). Unintended Pregnancy and Induced Abortion in Colombia: Causes and Consequences. Guttmacher Institute. Available at: https://www.guttmacher.org/sites/default/files/report_pdf/embarazo–no–deseado–colombia_1.pdf [último acceso 22 de junio de 2021].

Representatives), the “criminalization does not affect the practice of illegal abortions”, but is a factor that affects the maternal death[365] and create an affectation to the surviving woman’s health. For these reasons, for the Attorney General's Office, as per the mentioned proposal, “The only thing achieved by its criminalization is to submit the VIP practice to dangerous conditions”. From these figures, it was considered in the proposal that “the criminal prosecution as the only legal took for the treatment of the conduct”[366] is detrimental and, thus, is necessary for the implementation of other measures to face the social problems derived from the consented abortion and face it, mainly, as a public health matter.

443. Thus, it is not clear that the current way to criminalize the conduct will effectively protect life in gestation and, therefore, affects its preventive function -as evidenced in the prior data-, but it is clear that create severe damages to other relevant constitutional interests and give rise to mayor public health matters because the indiscriminate penalization and barriers derived from it make women to look for underground and insecure procedures for the interruption of their pregnancies. This situation has a higher impact respect to those vulnerable situations that, for having low income, living in the country side or being in an immigrant situation, they preferably attend to these risky procedures[367]. This effects justify the suggestions made by the CEDAW Committee that, since 1992, has pointed that States, as part of the Convention, have to “ensure that women are not obliged to seek unsafe medical procedures, such as illegal abortions, because of lack of appropriate services in regard to fertility control”[368], suggestion that was repeated in 1999 when stated that “When possible, legislation criminalizing abortion should be amended”[369].

12.4. The current form of criminalization of the crime of consented abortion is in strong tension with the constitutional characteristic of criminal law as last resort –*ultima ratio*– mechanism for four reasons.

444. As was broadly specified in section 8 above, life is a legal interest susceptible to gradual and incremental protection, even by means of the punitive power of the State. In any case, an appropriate, necessary and proportional use of this power requires to be reserved for the most harmful conducts, provided that it is not possible to resort to "other less burdensome controls"[370] or alternative measures to guarantee the exercise of the rights with which the criminalization of voluntary termination of pregnancy comes into tension. Therefore, if there are "other equally suitable preventive means that are less restrictive of freedom,"[371] criminal intervention must yield to them[372].

445. Based on these premises, in the case of the protection of unborn life and given the tension that arises from the constitutional obligation to protect other rights, the State has the duty to adopt public policy measures that adequately respond to this tension, taking into account the gradual and incremental nature

[365] Draft Law 209 of 2016, Chamber of Representatives. This assessment was made in consideration of the figures that reveal the high index of interruption of pregnancies made illegally, health complications due the induced abortions or made under insecure conditions and the classification of this practice as one of the main causes of maternal death in the country: “It is considered that in year 2008, 99,92% of the performed pregnancy interruptions that were performed underground and , in year 2010, 132.000 Colombian women suffered complications due to induced abortions or made under insecure conditions. Additionally, in this way 1.357.659 abortions were registered, from which 911.897 were not planned and from which 43,9% ended in induced abortion. Thus ‘insecure abortion is the third cause of maternal death in the country”. The quote was used by the Attorney General's from the quote of the Guttmacher Institute.
[366] Draft Law 209 of 2016.
[367] According with the data provided in the process by Profamilia, 75% of the convictions of the abortion crime are of older women, mainly under vulnerable conditions to their countryside origin, poverty situation, or for being migrants. According to the same entity, the abortion data of Bogota, for instance, lead to conclusions in the same way: “85% of the abortion entrances into the Criminal System are woman of social groups 1, 2 and 3. This means, that the most vulnerable women are those to whom the criminal prosecution of abortion affects the most” (Technical concept of Profamilia, in attention to the invitation that was made through Order of October 19, 2022, page 27).
[368] CEDAW Committee. General Recommendation No. 19.
[369] CEDAW Committee. General Recommendation No. 24.
[370] Court Ruling C-742 of 2012.
[371] Court Ruling C-070 of 1996.
[372] Cf., particularly, Court Ruling C-897 of 2005 and Court Ruling C-575 of 2009, both reiterated in Court RulingC-233 of 2019.

of the protection of unborn life and, therefore, to criminalize only the most serious conducts that threatens it. This is the subsidiary, fragmentary or last resort nature of criminal sanctions. In contrast, an indiscriminate use - and, therefore, first resort of criminal law- is arbitrary and contrary to the requirements of the Social State Under the Rule of Law.

446. In the present case, for the following four reasons, although the challenged provision intends to achieve a compelling constitutional purpose, which is to protect life in gestation, it makes a first resort use of criminal law that evidently conflicts with the constitutional characteristic ascribed to criminal law as a mechanism of last resort, and does not offer answers to the tension with the legal interests referred to and protected by the Constitution.

12.4.1. The first reason is associated with the Legislature's failure to regulate in a positive and comprehensive manner and not only by resorting to criminal law, the complex social problem, of constitutional relevance, of consented abortion.

447. The current form of regulation of this social problem, in the exclusive terms of article 122 of the Criminal Code, has meant an omission of regulation in one of the most sensitive issues for Colombian society, which is far from being compatible with an adequate constitutional exercise of criminal law as last resort. Furthermore, this unidimensional vision of the phenomenon has given rise to a situation of under-protection for life in gestation and wide margins of lack of protection for the dignity and rights of women, including those of couples under the terms of Article 42 of the Constitution.

448. The regulation of consensual abortion in the Colombian Criminal Coders, the proposals in the National Constituent Assembly on the free choice of maternity and the main bills presented on the subject from 1975 to date -and with special emphasis, after the issuance of Court Ruling C-355 of 2006- shows that, although there have been multiple legislative and constitutional initiatives to regulate in a positive way the social problem of consensual abortion, this has been finally regulated through the use of criminal law as a first resort mechanism.

449. As recently stated by the Constitutional Court in Ruling C-233 of 2021, the last resort nature of criminal law and, therefore, its "essentially limited nature", is opposite to the requirement of development and protection of human rights, which "require broad efforts of concretion, both positive and negative, on the part of public authorities and individuals". According to the Court:

> “In this sense, the exercise of the punitive power of the State is considered one of the extreme spheres of state power for the regulation of social life, which is why it is often called the last resort (or *ultima ratio*). This marginal character that criminal law should have, is due to its capacity to interfere intensely with the fundamental right to personal freedom and to affect others, due to the conditions of compliance with the penalty for the person, which is why that characteristic ascribed to the punitive power of the State finds its foundation and limits in the dignity of the human person. […] Fundamental rights, on the other hand, constitute justified claims of citizens against power, which limit and binds it, and which must be realized to the greatest extent possible, through the channels available to the organs of power to achieve the purposes established by the Political Constitution and International Human Rights Law. Thus, in contrast to the essentially limited nature of criminal law, human rights require broad efforts of concretization, both positive and negative, on the part of public authorities and individuals. The constant expansion of their framework of protection also justifies the broad and creative judicial exercise aimed at the understanding and effective enjoyment of all their spheres: for their effective enjoyment. Fundamental rights, in addition

> to having this expansive force, can only be limited in a reasonable manner (to achieve constitutional purposes); and proportionate (so that each restriction satisfies with greater intensity another constitutional principle)"[373].

450. The description in the following headings is intended to show not only that there has been a growing consensus about the relevance of regulating this social problem in a positive and comprehensive manner -not only through a first resto use of criminal law- but also that criminal law has not been considered sufficiently suitable, neither the only, nor the main alternative to protect the legal rights at stake, beyond the three *extreme* cases that the Constitutional Court considered that could not be subject to criminal law or, in the terms of Court Ruling C-355 of 2006, the "extreme hypotheses of affectation of [the] dignity" of women[374]. In relation to this last aspect, it is important to highlight that one of the reasons -not decisive- for the aforementioned decision was the absence of a comprehensive regulation of this problem, fifteen years after the 1991 Constitution was enacted and, for that reason, the Court,

> "(…) limited itself to pointing out the three extreme hypotheses that violate the Constitution, in which, with the will of the woman and prior compliance with the pertinent requirement, the termination of pregnancy occurs. However, in addition to these hypotheses, the legislator may foresee others in which the public policy regarding abortion does not include a criminal sanction, taking into account the circumstances in which it is practiced, as well as the education of society and the objectives of the public health policy."[375]

451. Since the issuance of the aforementioned judgment, fifteen years of legislative omission to comprehensively regulate the complex problem of consensual abortion have elapsed, which now includes specific and concrete calls of the Constitutional Court in the exercise of the specific control of constitutionality to exercise such competence[376], and which lead to infer the strong tension between the current legislative option -established in Article 122 of the Criminal Code- and the character of last resort that should characterize the use of criminal law as a means of social control.

12.4.1.1. Since the organization of Colombia as a Republic, the criminalization of the crime of consented abortion in the criminal codes has been characterized as the first resort mechanism to regulate this complex social problem.

452. The Criminal Codes of 1837, 1890, 1936, 1980 and 2000 have punished consented abortion with the imprisonment of women. Although there have been differences among them, criminal law has always been used as the primary mechanism to regulate this social problem.

453. The Criminal Codes of 1837 and 1890, in addition to penalizing the aforementioned conduct[377], regulated a scenario of reduction of the criminal sanction or justification of the conduct in order to "protect" the "honor" of women -and, in the Criminal Code of 1936, also of men-, known by doctrine and case law as "honoris causa abortion"[378]. They also regulated a cause of justification of the conduct called

[373] Court Ruling C-233 of 2021.
[374] Court Ruling C-355 of 2006.
[375] Court Ruling C-355 of 2006.
[376] Particularly, those made in Court Rulings T-532 of 2014 and SU-096 of 2018.
[377] Article 490, paragraph 1, of the 1837 Code stipulated the following: "A pregnant woman who, in order to abort, knowingly uses, or consents to the use by another, of any of the means set forth in Article 488, shall suffer the penalties set forth therein [six months to two years of reclusion or imprisonment]". The 1890 Code, on the other hand, in its Article 641, provided: "The pregnant woman who, in order to abort, knowingly uses, or consents to another using, any of the means expressed in article 638, shall suffer the penalty of one to three years of imprisonment, if the abortion results, and of six months to one year if it does not result".
[378] In the case of the Criminal Code of 1837, Article 490, paragraph 2, regulated: "But if she [the abortion practitioner] is an honest woman, and it appears, in the judgment of the judges, that the sole or principal motive of the action was to cover up her frailty, she shall only be sentenced to four to six months of arrest if the abortion results, and shall not be punished if it does not. For its part, the Criminal Code of 1890 provided in Article 642 the following: "But if it is an honest woman of good reputation [the one who had the abortion], and it turns out, in the judgment of the judges, that the only motive for the penalty is three to six months imprisonment, if the abortion does not take place; and five to ten months, if it does take place". Article 390 of the 1936 Criminal Code provided as

"therapeutic abortion"[379]. This ground was in force until the issuance of the Criminal Code of 1936, which did not reiterate it. Since then, and only until the issuance of Ruling C-355 of 2006, 70 years later, it was possible to consider this circumstance as an atypical circumstance, since in the remaining cases was considered as a case of unlawfulness of the conduct, associated with a *state of necessity*.[380]

454. Decree Law 100 of 1980 regulated one of the most drastic regimes in this matter, which was subsequently reproduced by Law 599 of 2000, except for some variations. This statute excluded the circumstance associated with "honoris causa abortion" and did not contemplate the justification related to "therapeutic abortion". It only considered violent or carnal abusive access or non-consensual artificial insemination as an attenuating circumstance for the conduct of consented abortion.

455. This same regulation was retained in the Criminal Code of 2000, which added as a new circumstance of attenuation of the conduct the non-consensual transfer of a fertilized ovum -Article 124-; in addition, in relation to all the circumstances of attenuation, it was provided that in such cases the judicial officer could "rescind the penalty" when the consented abortion was due to "extraordinary abnormal conditions of motivation" -provision *ibidem*[381]-. This last regulation was declared unconstitutional by the Constitutional Court in Decision C-355 of 2006, considering, among others, that in all the cases regulated therein, the actions of the woman who aborts cannot be considered to be criminal, since in all of them she is the victim of a crime. In the aforementioned decision, the Court stated:

> "All the hypotheses indicated as generating punitive attenuation in the accused norm are included, by virtue of the present ruling, together with others not contemplated in said provision, as situations not constituting the crime of abortion. || Consequently, and precisely because of such decision, both the accused provision and its respective paragraph lose their raison d'être, inasmuch as, instead of the mitigation of the penalty, what is declared is the non-existence of the crime of abortion in the precise and exceptional circumstances noted, reason for which, as a consequence, the accused provision has to be withdrawn from the law."

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follows: "When the abortion was caused to save one's own honor [referring to the honor of the man or the male gender] or that of the mother, woman, descendant, adopted daughter or sister, the penalty may be reduced from one half to two thirds, or a judicial pardon may be granted."

[379] Both codes provided that the penalties prescribed for the crime of voluntary abortion were not incurred if there was "no other way to save the life of the woman" (Article 489, final paragraph, of the Criminal Code of 1837), or if it was an "absolutely necessary means to save the life of the woman" (Article 640, second paragraph, of the Criminal Code of 1890). Then, in relation to this conduct, the 1890 criminal rule stated: "It should not be believed that the law advises the use of these means, which are generally condemned by the church. It only limits itself to exempt from punishment those who, with rectitude and purity of intentions, believe themselves authorized to use such means" (article 640, paragraph 3 of the Criminal Code of 1890).

[380] It is very important to emphasize that one of the main changes introduced by the 1936 Criminal Code, in comparison with its 1890 predecessor, to guarantee the self-determination of women and, therefore, to recognize the last resort character of the criminal law in matters that only concern women's internal affairs, was the decriminalization of the crime of adultery. The Criminal Code of 1890, in the title on "crimes against persons", defined the crime of adultery as follows: "The married woman who commits adultery shall suffer imprisonment for as long as the husband wishes, provided that it does not exceed four years. If the husband dies without having requested the woman's release and the term of confinement is more than one year away, she shall remain in confinement for one year after the husband's death. If less than one year remains, she shall remain in confinement until the completion of her sentence" (Article 712). In spite of the derogation of this provision, this conduct was considered as a cause of nullity of marriage, as provided in Article 140.7 of the Civil Code: "Causes of nullity. The marriage is null and void in the following cases: [...] 7. When it has been celebrated between the adulterous woman and her accomplice, provided that before the marriage took place, adultery had been declared and proven in court". This provision was declared unconstitutional by the Constitutional Court in Court Ruling C-082 of 1999. In the analysis of constitutionality it was provided: "the accused provision establishes an undue interference in the sphere of individual freedom. Perhaps when adultery was criminalized, it was conceivable that, based on the crime, the free development of personality would be limited; however, today, in light of the 1991 Constitution, it is not reasonable to dismiss or hinder the decision of the subject with respect to his or her marital union, much less to do so because of the sex to which he or she belongs."

[381] The aforementioned article provided as follows: "Circumstances of punitive attenuation. The penalty established for the crime of abortion shall be reduced by three quarters when the pregnancy is the result of a conduct constituting carnal access or sexual act without consent, abusive, artificial insemination or non-consensual transfer of a fertilized ovum. || Paragraph. In the events of the preceding paragraph, when the abortion is performed under extraordinary abnormal conditions of motivation, the judicial officer may dispense with the penalty when it is not necessary in the specific case."

456. It is important to note that, unlike the regulation on consensual abortion, Law 599 of 2000 decriminalized certain conducts related to sexual freedom, based on the last resort nature of criminal law.

457. In the first place, Decree Law 100 of 1980 criminalized "statutory rape" as a crime against "sexual freedom and modesty", as follows: "Article 301. Whoever by deception obtains carnal access with a person over fourteen and under eighteen years of age, shall be imprisoned from one (1) to five (5) years". In the legislative debate that concluded with the issuance of Law 599 of 2000, which refrained from criminalizing this conduct, it was indicated that modifications such as this one were adopted, "in order to find an adequate balance between the protection of minors and the character of *minimum ratio* of criminal law [...]. The foregoing does not mean ignoring the need to establish a total regulation of the matter, but rather implies a criminal policy decision aimed at ensuring that each system is regulated with the appropriate means and thus not rendering the protection innocuous due to the inadequacy of the mechanism"[382].

458. Likewise, Article 260 of Decree Law 100 of 1980 criminalized "bigamy" as a crime "against the family", in the following terms: "Bigamy. Whoever, bound by a valid marriage, contracts another marriage, or whoever, being free, contracts marriage with a validly married person, shall be imprisoned from one (1) to four (4) years". In the legislative debate, in relation to "crimes against the family", which led to the issuance of the Criminal Code of 2000 and which refrained from criminalizing this conduct, the "feminist struggles of the sixties" were highlighted as a relevant aspect, from which "everything that happens in the sphere of private life has the possibility of becoming public when legal goods of the citizens are injured.[383]"

459. Law 599 of 2000 also retained some relevant changes, in terms of the exercise of criminal law as the last resort in the matter, previously introduced by Law 360 of 1997[384]. Among these, it is worth mentioning that in the 1980 Criminal Code, article 307 regulated the "extinction of the criminal action by marriage" in the following terms: "If any of the perpetrators or participants of the crimes described in the previous chapters marries the passive subject, the criminal action will be extinguished for all of them". The previous chapters referred to regulated crimes such as carnal access and violent sexual intercourse. This provision was expressly repealed by Law 360 of 1997 and was not taken up by Law 599 of 2000.

12.4.1.2. The National Constituent Assembly and the free choice of motherhood.

460. The "free choice of maternity" was the subject of a special discussion in the National Constituent Assembly. Although the proposal for regulation was not finally adopted, it did highlight the fundamental aspects for a regulation of the relevant social problem of abortion with consent, and not only from a vision of criminal law as a *prima ratio* mechanism of social control.

461. In the National Constituent Assembly, reference was made to the aforementioned concept based on specific proposals for articles to be included in the Constitution, as follows: (i) "The free choice of maternity is a woman's privilege"[385]; (ii) "The free choice of maternity is a woman's privilege, the State shall guarantee pregnant women the right to work"[386]; (iii) "Protection of maternity. Maternity is protected as a woman's free choice"[387]; (iv) "The State protects maternity. Everyone has the right to decide on the

[382] Congress Gazette 510, House of Representatives, p. 6.
[383] Congress Gazette 510, House of Representatives, p. 6.
[384] *Whereby certain provisions of Title XI of Book II of Decree-Law 100 of 1980 (Criminal Code), relating to crimes against sexual freedom and modesty, are amended, Article 417 of Decree 2700 of 1991 (Criminal Procedure Code) is added, and other provisions are enacted.*
[385] Project 20, presented by Constituent Carlos Lleras de la Fuente.
[386] Project 96, presented by Constituent Augusto Ramírez Cardona.
[387] Proposal 5, from a non-governmental organization.

number of children he/she is in a position to procreate, maintain and educate. It is a woman's free choice to choose motherhood [...]"[388]; (v) "Motherhood fulfills a social function and cannot be a cause of discrimination. Women are free to choose the option of maternity, under the terms of the Law"[389]; (vi) "Protection of maternity. Human reproduction is a right and responsibility of those who determine it and of society. The State shall be obliged to provide special protection to maternity. The privilege of the woman to the free choice of maternity. The State shall guarantee to pregnant women their maintenance, assistance and protection, for a period of not less than two years from the moment of conception. The State shall guarantee working women in the process of pregnancy the right to work. Dismissal from employment on the grounds of pregnancy is prohibited[390]" and (vii) "The State shall especially protect women against all violence and discrimination and shall guarantee them [...] 2º) The free choice of maternity and care during pregnancy, childbirth and breastfeeding"[391].

462. The specific proposals described in the previous section were submitted in connection with draft articles related to the protection of the family[392], maternity[393] and equality[394].

463. Among the considerations discussed in the National Constituent Assembly regarding the free choice of maternity, the following were especially relevant: (i) maternity should be recognized as a social function so that "the contribution of women to the welfare of the family and the development of society is valued"[395]; (ii) it is the "authentic option regarding children", as a necessary condition for the enjoyment of other rights of women[396]; (iii) it is a freedom resulting from the autonomy of women[397]; (iv) free choice as a guarantee against violence and discrimination[398]; (v) maternity is more than a "simple biological fact"[399]; since it is related to higher purposes (vi) family planning is a guarantee in two senses, first, because it "seeks to improve maternal and child health by rationalizing the number and spacing of pregnancies" and, second, because it promotes the "improvement in the quality of life of the individual, which in turn guarantees the right to development"[400]; (vii) the multiple efforts made by women, particularly in their academic and professional activities, must be considered relevant and worthy of protection, which must be compatible with the "labor inherent in their status as women"[401].

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[388] "Project of New Charter of Rights, Duties, Guarantees and Liberties", presented by constituents Aida Abella, Raimundo Emiliani, Germán Toro, Diego Uribe and Maria Mercedes Carranza.
[389] Project "Rights of the family, children, youth, women and the elderly" presented by constituents Iván Marulanda, Jaime Benítez, Tulio Cuevas, Guillermo Perry, Angelino Garzón and Guillermo Guerrero.
[390] Proposal presented by Constituent Jaime Benítez before the Fifth Commission.
[391] Proposal 119, presented by Constituent Francisco Rojas Birry.
[392] Gazettes of the National Constituent Assembly. Project 20, presented by Constituent Carlos Lleras de la Fuente, volume 18, p. 17; volume 25, pp. 3-4 and Project 96, presented by Constituent Augusto Ramírez Cardona.
[393] (i) Gazette of the National Constituent Assembly, vol. 34, p. 23; draft presented by some non-governmental organizations. (ii) Gazette of the National Constituent Assembly, vol. 51; report, pp. 19-23, presented by constituents Aida Abella, Raimundo Emiliani, Germán Toro, Diego Uribe and María Mercedes Carranza; (iii) Gazette of the National Constituent Assembly, vol. 52, pp. 5-6, presented by constituents Iván Marulanda, Jaime Benítez, Tulio Cuevas, Guillermo Perry, Angelino Garzón and Guillermo Guerrero.; (iv) Gazette of the National Constituent Assembly, volume 98, p. 10; minute No. 17 of April 18, 1991, Fifth Commission, proposal by Constituent Jaime Benítez. The members of the commission to which Constituent Jaime Benítez belonged, together with him, declined the proposal, but it was taken up by Constituent Iván Marulanda in the Gazette of the National Constituent Assembly, volume 107, p. 17.
[394] Gazette of the National Constituent Assembly, vol. 29, proposal No. 119, p. 2, presented by Constituent Francisco Rojas Birry.
[395] Gazette of the National Constituent Assembly, volume 18, p. 17.
[396] Ibid.
[397] Gazette of the National Constituent Assembly, volume 29, proposal No. 119, p. 2. The proposal stated the following: "we include the duty of the State to guarantee maternity, considered as a free option of the woman, since it is she who knows her true situation and who can intimately value the importance of maternity within her set of aspirations."
[398] "The State shall especially protect women against all violence and discrimination and shall guarantee them [...] 2º) The free choice of maternity and care during pregnancy, childbirth and breastfeeding, with special attention to the right to work in these cases" (Proposal 119, presented by Constituent Francisco Rojas Birry).
[399] Ibid.
[400] Ibid. The draft stated the following: "Unless women have the possibility and a genuine choice as to the children they wish to have or not, their ability to enjoy other rights will be inhibited. In relation to family planning, it was proposed to provide "resources and education for the dissemination of family planning methods but founded [among others] on the principles of the dignity of the human person." Gazette of the National Constituent Assembly, vol. 25, pp. 3-4.
[401] Gazette of the National Constituent Assembly, volume 34, p. 23

464. The proposal to recognize the "free choice of maternity" was presented to the Fifth Committee in the following terms[402]:

> "- Maternity protection. Human reproduction is a right and responsibility of those who determine it and of society. The State shall be obliged to provide special protection to maternity.
>
> - The privilege of women to freely choose motherhood. The State shall guarantee pregnant women their maintenance, assistance and protection for a period of not less than two years from the moment of conception. The State shall guarantee working women in the process of pregnancy the right to work. Dismissal from employment due to pregnancy is prohibited.
>
> - Protection of the family. The whole family structure shall enjoy special protection. The State will guarantee the economic and social conditions for the fulfillment of certain obligations. Parental authority shall be respected and may not be lost for economic reasons; in such cases, the State shall guarantee the full autonomy and equality of fathers and mothers in deciding on the order of surnames in the civil registry of children [403]. The State will guarantee to children born out of wedlock the same rights that correspond to children born in wedlock. Other aspects related to social security for children and women are also enshrined"[404].

465. In the Gazette of the National Constituent Assembly, volume 134, p. 9, it is recorded that the vote was secret, with 25 affirmative votes, 40 negative votes and 3 abstentions. The Chamber emphasizes that the non-approval of the referred proposals only indicates that they were not incorporated into the Constitution, but this does not imply a prohibition of regulation by the Legislator. It should be noted, on the other hand, that the foundations that supported the proposals have been useful arguments, among others, for important case law developments regarding the protection of women, such as the equal option of the mother and the father to choose the order of the surnames of their children, recently accepted by the Constitutional Court in Ruling C-519 of 2019.

12.4.1.3. Main bills submitted since 1975 to regulate the complex social problems involved in the regulation of consented abortion, which is not exclusively based on the use of criminal law as a first resort mechanism (*prima ratio)*.

466. From 1975 to date, approximately 39 bills and legislative acts related to this matter have been presented[405], and, in particular, tending to the use of criminal law as a last resort mechanism. The discussion of these initiatives has a turning point in Ruling C-355 of 2006.

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[402] Gazette of the National Constituent Assembly, volume 98, p. 10, Act No. 17 of April 18, 1991.
[403] The Chamber emphasizes that this option was finally adopted by the Constitutional Court when it evidenced the disregard of the principle of equal treatment to which the expression "followed by" included in Article 53 of Decree 1260 of 1970 (subrogated by Article 1 of Law 54 of 1989) gave rise, which was declared unenforceable with deferred effects and, "[i]f the Congress of the Republic does not issue the replacement regulation within the term established in the preceding numeral, and until it does so, it shall be understood that the father and the mother by common agreement may decide the order of the surnames of their children. If there is no agreement between the parents, it shall be resolved by lot drawn by the competent authority to record the civil registry." Ruling C-519 of 2019.
[404] In the session of May 15, 1991, the Constituent Jaime Benitez presented a new proposal in the following sense: "The family is the fundamental nucleus of society, it is constituted by natural or juridical ties, by the free decision of a man and a woman to marry or by their responsible will to form it. || The State and society guarantee the integral protection of the family and the law may determine the inalienable and unseizable family patrimony, the honor, dignity and intimacy of the family are inviolable". Based on this proposal, Constituent Iván Marulanda stated the following: "the article referring to the free choice of women in relation to maternity, not being submitted to the consideration of the Commission, he brings it to the knowledge of the plenary for the necessary formalities". Gazette of the National Constituent Assembly, volume 107, p.15.
[405] Prior to the issuance of Ruling C-355 of 2006, the following bills were presented: (1) 17 of 1975, Senate of the Republic, (2) 17 of 1987, Senate of the Republic, (3) 95 of 1979, House of Representatives, (4) 17 of 1987, Senate of the Republic, (5) 151 of 1989, Senate of the Republic, (6) 218 of 1993, House of Representatives, (7) 43 of 1995, Senate of the Republic, (8) 194 of 1995, Senate of the Republic, (9) 179 of 1997, Senate of the Republic, (10) 230 of 2003, Senate of the Republic, (11) 11 of 2004, Senate of the

467. The following description highlights the importance, in the legislative debate, of the protection of life during pregnancy and the guarantees attached to a woman's free choice of maternity, related to dignity and her rights -in particular, to health, reproductive rights, equality and freedom of conscience-, which justify the use of criminal law as a last resort mechanism.

468. Several bills prior to Ruling C-355 of 2006 promoted decriminalization proposals[406], on grounds similar to those recognized as grounds of non-criminality in the aforementioned decision: "grave" danger to the life or health of the mother[407], physical or psychological[408]; scientific evidence of malformation or "anomalies of the fetus[409]" or serious pathological processes[410]; pregnancy resulting from violent carnal abuse[411] or abusive sexual acts[412], incest or deceitful maneuver[413], artificial insemination[414] or non-consensual fertilized egg transfer[415], and the socioeconomic conditions of the woman, her partner or her family, after consultation with medical personnel[416]. Bills have also been introduced to protect, through criminal law, the most serious attempts against life in gestation when it acquires a higher level of autonomy after a certain number of weeks following conception[417].

469. Since Ruling C-355 of 2006, the debate in the Congress of the Republic has changed and the discussions have been based, to a large extent, on the considerations and decision of the ruling and not only in relation to consensual abortion, but also on the approach to women's sexual and reproductive health -aspects that were also the subject of legislative debate prior to the issuance of the ruling in question-.

470. Among those initiatives, it has been proposed to: include in Article 11 of the Constitution that "[t]he voluntary termination of pregnancy may be performed in cases authorized by law"[418]; to decriminalize consented abortion within a certain number of weeks after gestation and non-prosecution "when its late performance is due to causes beyond the woman's control", without prejudice to the grounds provided for in case law[419]; impose disciplinary and administrative sanctions for delaying the practice of VIP in the three cases in which the Court found them to be incompatible with the Constitution[420]; guarantee access to this procedure for victims of sexual violence, especially during the armed conflict[421]; classify the cases that cannot be subject to criminal prosecution, in accordance with Ruling C-355 of 2006, as a "vital

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Republic, (12) 169 of 2004, Senate of the Republic, (13) 64 of 2005, House of Representatives, (14) 261 of 2005, Senate of the Republic, (15) 330 of 2005, House of Representatives and (16) 264 of 2005, Senate of the Republic. After the issuance of Ruling C-355 of 2006, the following legislative act bills (17) 06 of 2011 and (18) 016 of 2012, and the following bills have been submitted: (19) 060 of 2007, (20) 50 of 2007, cumulative with 100 of 2007, Senate of the Republic and 329 of 2008, House of Representatives, (21) 339 of 2008, House of Representatives, (22) 237 of 2008, Senate of the Republic, (23) 154 of 2009, Senate of the Republic, (24) 21 of 2010, Senate of the Republic, (25) 217 of 2010, Senate of the Republic, (26) 94 of 2010, Senate of the Republic, (27) 13 of 2011, Senate of the Republic, (28) 237 of 2012, House of Representatives, (29) 37 of 2012, House of Representatives and 244 of 2013, Senate of the Republic, (30) 24 of 2013, Senate of the Republic, (31) 89 of 2013, House of Representatives, (32) 41 of 2015, Senate of the Republic, (33) 113 of 2016, Senate of the Republic, (34) 167 of 2016, House of Representatives, (35) 209 of 2016, House of Representatives, (36) 147 of 2017, Senate of the Republic, (37) 48 of 2018, Senate of the Republic, (38) 94 of 2019, House of Representatives and (39) 258 of 2020, Senate of the Republic.

[406] Cf., bills 17 of 1975, Senate of the Republic; 95 of 1979, House of Representatives; 17 of 1987, Senate of the Republic; 151 of 1989, Senate of the Republic; 218 of 1993, House of Representatives; 236 of 2003, House of Representatives and 064 of 2005, House of Representatives.

[407] Bills 17 of 1975, Senate of the Republic and 17 of 1987, Senate of the Republic.

[408] Bills 95 of 1979, House of Representatives; 17 of 1987, Senate of the Republic; 151 of 1989, Senate of the Republic and 218 of 1993, House of Representatives.

[409] Bill 17 of 1975, Senate of the Republic; 95 of 1979, House of Representatives; 17 of 1987, Senate of the Republic and 218 of 1993, House of Representatives.

[410] Bill 95 of 1979, House of Representatives.

[411] Bill 95 of 1979, House of Representatives.

[412] Bill 64 of 2005, House of Representatives.

[413] Bill 17 of 1975, Senate of the Republic.

[414] Bill 17 of 1987, Senate of the Republic; 218 of 1993, House of Representatives and 64 of 2005, House of Representatives.

[415] Bill 64 of 2005, House of Representatives.

[416] Bills 151 of 1989, Senate of the Republic and 218 of 1993, House of Representatives.

[417] Bills 17 of 1975, Senate of the Republic; 95 of 1979, House of Representatives; and 17 of 1987, Senate of the Republic.

[418] Draft Legislative Act 016 of 2012, House of Representatives.

[419] Bill 209 of 2016, House of Representatives.

[420] Bill 147 of 2017, Senate of the Republic.

[421] Bill 37 of 2012, House of Representatives and 244 of 2013, Senate of the Republic, current Law 1719 of 2014.

emergency"[422]; guarantee sexual and reproductive education[423], as well as promote family planning, with emphasis on the responsibility that men also have and that they can assume through the practice of vasectomy[424].

471. The central foundations of these bills have been the following: the prevalence of the right to life with dignity of the woman[425] and her autonomy[426]; the difference between the concepts: right to life and "human life", as well as the dependence of the fetus on the woman at certain stages of gestation[427]; the non-existence of absolute constitutional guarantees[428] and the balancing of the exercise of criminal law to protect, in a compatible manner, the life in gestation and the free development of the woman's personality[429]; the prohibition of the State from interfering, through the exercise of criminal law, in the sexual and reproductive rights and life projects of women[430]; gender equity and the importance of greater guarantees in favor of women because they commonly face "the social and health costs of family planning"[431]; the guarantee of non-discrimination when opting for VIP[432]; the adoption of measures in favor of material equality in consideration of those women who live in the rural sector and have less economic capacity, as well as those who have greater difficulties in accessing education, information and health care[433]; the need for regulation that is more in line with legal and scientific criteria than with spiritual or moral tendencies[434]; the disproportionate impact on women's rights[435], despite the scant protection offered by criminal law to the legal right to life during pregnancy[436]; and the high incidence of categorical criminalization of the conduct on maternal mortality, health and public health[437].

472. Along with these initiatives, it has also been proposed to establish in Article 11 of the Constitution that "the right to life is inviolable and shall receive equal protection from fertilization until natural death. There shall be no death penalty"[438]; to eliminate the exemptions of responsibility in the "death of the unborn child", with an increase of the penalty after two months of gestation[439]; to declare one day of the year as the national day of the "unborn child and the pregnant woman", aimed at making people aware of the physical and mental health risks suffered by women who abort[440] and the individual responsibility of initiating sexual life, as well as to generate sensitivity towards the life of the "unborn child"[441]; to provide adoption options for the unborn child and cradles of life for newborns[442]; to protect women during pregnancy and after its termination through legal and psychosocial counseling, as well as in cases of family abandonment[443]; to support pregnant women, protect the unborn child and guarantee a dignified

[422] Bill 237 of 2008, Senate of the Republic. The following provision was proposed: "Article 166. The Mandatory Health Plan for women in a state of pregnancy shall cover as a vital emergency the services of: [...] the procedure of voluntary interruption of pregnancy, in accordance with the provisions of Ruling C-355 of 2006 of the Honorable Constitutional Court".
[423] Bills 084 of 2007, Senate of the Republic and 339 of 2008, House of Representatives; and 41 of 2015, Senate of the Republic.
[424] Bills 050 of 2007, accumulated with Bill 100 of 2007, Senate of the Republic and 329 of 2008, House of Representatives.
[425] Draft Legislative Act 016 of 2021, House of Representatives and Draft Legislative Act 209 of 2016 House of Representatives.
[426] Draft Legislative Act 016 of 2021, House of Representatives and Draft Legislative Act 209 of 2016 House of Representatives.
[427] Draft Legislative Act 016 of 2012, House of Representatives.
[428] Bill 209 of 2016, House of Representatives.
[429] Legislative Bill 016 of 2012, House of Representatives and Bill 209 of 2016, House of Representatives.
[430] Bill 209 of 2016, House of Representatives.
[431] Bills 050 of 2007, accumulated with Bill 100 of 2007, Senate of the Republic and 329 of 2008, House of Representatives.
[432] Bill 147 of 2017.
[433] Bill 209 of 2016, House of Representatives.
[434] Draft Legislative Act 016 of 2012, House of Representatives.
[435] Bill 209 of 2016, House of Representatives.
[436] Bill 209 of 2016, House of Representatives.
[437] Bill 209 of 2016 and 094 of 2019, House of Representatives.
[438] Draft Legislative Act 06 of 2011, Senate of the Republic.
[439] Bill 154 of 2009, Senate of the Republic.
[440] Bill 21 of 2010, Senate of the Republic.
[441] Bill 21 of 2010, Senate of the Republic.
[442] Bill 094 of 2010, Senate of the Republic. Also available is Bill 094 of 2019, House of Representatives, in which it was emphasized that a woman who is pregnant "and wishes to have an abortion, will go clandestinely to have an abortion, since today there is no public policy to attend to people who are in a state of unwanted pregnancy, without any other option or alternative provided by the State".
[443] Bill 167 of 2016, House of Representatives, "whereby support and guidance is provided to pregnant or breastfeeding women at risk and other provisions are enacted". This bill proposed to provide psychosocial and legal telephone guidance to women, to prevent risks that may affect them, as well as the fetus, in such a way that the vulnerability of women during pregnancy and postpartum could be reduced.

birth[444]; to accompany women in a state of pregnancy "the result of non-consensual conduct", through economic support equivalent to one minimum wage from fertilization until the age of 18[445]; and also to accompany women who are in any of the three grounds referred to in Ruling C-355 of 2006, through programs to promote the "welcoming of life"[446].

473. Among the reasons that have supported these last initiatives are the following: the inviolable prevalence of life[447]; the protection of the right to life from conception[448]; the *nasciturus* as a human being who should receive equal or greater protection than others[449], because of the best interests of children[450]; the National Constituent Assembly did not include the possibility of abortion without recourse to criminal sanction, despite the fact that it was a matter of debate[451]; Ruling C-355 of 2006 constitutes an exception to the traditional case law of the Court that had declared the constitutionality of the crime[452]; international legal protection[453], particularly derived from Article 4.1. of the ACHR[454]; the protection of the life of the unborn in the Civil Code[455]; the right to physical and mental health of the woman during and after pregnancy; the right to motherhood[456], in contrast to the physical, psychological and social impact of abortion[457]; maternal mortality from this procedure[458]; adoption as an alternative to protect the "minor"[459] against consensual abortion or abandonment, without disregarding the woman's rights to freedom and autonomy[460]; the right to decide the number of children has reach until before conception[461]; the limited scope of freedom of conscience or worship[462]; the "culture of life"[463] with preeminence over the "easy culture that accepts death options"[464]; the discussion of considering abortion as a method of family planning[465]; the partial decriminalization of consensual abortion has not reduced its practice[466] and the lack of support from the State as a cause that leads to the process of voluntary abortion when the woman has become pregnant for "non-consensual" reasons[467].

474. This account of legislative and constitutional initiatives shows the importance in the legislative scenario of the protection of life in gestation and the guarantees attached to the free choice of maternity of women, related to their dignity and rights, which justify the use of criminal law as a last resort mechanism. In this regulatory exercise, as evidenced by the above description, it has been fundamental to assess measures suitable, necessary and compatible with the dignity of women, not only from an exercise of criminal law as a mechanism of first resort social control.

475. In short, through Law 599 of 2000, the Legislator maintained the material standard in force since 1837, and especially the standard set forth in the Criminal Code of 1980, without valuing or weighing the legal interests of women and girls in the criminalization of the crime of consensual abortion. In this

[444] Cfr., Bills 060 of 2007, 172 of 2009, 021 of 2010, 024 of 2013 and 258 of 2020, all from the Senate of the Republic.
[445] Bill 089 of 2013, House of Representatives.
[446] Bill 13 of 2011, Senate of the Republic and 237 of 2011, House of Representatives. Cfr., likewise, Bill 217 of 2010, Senate of the Republic and 60 of 2009, House of Representatives.
[447] Legislative Act 06 of 2011, Senate of the Republic and Bill 154 of 2009, Senate of the Republic.
[448] Legislative Act 06 of 2011, Senate of the Republic and Bills 154 of 2009, 94 of 2010 and 21 of 2010, Senate of the Republic.
[449] Draft Legislative Act 06 of 2011, Senate of the Republic, Bill 94 of 2010, Senate of the Republic.
[450] Bill 154 of 2009, Senate of the Republic.
[451] Draft Legislative Act 06 of 2011, Senate of the Republic and Draft Bill 154 of 2009, Senate of the Republic.
[452] Draft Legislative Act 06 of 2011, Senate of the Republic. Reference is made to Rulings C-133 of 1994, C-013 of 1997 and C-647 of 2001.
[453] Draft Legislative Act 06 of 2011, Senate of the Republic.
[454] Legislative Bill 06 of 2011, Senate of the Republic and Bills 154 of 2009 and 94 of 2010, Senate of the Republic.
[455] Bills 154 of 2009 and 94 of 2010, Senate of the Republic.
[456] Bills 154 of 2009 and 258 of 2020, Senate of the Republic.
[457] Legislative Bill 06 of 2011, Senate of the Republic.
[458] Bills 154 of 2009, 21 of 2010, 94 of 2010 and 258 of 2020, Senate of the Republic.
[459] Bill 258 of 2020, Senate of the Republic.
[460] Senate Bills 94 of 2010 and 84 of 2018.
[461] Bill 154 of 2009, Senate of the Republic.
[462] Bill 021 of 2010, Senate of the Republic.
[463] Legislative Act 06 of 2011, Senate of the Republic.
[464] Bill 13 of 2011, Senate of the Republic and 237 of 2011, House of Representatives.
[465] Bill 94 of 2010, Senate of the Republic.
[466] Bill 94 of 2010, Senate of the Republic.
[467] Bill 89 of 2013, House of Representatives.

criminalization, it did not take into account the relevant discussions in the National Constituent Assembly, the new material parameters introduced by the 1991 Constitution, nor the constitutional interpretation, nor the observations made by the international community up to that time[468]. This social problem has not been the object of positive regulation either after the issuance of Ruling C-355 of 2006, nor after the repeated calls of this Court to that effect[469].

476. In line with these reasons, it is possible to conclude that the public policy offered by the State to protect the interests involved in the problem of consented abortion is reduced, nowadays, to the criminal sanction of the pregnant woman. Thus, criminal law has been used not as a last resort mechanism, but it could be said, as the only mechanism.

477. The aforementioned legislative inactivity to seek fundamental solutions to the situation of hundreds of women facing an unwanted pregnancy and the lack of protection and opportunities for those who wish to assume motherhood, despite the material difficulties to ensure their maintenance, education, safety and welfare, make criminal punishment the only visible public policy, thus failing to comply with the State's constitutional obligation to ensure assistance and protection to women during pregnancy and after childbirth, under the terms of Article 42 of the Constitution.

478. Although it is understandable that including a regulation in the Criminal Code is less costly than designing, implementing and maintaining a public policy aimed at reducing the number of unwanted pregnancies, the State cannot ignore that its fundamental and primary obligation is to guarantee the exercise of the fundamental rights of its inhabitants.

12.4.2. The second reason has to do with the greater need of regulation by the Legislator after the issuance of Ruling C-355 of 2006, whose systematic omission has been tragically evidenced by the constitutional case law in the review of specific cases.

479. The lack of positive legislative regulation of the social problems involved in the practice of consensual abortion has been more evident since the issuance of Ruling C-355 of 2006, since it has given rise to barriers to access to abortion in the three cases in which the Court found Article 122 of the Criminal Code partially incompatible with the Constitution, a circumstance that, in turn, is in tension with the dignity of women and, therefore, with the character of last resort that should characterize criminal regulation.

480. This is corroborated, in the first place, by the study of Court's case law on the matter, constituted by Court Rulings T-171 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-388 of 2009, T- 585 of 2010, T-636 of 2011, T-959 of 2011, T-841 of 2011, T-627 of 2012, T-532 of 2014, T-301 of 2016, T-731 of 2016, T-697 of 2016, T-931 of 2016 and SU-096 of 2018. In the study of these cases, the review chambers and the Full Chamber of the Constitutional Court have evidenced that there are multiple obstacles imposed to perform the abortion procedure -in the three assumptions referred to in the declaration of conditional constitutionality of Article 122 of the Criminal Code, in Ruling C-355 of 2006-, which have ended up frustrating the constitutional protection and have rendered inoperative the exceptions aimed at safeguarding the dignity of women, girls and pregnant women and their other rights. In fact, as that case law has correctly stated, this type of barriers also strongly affects the legal right that the crime of voluntary abortion intends to protect, since the delay in the practice of the mentioned procedure has allowed the gestational age to advance and be much more costly to the interests that its timely performance intends to protect.

[468] As noted, in 1999, the CEDAW Committee recommended to the States parties to this convention that "legislation punishing abortion should be amended as far as possible. General Recommendation No. 24.
[469] In particular, those made in Court Rulings C-355 of 2006, T-532 of 2014 and SU-096 of 2018.

481. Secondly, the figures provided by the Attorney General's Office reflect a significant number of women who are prosecuted despite being in any of the grounds described in Ruling C-355 of 2006[470]. Although such investigations have ended in non-prosecutions, this decision does not reestablish the set of adverse consequences that have already been caused, such as stigmatization, loss of privacy, stress, and anxiety, as a result of a multitude of factors, including the possible disruption of family, social and work life, legal costs and uncertainty about the outcome of the process and the possible future sanction.

12.4.2.1. The Court's case law of review, subsequent to the issuance of Ruling C-355 of 2006 and the pressing need for a comprehensive regulation of the phenomenon of consented abortion.

482. The constitutional case law of review has evidenced barriers in the internal, family, social and institutional spheres, the latter comprising the medical, administrative, administrative-welfare and judicial sectors, which have seriously affected the possibility of performing an abortion in the three cases in which the Court found Article 122 of the Criminal Code partially incompatible with the Constitution -Court Ruling C-355 of 2006- which, in turn, evidences the relative inadequacy of the judicial decision, due to factors beyond its control.

483. As indicated in Court Rulings T-627 of 2012, T-301 of 2016 and SU-096 of 2018, the barriers start with the ignorance of the content of Court Ruling C-355 of 2006 and its subsequent case law developments, many times caused by the violation of the right to information incurred by social security entities and other institutions, by not providing objective, timely, sufficient and adequate information, which has an impact on the fear of committing a crime. For example, in Court Ruling T-627 of 2012, the Court should have ordered "the Attorney General of the Nation, [...] RECTIFY, within forty-eight (48) hours following the notification of this ruling, his press release of October 21, 2009, in a personal, public manner and with equivalent deployment and relevance, in the sense of explaining that he made a mistake in referring to the campaigns ordered in Court Ruling T-388 of 2009 as 'massive campaigns to promote abortion as a right' since, in reality, they seek to promote that Colombian women know the content of their sexual and reproductive rights, among which is the VIP in the decriminalized hypotheses"[471].

484. As stated in Rulings T-585 of 2010, T-388 of 2009 and T-532 of 2014, from a personal point of view, the barriers arise due to the lack of economic capacity to access the practice of abortion, in the cases not penalized in Ruling C-355 of 2006. As stated in Ruling T-388 of 2009, barriers also arise due to geographic location, which prevents certain women from physical and timely access to the entities of the Social Security Health System, as well as stigmatization derived from prejudices in this subject, which generate undue pressure on women[472].

485. In the health sector, there are difficulties related to the denial of medical certifications and authorizations[473]; discrediting of external medical certificates[474] or those issued by psychologists[475]; improperly processed conscientious objections and lack of referral to another health professional[476] or conscientious objection of a legal person[477]; insufficient or untrained medical personnel to perform the procedure[478]; absence, deficiency or failure in protocols[479]; discrediting of a complaint for a non-

[470] "Policy and Strategy Direction of the Attorney General's Office" (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office, p. 40.
[471] Ruling T-627 of 2012.
[472] As stated by the Attorney General's Office in its intervention (p. 12), in the family and social sphere, the obstacles are materialized by the lack of knowledge of the autonomy of women and girls, which is reflected in a significant number of complaints filed by the women's partners or their mothers.
[473] Ruling SU-096 of 2018.
[474] Ruling T-841 of 2011.
[475] Rulings T-388 of 200 and T-301 of 2016.
[476] Rulings T-388 of 2009, T-731 of 2016 and SU-096 of 2018.
[477] Rulings T-209 of 2008, T-388 of 2009 and SU-096 of 2018.
[478] Ruling T-209 of 2008.
[479] Rulings T-585 of 2010, T-841 of 2011 and SU-096 of 2018.

consensual sexual act[480]; dismissal of the damage to mental health: "you have to put up with it"[481]; imposition of improper requirements such as the following: court orders[482], authentication of documents, performance of medical boards[483], concepts of specialist[484] or psychological doctors[485], unnecessary or additional medical examinations to those prescribed by the treating physician[486]; stigmatization by medical personnel and health service providers[487]. At the same time, there are circumstances of harassment and stigmatization of health service providers who do perform the procedure[488].

486. In the judicial sector, barriers arise from the assessment of conscientious objections that are improperly formulated and decided[489]; from the making of value judgments against women and their sexual and reproductive health; and from the failure to presume good faith in the statements made by women[490]; for example, despite the fact that women are in one of the three cases declared incompatible with the Constitution in Ruling C-355 of 2006, access to the VIP procedure has been denied because a certain gestational age has been inappropriately considered incompatible with the Constitution[491].

487. The above-mentioned barriers do not occur independently; they are generally present simultaneously and often result in the failure to perform the procedure in a timely manner, which, as has been pointed out, has a potentially high detrimental effect on the dignity and rights of women and girls, as well as on the gradual and incremental protection that must be afforded to unborn life.

488. Precisely because of the intersection of these barriers, an additional one arises: the presumed impossibility of performing the procedure at a certain gestational age. Thus, even when the life and health of the woman or girl has been put in evident danger, or even when the life of the fetus has been considered unviable - in the terms of the conditions contained in Ruling C-355 of 2006 - women and girls must undergo childbirth due to the lack of timely medical attention. This paradoxical situation has led this Court to insist on the following:

> “Current case law does not impose limits on the gestational age for the performance of the termination procedure of pregnancy. Health professionals will inform the pregnant woman about the scope and risks of the procedure, taking into account her gestational age, so that she can make an informed decision.[492]”

489. A paradigmatic case is represented in Ruling T-946 of 2008, in which the Court studied the case of *Ana*, a woman with a disability, victim of non-consented carnal abuse, timely reported to the competent authority. On her behalf, her mother requested the abortion procedure to be performed when *Ana* was 18 weeks pregnant. The attending gynecologist refused to perform the procedure, claiming conscientious objection, and did not refer the patient to another professional. Due to the refusal of the treating professional and the delay in the procedure, *Ana*'s mother filed a petition for immediate legal protection of her daughter’s fundamental rights, which was denied in both instances. Specifically, the appellate judge indicated that:

[480] Ruling T-946 of 2008.
[481] Ruling T-585 of 2010.
[482] Rulings T-171 of 2007, T-988 of 2007, T-388 of 2009, T-636 of 2011.
[483] Ruling T-959 of 2011.
[484] Ruling T-532 of 2014.
[485] Ruling T-988 of 2007.
[486] Rulings T-988 of 2007, T-946 of 2008, T-841 of 2011, T-931 of 2016 and SU-096 of 2018.
[487] Ruling T-388 of 2009.
[488] Rulings T-585 of 2010 and T-532 of 2014.
[489] Ruling T-388 of 2009.
[490] Rulings T-209 of 2008 and T-585 of 2010.
[491] Rulings T-946 of 2008, T-841 of 2011, T-301 of 2016 and T-731 of 2016.
[492] Ruling SU-096 of 2018.

> “If action had been taken when the pregnancy was beginning, there would have been no risk to the young woman or to the fetus. But it turns out, moreover, that for this public servant it is too late to order the termination of the pregnancy, since as noted above, 'Ana' is already 25 or 26 weeks pregnant, where the fetus is almost fully developed”.

490. These obstacles and delays resulted in *Ana*'s unwanted childbirth, even though she was in one of the hypotheses described in Ruling C-355 of 2006.

491. In the review of the case law, the Constitutional Court pointed out that it was not the judge's competence to "determine the opportunity to perform the abortion" and declared that *Ana*'s dignity was violated and ordered the health care institution to refrain from placing obstacles to perform the abortion in cases such as the one assessed, and ordered copies so that criminal and disciplinary investigations could be carried out against the institution, the treating physician and the judges who heard the case.

492. Subsequently, in a similar case, in Ruling T-841 of 2011, due to the delay in the performance of the abortion procedure -in one of the cases provided for in Ruling C-355 of 2006-, a 12-year-old girl, for whom continuing with the pregnancy meant a danger to her health, according to two medical certifications, from a psychiatrist and an obstetrician-gynecologist, was forced to carry to term the pregnancy process. When the request was presented to the health insurance company, the minor was 5 months pregnant and the entity took almost a month to respond and when it did so, it demanded a copy of the medical history of the minor. The judge who tried the case decided to deny the protection based on the following:

> “according to the evidence provided [...], the therapeutic termination of pregnancy can be performed without risk to the life of the mother and the fetus in the first 8 weeks of gestation and, as of today, the minor AA is approximately 21 weeks pregnant, a situation that would undoubtedly endanger the life of the minor and the fetus.”

493. In reviewing the decision, the Constitutional Court dismissed the arguments of the lower court judge, since first, it was not true that there was such evidence in the file, nor that the judge had "the necessary technical knowledge to certify it". Secondly, it specified that "neither ruling C-355 of 2006 nor any legal norm has set any time limit for the performance of abortion in decriminalized cases, which does not allow the judge -or any other authority or individual involved in the health system- to establish a general rule that prevents it after a certain period of gestation, as suggested by the lower court judge"[493]. Due to the above, the court ordered the entity to pay the consequential damages and all other damages caused to the minor by the illegitimate refusal to perform the abortion and adopted different measures to guarantee the health and social security of the minor and the newborn and to prevent the repetition of these facts.

494. Then, in Judgment T-731 of 2016, the Court heard the case of *Amalia*, a 14-year-old adolescent, resident of a rural area near the municipality of Leticia, who requested the termination of her pregnancy on the grounds that she suffered from deep depression and had had consensual sexual relations with a 22-year-old man with whom she did not have a "sentimental bond or stable relationship". The minor was referred to different specialists and, finally, the health service provider institution, as a legal entity, declared institutional conscientious objection and stated that it did not have trained personnel to perform the procedure. The judge of instance denied the protection considering that, among others, according to

[493] In relation to the stage of gestation, it was indicated: "the decision on the performance of the abortion at a stage of gestation close to birth must be made in each specific case by weighing the cause in question, medical criteria based on the particular physical and mental condition of the pregnant woman and, in any case, her desire. Like any medical intervention, the practice of abortion under these conditions must be preceded by a suitable and informed consent about the procedure to be performed and its risks and benefits". Ruling T-841 of 2011.

the ICBF report "the girl does not present serious alterations in her emotional state, and an assessment by psychiatrists is recommended". In the review process, the Constitutional Court declared the current lack of a substantive issue in relation to the procedure, due to the fact that it was finally carried out in a clinic in Bogota; however, it highlighted that, "the delay in the attention of her request, as a result of the slow and omissive action of all the entities that knew about it in the municipality of Leticia, implied that the exercise of the right to reproductive autonomy [...] had a disproportionately high cost for the interested party, mainly in the emotional sphere"[494]. Finally, it resolved to send copies to the competent authorities in order to evaluate the possibility of investigating "the actions of the entities involved and/or the medical professionals who intervened in this case"[495].

495. In the most recent case heard by the Full Chamber of the Constitutional Court, Ruling SU-096 of 2018, which has been quoted several times in this decision, *Emma*, together with her husband, requested the termination of the pregnancy due to the medical reports that diagnosed a fetal malformation "incompatible with life" which, in turn, generated a serious affectation to her mental health. The medical personnel by whom she was attended hindered the performance of the procedure and, finally, indicated that it was not possible to perform it due to the gestational progress. The judge who tried the case issued a provisional measure aimed at carrying out the omitted medical procedure; days before the notification of the measure, the health care provider performed it and, in the ruling, it was declared an event that had been overcome. During the review process, the Constitutional Court found two of the grounds set forth in Ruling C-355 of 2006 to have been proven: "when the continuation of the pregnancy constitutes a danger to the life or health of the woman, certified by a physician, and when there is a serious malformation of the fetus that makes its life unviable, certified by a physician".

496. Although the Court confirmed the decision of the lower court judge, in consideration of the particular circumstances of the case, it decided to study the merits of the case and indicated the minimum standards that should be taken into consideration in this type of case[496] and urged Congress to regulate the matter, for which it specified:

> "The Court warns that more than twelve years after the right to the VIP was recognized and despite the clarity of the rules established in Ruling C-355 of 2006, as demonstrated in this case, there are still all kinds of obstacles and barriers that prevent women who request abortion from accessing it in a timely manner and under appropriate conditions, with irreversible consequences or forcing it to be performed improperly, with irreversible consequences, having to resort to the constitutional protection claim to ensure that their right to proper care is guaranteed. This situation implies a clear breach of the international commitments assumed by the Colombian State, as observed by the Commission on the Elimination of All Forms of Discrimination against Women (CEDAW), to guarantee the right

[494] The consequences of the situation, as indicated by the Court, were evident in "having endured for an unusual and unnecessarily long time the depression and anguish inherent to her condition, and the impact of the decision she was about to carry out, but also that, related to the fact that said time had elapsed, as well as the advanced stage of her gestation, allowed more people around her to find out what had happened, and for that very reason, to further censure her determination, which led her to suffer actions of rejection and reprobation, even by her own family." Court Ruling T-731 of 2016.
[495] Ruling T-731 of 2016.
[496] Among the quoted standards, the Full Chamber identified the following: the duty to provide timely, sufficient and adequate information on reproductive matters; the duty to have the necessary means to perform the VIP throughout the territory, at all levels of complexity and at any stage of pregnancy; the right to privacy in reproductive matters and the duty of confidentiality of health professionals; the right of women to decide free of constraint about the VIP, on the grounds set forth in Ruling C-355 of 2006; the pregnant woman has the right to a timely and current diagnosis of the state and conditions of her pregnancy; the prohibition of unjustified delays in the performance of the VIP; the issuance of the certificate to perform the medical procedure is the responsibility of health professionals, who must act in accordance with the ethical standards of their profession; the case law in force does not impose limits on the gestational age for performing the VIP procedure; minors have full autonomy to decide on the practice of VIP; in principle, medical professionals may exempt themselves from performing the VIP for reasons of conscience if they guarantee the provision of this service in conditions of quality and safety for the health and life of the pregnant woman who requests it, without imposing additional burdens or requiring actions that would hinder her access to health services, and conscientious objection is only applicable to the personnel who directly perform the medical intervention necessary to terminate the pregnancy.

> of women to decide autonomously the practice of abortion, in the permitted cases. For as developed in the dogmatic part, the imposition of barriers for this type of procedure constitutes violence and discrimination against women.[497]"

12.4.2.2. Judicial statistics and the pressing need for comprehensive regulation of elective abortion.

497. The figures of the Attorney General's Office reflect a significant number of women who are prosecuted despite being in any of the grounds described in Ruling C-355 of 2006. Although such investigations have ended in archives, this decision does not reestablish the set of adverse consequences that have already been caused. In this regard, the entity stated:

> "The main reason for closing his type of investigation is non-criminality: 67.3% of the closures are based on this reason. These decisions are congruent with the application of the decriminalization assumptions set forth in the Court Ruling C-355 of 2006 or with the finding of some other circumstance that does not coincide with the provisions of the article on Abortion of the Criminal Code (Article 122)"[498].

498. This, undoubtedly, is one of the most evident barriers since it means that, despite the fact that the woman or girl, in principle, was able to access a safe procedure with her health service provider, she not only had to expose herself to an underground abortion, but also had to bear the burden of the criminal process, despite having performed non-criminal conduct. In relation to this type of inferences, in Ruling SU-096 of 2018 the Court specified: "the Court has shown that, given the inactivity of the Health Provider Entity, patients have been forced to resort to undeground abortions, with the implications that these entail". To support this statement, it took into consideration what was stated in Ruling T-988 of 2007, which analyzed the case of a woman with a severe cognitive disability, victim of sexual abuse, who sought access to the abortion procedure. During the review process, the Court contacted the woman's legal representative, her mother, who informed that "the young woman was no longer pregnant and that she had not given birth. The plaintiff requested that, in view of the circumstances of the specific case and how disturbing the situation had been for the young woman, the constitutional protection claim should not be continued since they no longer served any purpose"[499].

499. A similar case was examined in Ruling T-585 of 2010, in which the Court found that the plaintiff "was no longer in a state of gestation and that she had not given birth; she specifically stated that she had not continued with the pregnancy. In this ruling it was decided to declare the current lack of substantive matter and it was specified that this "does not derive from the presence of an accomplished fact or a consummated damage since the claim of the plaintiff to have access to an abortion within the health system under quality conditions was rejected, but, at the same time, the birth did not take place either. Here, the current lack of substantive matter arises from a modification in the facts that originated the constitutional protection request that makes the claim impossible to carry out".

500. Also indicative of this problem is the high number of women subjected to criminal proceedings after being "captured" in "flagrante delicto", with the possible disregard of the right to privacy that this implies. As reported by the Attorney General's Office:

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[497] Ruling SU-096 of 2018.
[498] "Policy and Strategy Direction of the Attorney General's Office" (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office, p. 40.
[499] Ruling T-988 of 2007.

> "Between January 1, 2004 and August 31, 2019, 636 captures were made by the National Police 34 by Article 122 of the Criminal Code, of which 87.57% correspond to captures in flagrante delicto and 12.4% correspond to captures by court order. This means that, of the 4,581 persons indicted from 2004 to 2019, 13.8% were captured. Most of the captured persons (80%) were women. In relation to age, 77.5% of the captured persons were of legal age, 12.4% were minors and the age of 10% of the captured persons could not be determined in the records.[500]"

501. The fact that most of the people arrested for the crime of abortion are women, some of them minors, most of whom could be found in one of the cases referred to in Ruling C-355 of 2006 -bear in mind that, according to information provided by the Office of the Attorney General, "[t]he main reason for filing the case in this type of investigation is non-criminality: 67.3% of the files are based on this ground "[501]-, means they are subjected to a serious violation of their right to privacy[502].

502. This type of circumstances, both those reported by the case law of the review chambers of the Constitutional Court, as well as the statistics provided by the Attorney General's Office on voluntary abortion, allow inferring the relative inadequacy of the judicial decision contained in Ruling C-355 of 2006, for reasons especially associated with the absence of a comprehensive public policy on the matter, with obvious effects of criminal prosecution and stigmatization by the State and society towards women who are in any of the assumptions provided in the aforementioned decision.

503. This distorted perception prevents the provision of clear and accurate information to women and healthcare personnel about VIP, which results in overexposure to social reproach, rejection, harassment and intrusions contrary to women's privacy, and disregard for the professional confidentiality of healthcare personnel. This set of circumstances not only restricts women's access to adequate healthcare services, but also excuses or intimidates medical personnel from carrying out the procedure in the cases provided for in Ruling C-355 of 2006. Both situations give rise to delays in the performance of the procedure, a circumstance that exposes women to treatments that more seriously harm their dignity, life and health, as the gestational process progresses, and that, despite the relevance of such scenarios, the primary regulation of this social problem continues to be limited to a *prima ratio* use of criminal law.

12.4.3. The third reason has to do with two constitutionally relevant circumstances that demand an integral regulation of this problem by the Legislator, and not exclusively through criminal law.

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[500] "Policy and Strategy Direction of the Attorney General's Office" (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office, p. 24.
[501] Ibid.
[502] In the case of *Morgentaler v. The Queen*, the Supreme Court of Canada declared the criminal provision regulating abortion in Canada invalid under similar factual circumstances. The Supreme Court took into consideration that, even though the Criminal Code permitted the performance of "therapeutic abortion," the administrative procedure provided for its performance rendered it practically inoperative (p. 72). That is, although the legal framework offered an alternative to subjecting women to criminal proceedings, the "*practical unavailability*" of the procedure exposed them to "*risk liability*" or to wait and risk further harm from the "traumatic late abortion caused by the delay inherent in the [...] system" (p. 75). In the considerations of the decision, the Supreme Court referred to the delay of the procedure as a risk that could generate "potentially devastating" implications on the physical and psychological health of the woman. For this reason, it stated that the sooner the procedure was performed, the lesser the effects and the lower the risk of mortality. To support this position, it referred to the medical alternatives to perform the procedure as the gestational age advanced and to the statistics on the risk of complications in consideration of this same factor. It also pointed out the traumas suffered by women, as a consequence of the uncertainty about the decision to be made by the medical staff and the risk that the delay means for their lives and health. In relation to the first aspect, it mentioned the mortality statistics quoted by doctors Cates and Grimes, submitted to the constitutionality procedure, according to which, "Everything that contributes to delaying the performance of abortions increases the complication rates between 15% and 30% and the probability of death by 50% for each week of delay". Along these lines, Judges Beetz and Estey noted: "If an Act of Parliament forces a person whose life or health is in danger to choose between, on the one hand, committing a crime in order to obtain effective and timely medical treatment and, on the other hand, inadequate treatment or no treatment at all, the right to security of the person has been violated" (p. 90). They also stated: "The evidence reveals that the delays caused by section 251 (4) result in at least three broad types of additional medical risks. The risk of postoperative complications increases with delay. Second, there is a risk that the pregnant woman will require a more dangerous means of causing a miscarriage because of the delay. Finally, because a pregnant woman knows that her life or health is in danger, the delay in the procedure created by section 251(4) may result in additional psychological trauma" (p. 101). Supreme Court of Canada. *Morgentaler v. The Queen*, January 28, 1988. Available at: https://scc-csc.lexum.com/scc-csc/scc-csc/en/288/1/document.do

504. These two constitutionally relevant circumstances are (i) human dignity, as a material criterion that explains the last resort of criminal law, and (ii) that the criminalization of the conduct is based on the *suspected* criterion of discrimination: *sex*.

505. In relation with the first, resorting to the criminalization of consented abortion as first resort to protect life in gestation and without any consideration for the dignity of the woman, results in her being reduced to a mere instrument "of reproduction of the human species"[503] which is incompatible with her dignity and, therefore, in evident tension with the last resort character of criminal law.

506. In relation with the second, the Legislator has omitted to consider that the criminalization of the conduct of consented abortion is based on a *suspected* criterion of discrimination: *sex*. This form of criminalization ignores that, in principle, any distinction based on this circumstance, as expressly prescribed by Article 13, paragraph 1 of the Constitution, is *at first sight* discriminatory and ignores that the State must guarantee women a life free of violence. Not considering this circumstance for the regulation of the relevant constitutional problem of voluntary abortion, especially after the Court Ruling C-355 of 2006, supports the thesis that the current classification of the crime is based on the criminal law as a first resort.

12.4.3.1 A comprehensive regulation of the constitutionally relevant problems associated with consented abortion -and not exclusively through criminal law- requires that the Legislator consider the dignity of women as especially relevant.

507. Human dignity demands the use of the punitive power of the State as last resort, which explains the principle of minimum intervention and the fragmentary nature of criminal law. In the present case, using criminal law as mechanism to regulate the complex social problem of consented abortion in the form of an absolute prohibition, without any kind of weighting, generates a strong tension with the dignity of women and girls and with their health rights, reproductive rights, equality, and freedom of conscience. freedom of conscience.

508. The recognition of the dignity of women and girls[504] and, therefore, the exercise of the freedom that this infers, implies that the legislator values their free choice of maternity as a relevant legal right. The exercise of the State's *right to punish* is incompatible with this guarantee when this circumstance is not considered in the regulation of the crime of abortion with consent, since the criminalization in the form of an absolute prohibition and without any type of weighting, gives rise to an instrumentalization of women for a reproductive purpose through the threat of criminal law. In this sense, constitutional jurisprudence has specified:

> "The exercise of women's sexual autonomy cannot be reduced to becoming an instrument or means to achieve family formation or procreation. On the contrary, as a manifestation of individual freedom, which is recognized equally to men and women, the meaning with which this autonomy is exercised will be defined individually, by her life project"[505].

[503] Court Ruling C-355 of 2006. In this court ruling, the Court stated: "The dignity of the woman excludes that she can be considered as a mere receptacle, and therefore the consent to assume any commitment or obligation takes on a special receptacle, and therefore the consent to assume any commitment or obligation takes on special importance in this case in the face of an event as transcendent as that of giving life to a new being, a life of such transcendence as the consent to assume any commitment or obligation takes on special importance in this case in the face of an event of such transcendence as giving life to a new being, a life that will profoundly affect the woman's life in all senses."
[504] The Convention of Belem Do Para, for the prevention, punishment, and eradication of violence against women, recognizes the "right to respect the inherent dignity [of women]" (Article 4.e). This convention was ratified by Congress through Law 248 of 1995 and is an instrument that recognizes human rights, in the terms of Article 93, paragraph 1°, of the Constitution. In that sense, it prevails in the domestic order.
[505] Court Ruling SU-1167 of 2001.

509. The imposition of criminal measures, as noted in the study of the charge of violation of freedom of conscience, enters in tension with the life plan of pregnant women and, therefore, the unrestricted criminalization of consented abortion -as currently regulated-, is doubly harmful to the expectations and projects that they have the right to draw up. On one hand, by making them passive subjects of such sanction, in the case of women, can limit their freedom in a prison for up to 54 months and, on the other hand, by sanctioning, without alternatives for its exercise, conduct that is part of the free choice of their life plan.

510. As stated by the Court in its Court Ruling C-355 of 2006, the choice of a life plan "constitutes a limit to the legislator's freedom of configuration in criminal matters"[506], hence it is relevant to consider it at the moment of criminalizing such conducts as voluntary abortion. Otherwise, it may lead to tolerating and perpetuating discriminatory conducts against women and girls, since their reproductive and gestational capacity qualifies them as active subjects of the crime[507]. For women and girls, the definition of their life plan is linked to the Court Ruling of whether to assume motherhood, following their self-determination, the latter undoubtedly shaped by social, cultural, religious, economic, and educational factors.

511. These considerations have not been unaware to the international judicial debate on the criminalization of consented abortion. The rulings that have reviewed the issue under study and that have endorsed or determined its decriminalization in different countries have referred to the dignity of women as a fundamental criterion in the weighing of legal interests, an aspect that explains the last resort nature of criminal law. As stated in other sections of this court ruling, we refer both to comparative norms and case law only to illustrate how other legal systems have addressed the problem of constitutional relevance of consented abortion, without such description having a pretension of exhaustiveness, of the subjection of the reasoning of the Court to such ideas or constituting a decisive basis for this decision. of this decision.

512.To illustrate the relevance of the human dignity, particularly of women, as a reason explaining the use of criminal law as last resort, reference is made to the most relevant sections of the following cases, *Roe v. Wade* (1973)[508], *Planned Parenthood v. Casey* (1992)[509] -United States- and *Morgentaler* v. *The Queen* (1988)[510] -Canada-, have referred to the founding value of the liberal, social, and democratic rule of law. Concerning the first two cases, it is important to point out that the Supreme Court of Justice of the United States did not consider a case like the one before the Court, in which the compatibility of the criminal provision that criminalizes the conduct of consented abortion with the Constitution is challenged, as the Supreme Court of Justice of Canada did in the case of Morgentaler v. The Queen (1988) 510 -Canada-, which referred to the founding value of the liberal, social, and democratic rule of law. *Morgentaler v. The Queen* (1988).

513. In the case of *Roe v Wade*[511], the plaintiff-an unmarried woman who appeared under the pseudonym Jane Roe-petitioned to be allowed to have an abortion, claiming that her pregnancy was the result of carnal abuse, and that Texas state law criminalized such conduct unless it was necessary to save the

[506] Court Ruling C-355 of 2006.
[507] Cf., as pertinent, Interamerican Court of Human Rights, Case of Artavia Murillo, and Others ("In Vitro Fertilization" v. Case of Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica, Judgment of November 28, 2012, p. 142. November 28, 2012, p. 142.
[508] Supreme Court of the United States. Roe v. Wade, January 22, 1973. Available at: https://tile.loc.gov/storageservices/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf.
[509] Supreme Court of the United States. Planned Parenthood v. Casey, June 29, 1992. Available at: https://tile.loc.gov/storage services/service/ll/usrep/usrep505/usrep505833/usrep505833.pdf.
[510] Supreme Court of Canada. Morgentaler v. The Queen, January 28, 1988. Available at : https://scc-csc.lexum.com/scc csc/scccsc/en/288/1/document.do
[511] Supreme Court of the United States. Roe v. Wade, January 22, 1973. Available at: https://tile.loc.gov/storageservices/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf.

pregnant woman's life. The U.S. Supreme Court noted that a total abortion bans seriously affected a woman's dignity. the dignity of women:

> " The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by childcare. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved"[512].

514. Further, in the case *Planned Parenthood v Casey*, the Supreme Court reviewed the constitutionality of five measures in the Pennsylvania Abortion Control Act of 1982 that the plaintiffs considered contrary to the *Roe v. Wade* precedent, including the duty of married women to notify their spouses of their desire to have an abortion. The Court pointed out that decisions related to "marriage, procreation, contraception, family, child rearing and education" involve the most intimate and personal decisions a person can make, "decisions central to personal dignity and autonomy". Therefore, it stated that "a state's interest in the protection of life does not justify any plenary abrogation of individual liberty" and that the Court Ruling in Roe v. Wade, 20 years earlier, had impacted "the ability of women to participate equally in the economic and social life of the Nation [which] has been facilitated by their ability to control their own economic and social life. facilitated by their ability to control their reproductive lives."[513]

515. In the review of *Morgentaler v. The Queen*[514], the Supreme Court of Canada reviewed the constitutionality of section 251 of the Criminal Code, which criminalized abortion with consent, except in cases of danger to the life or health of the woman, provided that in the latter case, there was medical certification from an accredited hospital. Faced with this restriction, a group of doctors opened a clinic to offer the service of voluntary termination of pregnancy to women who had not obtained such certification. The Court declared the provision unconstitutional and liberalized the practice of voluntary abortion, considering that it was contrary to "personal safety", by exposing women to damage to their physical and psychological integrity due to the inoperability of the administrative procedure, and ruled that the solution could not be to eliminate the option of the procedure, for this would imply disproportionate protection for the embryo or fetus and the total disregard of the rights of the woman, for which reason it determined that it would be the Legislator who should regulate the matter, taking into account the criteria defined in the aforementioned decision. One of the reasons for the Court Ruling was that the provision implied the "elimination of the power of decision" and the disregard of the aspirations and priorities of women, due to the obligation to submit to the consideration of medical personnel the possibility of accessing an abortion.[515]

516. In the discussion, Judge Wilson J. indicated that the restraint "is also a direct interference with her physical 'person' [referring to the woman]. She is truly being treated as a means, a means to an end that

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[512] Supreme Court of the United States. Roe v. Wade, January 22, 1973. Available at: https://tile.loc.gov/storageservices/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf, p. 153. In this case, the Supreme Court ruled on the situation of an unmarried woman who wished to terminate her pregnancy through the intervention of a qualified physician. She argued that she could not have a safe abortion in Texas -her place of residence- because the rule required that her life be in danger, a condition she did not meet. She also stated that she lacked sufficient financial resources to travel to another state where she could access a safe medical procedure. safe medical procedure.

[513] Supreme Court of the United States. Planned Parenthood v. Casey, June 29, 1992. Available at: https://tile.loc.gov/storage services/service/ll/usrep/usrep505/usrep505833/usr p505833.pdf, pp. 851, 852 and 857.

[514] Supreme Court of Canada. Morgentaler v. The Queen, January 28, 1988. Available at : https://scc-csc.lexum.com/scc-csc/scccsc/ en/288/1/document.do.

[515] For further arguments on this justification, see the reasons given by Judges Dickson (p. 56) and Wilson (p. 172).

she does not desire, but over which she has no control. She is the passive recipient of a Court Ruling made by others as to whether her body will be used to nurture a new life. Can there be anything that relates less to human dignity and self-respect?" In this sense, citing doctrine that he considered authoritative on the matter, he emphasized that the right to exercise the reproductive capacity of women was an integral part of the struggle to "*affirm their dignity and value as human beings*". Likewise, it indicated that the option to plan one's own life was protected by the right to dignity, which included the freedom of conscience of each woman, and which should prevail over the "conscience of the State"[516]. For this reason, Judge Wilson J. stated:

> "For the state to take sides on the issue of abortion, as it does in the impugned legislation by making it a criminal offence for the pregnant woman to exercise one of her options, is not only to endorse but also to enforce, on pain of a further loss of liberty through actual imprisonment, one conscientiously held view at the expense of another."[517]

517. To resort to the criminalization of abortion with consent as a first mechanism to protect life in gestation, completely denying the option of its voluntary interruption, in the terms of the current regulation of article 122 of the Criminal Code, without any consideration of the dignity of the woman, is not only harmful to her but also enters into evident tension with the ultimate reason character of criminal law. This understanding assumes that in the exercise of criminal law as an ultimate reason, in such a particular and intimate sphere of women, it is indispensable to value their dignity, considering them as ends in themselves, capable of defining their life plan.

12.4.3.2. The criminalization of the conduct is based on a suspected[518] criterion of discrimination: sex.

518. As a consequence of the historical discrimination suffered by women, the Constitution stipulated that they may not be subjected to "any kind of discrimination" (Article 43 of the Constitution), and, at the same time, it outlawed all forms of discrimination based on sex (Article 13, paragraph 1°).

519. In harmony with the above, the State has committed itself to guarantee the right of women, to live free from violence[519]. For example, the Convention on the Elimination of All Forms of Discrimination against Women (approved by Congress through Law 51 of 1981), specifies that the term "discrimination against women" proscribes "any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (Article 1).

520. To eliminate this practice, States undertook, to "take all appropriate measures, including legislation, to modify or abolish laws, regulations, customs, and practices which constitute discrimination against women, [a]bolish all national Criminal provisions which constitute discrimination against women" (Article 2, sections f and g), as well as "[t]o establish legal protection of the rights of women on an equal basis with men and to ensure, through national or competent tribunals and other public institutions, the effective

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[516] Supreme Court of Canada. Morgentaler v. The Queen, January 28, 1988. Available at : https://scc-csc.lexum.com/scc-csc/scccsc/ en/288/1/document.do.
[517] Supreme Court of Canada. Morgentaler v. The Queen, January 28, 1988. Available at : https://scc-csc.lexum.com/scc-csc/scccsc/ en/288/1/document.do.
[518] Constitutional case law has considered suspicious criteria as "categories that '(i) are based on permanent traits of persons, which they cannot dispense with of their own free will at the risk of losing their identity; (ii) have been subjected, at the risk of losing their identity of persons, which they cannot dispense with of their own free will at the risk of losing their identity; (ii) have been subjected, historically, to patterns of cultural valuation which tend to belittle them; and (ii) have historically been subjected to patterns of cultural valuation that tend to undervalue them; and, (iii) do not constitute, per se, criteria on the basis of which it is possible to carry out a distribution or rational or equitable distribution of goods, rights or social burdens. Court Ruling C-371 of 2000 and C-964 of 2003.
[519] Cf., in this regard, Court Ruling C-586 of 2016.

protection of women against any act of discrimination" (article 32, section c). These provisions are intended "to ensure the full development and advancement of women to guarantee them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men" (Article 3).[520]

521. By ratifying this international instrument that recognizes human rights, Colombia also undertook to guarantee women the right to "decide freely and responsibly the number and spacing of their children and to have access to information, education and the means to enable them to exercise these rights" (Article 16, section e).

522. Another international instrument ratified by Colombia in this area is the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women of Belem do Pará, approved by the Congress of the Republic through Law 248 of 1995, which recognizes that the right of a woman to live a life free of violence[521] includes the right "to be free from all forms of discrimination and this, in turn, includes the right to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination".[522]

523. Based on these instruments that recognize human rights, constitutional case law has specified that (i) "gender violence is a social phenomenon in force that is based on discrimination against women and has serious consequences for the enjoyment of their fundamental rights"[523]; (ii) women have the right "to be free from violence, which in turn entails the State's duty to adopt all measures to protect them from violence and to provide comprehensive care for their survivors"[524], and that (iii) the State has to "prevent, address, investigate and punish violence against women"[525], including through measures of a criminal nature, as well as those of a social, economic and cultural nature that is suitable and effective to "reverse the social conditions that foster negative gender stereotypes and preclude the enjoyment of substantive equality, particularly in the area of the administration of justice.[526]

524. From these normative and case law elements, it is evident that the challenged provision establishes a criminal offense based on a difference founded on a suspicious criterion, sex. This form of criminalization ignores that any distinction based on sex, which impairs or nullifies the exercise of other rights, can be a discriminatory measure and ignores that the State must guarantee women a life free of violence. This inference is corroborated by the assessment of the data provided by the Attorney General's Office of the constitutional process, according to which, "Since 2006, 5,646 processes for the crime of abortion have been registered in the Attorney General's Office mission systems (Article 122). In these procedures, 4,510 persons have been registered as suspects"[527], of which "2,963 are women and 767 are men".[528]

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[520] It was also agreed that States would commit themselves to take measures to "[m]odify the sociocultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and any other practices which men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5, section a). (Article 5, section a).
[521] This concept is defined as "any action or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere" (Article 1), and which may be caused by private individuals, the community or even be "perpetrated or condoned by the State" (Article 3). community or even "perpetrated or condoned by the State" (Article 3).
[522] Article 6, Section b.
[523] Court Ruling C-297 de 2016.
[524] Court Ruling C-297 de 2016.
[525] Court Ruling C-297 de 2016.
[526] Court Ruling C-297 of 2016. In line with what has been said, this judgment indicates that the State has the duty to "adopt: (i) affirmative actions to protect women from disproportionate risks and threats of violence in the context of the armed conflict, particularly those of sexual abuse; (ii) comprehensive health and psychosocial care protocols for victims of any type of violence, as a constitutional minimum; (iii) a differential approach in witness programs in the framework of access to justice in the armed conflict; (iv) policies to eliminate gender stereotypes in the administration of justice, particularly those that revictimize women; and (v) measures, beyond punitive ones, to eradicate violence against women, such as social punishment."
527 Intervention of the Attorney General's Office, fl. 4.
528 Intervention of the Attorney General's Office, fl. 6.

525. The evaluation of these reasons and this type of data, as will be argued below, represent undue interference in the dignity of women that are based, fundamentally, on gender[529] stereotypes[530] associated with their reproductive capacity[531] and that have a strong impact on the family, social, public, institutional, and legal spheres in which they develop their lives.[532]

526. To resort to criminal law as a first resort, without any distinction of degree that weighs the free choice of motherhood, constitutes an imposition likely to cause harm and suffering to women for the mere fact of being it -as a consequence of their reproductive and gestational capacity- and, therefore, enters into tension with the prohibition of tolerating violence and discrimination against them.

527. Following the constitutional framework and the international commitments acquired, the State has to adopt adequate measures to eliminate from the legal system provisions that legitimize parameters contrary to the dignity of women, which includes the obligation to modify or adapt legislative provisions that do not recognize it and that legitimize violence and acts of discrimination based on their biological constitution or that derive from gender stereotypes[533]. Because of the serious historical violence and discrimination, she has suffered, in the first place, the punitive power of the State must be employed to counteract these practices of which she has been a victim. In contrast, secondly, when sex is used in the description of typical conduct to identify the active subject of the crime, undoubtedly, a suspicious criterion is used, at first sight prohibited by Article 13, paragraph 1 of the Constitution.

528. In compliance with that first requirement, for example, the Legislature defined the crime of femicide[534] in the following terms: "Whoever causes the death of a woman, because of her condition of being a woman or for reasons of her gender identity [...] shall incur in a prison term of two hundred and fifty (250) months to five hundred (500) months". The Court declared the provision constitutional, after considering, among other reasons, that the structural patterns of discrimination

> "are manifested in various forms of violence, which may or may not be systematic. This violence is evidenced both in elements of periodicity as well as in treatments that assume a vision of stereotyped or culturally rooted gender roles that position women as objects or disposable property with certain functions that are seen as inferior to those of men. The reality indicates that the conditions of discrimination suffered by women are not always open, explicit, and direct, not

[529] In Court Ruling C-754 of 2015, the following scope was assigned to the voice "stereotype": "determination of a mold as a reference to someone's identity, which when translated into a prejudice acquires a negative connotation and has the effect of discrimination. The assignment of stereotypes often responds to the categorization of people in society, because they belong to a particular group, which may generate disadvantages This can generate disadvantages that have an impact on the exercise of fundamental rights".
[530] Stereotypes have erroneously led to assigning women a role of subordination and submission, as well as the imposition of a condition of "mother, caregiver and housewife" (Court Ruling C-539 of 2016), in charge of functions such as "cleaning and the upbringing of the offspring" (Court Ruling C-297 of 2016, reiterated in Ruling C-539 of 2016).
[531] Therefore, as constitutional case law has made clear, in the past, "[t]his sexuality and that of the couple, the decision to conceive children, and the number, timing and interval between conceptions were also matters reserved exclusively to the man" (Court Ruling C-539 of 2016).
[532] As specified by the Court in Ruling C-539 of 2016, for example, the provisions of civil law obliged women to adopt the surname of their spouse, with the addition to their own of the particle "*de*" as a symbol of belonging. They could only exercise parental authority in the absence of their spouse and were equated to minors in the administration of their property and in the exercise of their rights, as they were subject to marital authority, powers granted to the spouse over the person and property of the woman. Likewise, the civil rules established that the "husband" would have the right to oblige "his wife" to live with him and follow him wherever he moved his residence, while the woman only had the right to be received by the man in his house. Likewise, the "husband" owed "protection" to the wife, while the wife owed "obedience" to the "husband". In labor matters, the possibility of any "married" woman to work was subject to the "husband's" authorization. On the other hand, women did not attain the status of citizens until 1945 and their political rights were restricted until the beginning of the 1950s. As a result of this type of treatment, the Court emphasized the following idea: "The legal field not only clearly reflected gender stereotypes and was one more space for discrimination, but it also became a powerful scenario of reproduction, legitimization, and guarantee of continuation of the subjugation experienced by women in other spheres.
533 Cf., in this regard, Court Ruling C-117 of 2018.
534 Law 1761 of 2015, "Whereby the criminal type of femicide is created as an autonomous crime and other provisions are enacted (Rosa Elvira Cely)".

> because they are not present, but because they are part of cultural dynamics that have become normalized"[535].

529. Although it is obligatory to take measures to safeguard life in gestation, it is questionable that reproductive and gestational capacity be a cause for criminalization, when such conditions should serve to guarantee conditions of material equality in favor of women, girls, and pregnant women and not, as in this case, to identify the active subject of the crime, notwithstanding that, in certain cases, the Court Ruling could be taken by the couple, to whom Article 42 of the Constitution recognizes the right to decide freely and responsibly on the number of their children. Therefore, it is required of the Legislator that in the classification of criminal conduct that has that cause, he should adequately value and weigh these circumstances, otherwise, this exercise would be in clear tension with the constitutional requirement ascribed to the ultimate reason character of criminal law.

530. In relation to the second aspect, as previously stated, the constitutional framework proscribes any type of discrimination based on sex. Therefore, the distinctions made by the Legislator based on this element constitute a suspicious criterion, which, at first sight, is presumed unconstitutional[536], except in the case of measures aimed at material equality[537]. In relation to this aspect, the precedents contained in court rulings C-117 of 2018, C-519 of 2019, and C-038 of 2021 are particularly relevant.

531. In the first case, the Constitutional Court declared the unenforceability of the provisions that taxed sanitary napkins and tampons with VAT, considering that such measures had "a disproportionate impact on women and, especially, on those of scarce resources", since, "the exclusive use of these products is restricted to women of childbearing age implies a distinction with respect to the burdens that men must assume. Thus, given that these particular goods are not of free choice, we are dealing with the imposition of a tax on a particular group" that was not justified by the Constitution.

532. In the second case, the Full Chamber declared the expression "followed by", contained in Article 53 of Decree 1260 of 1970 (subrogated by Article 1 of Law 54 of 1989), to be unenforceable with deferred effects, as it evidenced the disregard of the principle of equality, as a consequence of the discriminatory treatment granted to women, because of their condition as such, since the provision favored that in the civil registry of birth, the father's surname be registered as the first one followed by the mother's first one. In the summary of the decision, the Full Chamber highlighted the following reasons that supported the decision:

> "In the specific case and in the application of a strict test of equality, the Full Chamber concluded that the different treatment between equal addressees proposed by Article 1 of Law 54 of 1989 is unconstitutional since its lacks justification to prioritize the surname of the man over that of the woman when registering their sons and daughters in the civil registry. This unreasonable dissimilar treatment is based on the fact that the purpose of the measure established to achieve certainty and legal security in the civil registry of sons and daughters disregards the principle of necessity. The foregoing, since there are other alternatives that do not entail discrimination and that guarantee the purposes sought by the legislator, for example, specifying that all the children of a couple have the same order of surnames. Moreover, such disparate treatment is based on stereotypes and prejudices of the diminished role that women should play in the family, a representation that is clearly contrary to the Constitution of 1991 and its vision of substantive

[535] Court Ruling C-297 de 2016.
[536] Court Ruling C-297 de 2016.
[537] Court Ruling C-519 of 2019. In the words of the Court, this mandate "must be understood and assumed by all public authorities as the prohibition to establish discriminatory treatment based on defining elements of a person's life".

> equality. || The Full Chamber finds that, in accordance with the Political Constitution, the Convention on the Elimination of All Forms of Discrimination against Women - CEDAW - and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women of Belem do Para, the State must remove those stereotypes, based on parameters of constitutionality that run in Articles 13 and 43 of the Constitution, as well as in the block of constitutionality, as here [sic] explained in Court Rulings C-355 of 2006, C-776 of 2010, C-586 of 2016, C-659 of 2016, among others. The constitutional judge is forbidden to endorse visions that are based simply on tradition and stereotypes, because in the past it has been possible to make invisible discriminatory practices that entail unjustified unequal treatment, among others, in relation to women. It is a matter of eliminating the barriers and social practices that impede the accomplishment or recognition of women"[538].

533. In the third decision, the Constitutional Court declared unconstitutional the expression "women and" contained in numeral 13 of article 108 of Decree-Law 2663 of 1950 (Substantive Labor Code), which allowed the State and employers to specify in the work regulations the activities that women were prohibited from performing, as it was evident that this power was granted without any justification other than the use of a treatment based on sex. One of the main grounds of the ruling states:

> "Finally, leaving in the hands of the State or the employer the possibility that -with no other justification than that of their sex-, specifies in the work regulations the activities that women are forbidden to perform, disregards their dignity. It is insisted, this implies substituting them in the field of autonomous decision-making and no longer considering that they are in a position to freely decide what they have reason to value. This circumstance only reproduces in the social and cultural imaginary a patriarchal referent that does not recognize that women can evaluate for themselves what work activities they wish to engage in, without the employer substituting them in this existential decision. In addition, it violates the objectives of justice and equality in the work environment of women and disregards the Preamble of the Constitution by betraying and rendering innocuous the principles that guide the State coexistence that includes men and women equally and guarantees them the same rights"[539].

534. In the present case, Article 122 of the Criminal Code establishes a criminal offense that falls on women because of their condition as such, not only insofar as, unlike men, they are the only ones -due to their biological constitution- capable of gestation, but also because the crime requires that the woman be the one who "causes her abortion" or who, with her consent, "allows another to cause it"-hence the expression "consented abortion" or "voluntary abortion", used in the present decision-.

535. Thus, how this criminal offense is regulated is not only based on a suspicious criterion of discrimination, but its criminalization is based on the historical stereotype that considers the woman's body from its reproductive utility. These two elements are evident to the extent that the provision explicitly excludes from the criminalization of the conduct the actions of men, even though they can also have an influence on the Court Ruling to abort - as members of the couple who make such a Court Ruling or in the condition of determiners[540] of the punishable conduct[541] - but implicitly legitimizes them to denounce the woman who conducts or allows someone else to "cause" it.

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[538] Court Ruling C-519 of 2019.
[539] Court Ruling C-038 of 2021.
[540] According to Article 30 of the Criminal Code, "Whoever determines another to carry out the unlawful conduct shall incur in the penalty provided for the offense".
[541] In fact, the challenged provision is contradictory to the provisions of the ninth paragraph of Article 42 of the Constitution. According to this provision, if "[t]he couple has the right to decide freely and responsibly the number of their children", the criminalization only

536. The information provided to the process shows that not only has no man been convicted for the conduct of consensual abortion, but 40.71% of the complaints for the conduct of abortion have been filed by men.[542] This shows that how the crime is currently defined aggravates the gender difference on which it is based and, therefore, perpetuates the historical discrimination that women have suffered, which is more in line with the use of criminal law as a first mechanism than with its constitutionally admissible use as an last resort .

537. It is for this reason that it makes sense to reiterate the idea that "the traditional rules of law cannot and should not [...] be read without gender approaches that adapt justice in traditionally discriminatory scenarios"[543]. In this type of matter, assuming a reading of gender and structural inequality -or equality as integration or non-exclusion[544]- avoids legitimizing discriminatory norms but avoids legitimizing discriminatory but reasonable regulation[545]. As the Full Chamber has specified:

> "Discrimination against women is [...] one of the most insidious forms of exclusion and segregation, because, unlike others, also originating in prejudice, it is certainly silent, insofar as the conditions and stereotypes that make it possible are so widespread in the public and private spheres that they inhibit society's ability to reject it or, at least, in the same intensity with which it manifests itself against inequities that affect other groups, which, in addition, favors its continuity".[546]

538. For purposes of the foregoing, it is important to emphasize that the criminalization of abortion with consent has been in force since the first Criminal Code of 1837, issued shortly after the organization of Colombia as an independent republic[547]. That is to say, it was regulated when the representation of women in the legislative bodies was null[548] and since then it has been maintained in the legal system only with some variations, as previously mentioned. Currently, except in very exceptional cases identified by the constitutional judge,[549] in the exercise of the right to punish of the State, the policy is maintained of subjecting women, without offering alternatives for the exercise of their rights, to a custodial sentence if they decide not to continue with the gestation process and classify them as criminals, in a clear first mechanism exercise of criminal law, and which, in addition, impacts the most vulnerable women differently -more disproportionately-, as it was the charge related to the alleged disregard for women's right to equality in the right to equality of women in vulnerable situations and an irregular migratory situation.

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reflects the conduct of the woman, but does not refer to the relevance that her partner -if applicable- may or may not have in her decision, for the purposes of attributing criminal liability to the conduct of the latter.

[542] "Policy and Strategy Direction of the Attorney General's Office" (2020). Report on the judicialization of abortion in Colombia. Annex to the intervention of the Attorney General's Office, fl. 49.

[543] Court Ruling T-012 of 2016.

[544] Court Ruling C-539 of 2016.

[545] Cf., in this regard, Court Ruling C-539 of 2016.

[546] Court Ruling C-539 of 2016.

[547] In the text, "A propósito de una nueva reforma al delito de aborto", by Francisco Bernate Ochoa, published by the Universidad del Rosario in 2016, the regulation of abortion in the criminal codes of Colombia is reviewed. This document points out the following: "in the Criminal Codes of 1837 and 1890 - which simply reproduced its predecessor - penalties of 1 to 3 years of imprisonment were established for those who by means of violence (using drinks, food, blows or any other means) procured that a pregnant woman had an abortion without her consent (art. 638 CP 1890), increasing this penalty from 5 to 10 years when the abortion actually occurred (art. 639 CP 1890). In these same statutes, the penalty for the woman in the case of consensual abortion was 1 to 3 years of imprisonment when the abortion was caused, and 6 months to 1 year, when the abortion did not result, a penalty that was reduced for honorary abortion from 3 to 6 months of imprisonment when the abortion did not occur, and from 5 to 10 months if it was consummated (art. 642 CP 1890)". Available at. https://www.urosario.edu.co/Revista-Nova-ET-Vetera/Vol-2-Ed 12/Omnia/A-proposito-de-una-naueva-reforma-al- delito-de-abor/ [last accessed: June 22, 2021].

548 In this regard, the Constitutional Court has indicated that duties associated with the criminal process, such as preventing violence against women, "imposes on the State the burden of adopting a gender perspective in the investigation of these crimes and human rights violations", in order to "counteract the fact that the law was created from a male perspective that has not taken into account gender inequalities". Thus, for example, in the framework of criminal investigations it has been indicated that it is necessary to: "(i) take into account the systematic inequality that women have suffered and their social condition as factors that put them [sic] in a situation of risk and threat of violence; and (ii) refrain from revictimizing women based on negative gender stereotypes." Court Ruling C-297 of 2016.

[549] Cf., in this regard, the three grounds that in Ruling C-355 of 2006 were considered as limits to the exercise of criminal law and, therefore, in such cases the voluntary interruption of pregnancy does not have as a legal consequence the criminal sanction.

12.4.4. The fourth reason has to do with the existence of less harmful alternative mechanisms to guarantee the gradual and incremental protection of unborn life. incremental protection of unborn life.

539. The criminalization of consensual abortion, in the terms of the challenged provision, is not in all cases a necessary measure, since there are less harmful alternative mechanisms to guarantee the gradual and incremental protection of life in gestation and more respectful of the rights to health and reproductive rights, equality and freedom of conscience, as well as the achievement of the purposes of punishment, in particular, that of general prevention. As constitutional jurisprudence has specified, the subsidiary nature of criminal sanctions means that, if there are "other equally suitable preventive means that are less restrictive of freedom, "[550] criminal intervention as the only mechanism has no justification if it does not offer alternatives for the exercise of the rights with which it comes into tension.

540. Two relevant cases in which the Constitutional Court declared the unenforceability of criminal offenses that did not meet the requirement of necessity were studied in Court Rulings C-897 of 2005 and C-575 of 2009.

541. The first declared unconstitutional the provision that penalized the decision of those attending the hearings to complying consciously with the orders of judges and magistrates. The Plenary Chamber considered that the same objective pursued by the rule could be achieved "through measures of similar effectiveness and less harmful to the rights of judges and magistrates -such as corrective measures-".

542. For its part, in Ruling C-575 of 2009, the Court declared unconstitutional the criminalization of the following, the "insult to emblems and patriotic symbols" (Article 461 of Law 599 of 2000) after considering that "there are provisions that allow the same goal, [...] of an administrative nature, which do not carry the negative consequences of the criminal conviction even when the sanction imposed is the same". According to the Court, "In the case of conduct that does not directly compromise the existence or security of the State, but rather symbolic and specific behaviors through which different types of political discontent are expressed, the threat of criminal proceedings lacks dissuasive effects, while police-type measures, preceded by agile procedures and without major rituals, which also entail a social reproach, can satisfactorily address this type of practices".[551]

543. The following reasons show that there are alternatives to guarantee, protect and respect the imperative constitutional purpose that seeks to protect the provision that is being challenged -pregnant life- and, in addition, less harmful to the dignity, health, and reproductive rights, equality and freedom of conscience of women, including the rights of couples to decide freely and responsibly the number of their children, than resorting to criminal law as the only measure of protection without consideration of the obligation to guarantee the rights with which such a measure comes into tension. Therefore, the criminal route is not the only one, nor can it be the first alternative to which the Legislator has recourse to achieve the ends pursued by the criminalization of the conduct being prosecuted. It must resort to other measures such as those that are enunciated and which, among others, have been the object of an incipient legislative debate or have guided international practice to achieve the protection of life in gestation, bearing in mind that it is a gradual and incremental obligation that must be weighed against other constitutional obligations to protect other rights. Assuming alternative options, rather than those of an exclusively criminal nature, is of special constitutional relevance because it allows for a solution that is proportionate to the dignity and rights of women, especially the most vulnerable.

[550] Court Ruling C-070 of 1996.
[551] Court Ruling C-575 of 2009, and Court Ruling C-233 of 2019.

12.4.4.1. The legislative orientation, at the national level, tends to regulate the social problems raised by consented abortion.

544. There has been consensus on the relevance of regulating the social problem of consented abortion positively and comprehensively, and not only through a first resort use of criminal law, since it has been considered that criminal law is not sufficiently suitable, nor the only, nor the best alternative to protect the legal interests at stake. Indeed, as stated above, from 1975 to date, at least 39 bills have been presented concerning this problem, specially oriented to the use of criminal law as a last resort -and not, as at present, as the main means of social control or first mechanism, related to sexual and reproductive education and family planning, as well as social, psychosocial and legal assistance alternatives for women and girls in a state of pregnancy. On the other hand, in the discussions in the National Constituent Assembly on the free choice of maternity, this guarantee was the object of a special discussion, and although the proposal for regulation did not achieve the necessary majorities, it did highlight the fundamental aspects for positive regulation of the relevant social problem of voluntary abortion, and not only based on a vision of criminal law as a first resort for social control.

545. In this sense, different initiatives have been promoted in the Congress of the Republic that have sought to protect life in gestation without resorting to criminal sanctions as a first resort. Thus, there are some initiatives related to health and sexual and reproductive education, which lead to considering life after a conscious Court Ruling of its value and imply equal responsibility for men and women[552]. Also, others have promoted family planning, by encouraging the practice of vasectomy as a form of "solidarity" with women and the responsible definition of the number of children of the couple, following the provisions of the ninth paragraph of Article 42 of the Constitution[553].

546. This type of initiative is consistent with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, according to which States parties undertake that "family education shall include a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women for the upbringing and development of their children"[554].

547. In this regard, it is worth recalling that since 1999, the CEDAW Committee has indicated that the States parties to the Convention should "give priority to the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal care"[555].

548. For its part, the Criminal Policy Advisory Commission has pointed out:

> "If the State intends to protect life from conception, it should reasonably choose to adopt measures of great impact on the objective pursued. This is the case of health campaigns to

[552] Bill 084 of 2007, Senate of the Republic and 339 of 2008, Senate, "Whereby comprehensive sex education is established as a specific and mandatory subject and other provisions are enacted". The purpose of the project was "to educate and inform students on sexual and reproductive human rights and duties related to life, freedom, free development of personality, privacy, physical, psychological and social integrity, security, gender equity, sexual and reproductive health and education and training on the same, to avoid abortion of unwanted pregnancies, and to reduce maternal and perinatal mortality", among others. Cfr., also Bill 41 of 2015, Senate of the Republic, "whereby the Observatory of Sexual and Reproductive Rights is created and academic measures tending to the prevention of teenage pregnancy are adopted", which aimed to "produce information and knowledge of sexual and reproductive rights from a perspective of human rights, social equity and gender to the entire national territory and to develop public policies on sexual health and reproductive health policies for women, identifying the causes of maternal mortality, teenage pregnancy, and related diseases".
[553] Bill 050 of 2007, accumulated with Bill 100 of 2007, Senate of the Republic and Bill 329 of 2008, House of Representatives. The initiative highlighted that, "according to data from Profamilia in that entity, in 2004, 38.876 women underwent tubal ligation, while only 7.441 men underwent vasectomy. In 2005, 38.732 tubal ligations were performed, compared to 8.331 vasectomies in 2005 and that, [despite] being a fairly safe method, with an effectiveness of almost 100% for those men who already have children and want and wish to have them, few men use it, as confirmed by numerous studies, due to the lack of of the low risks involved, but essentially because of machismo, according to many specialists".
[554] Article 5 section b.
[555] General recommandation No 24.

> prevent unwanted pregnancies, training in sexual and reproductive health, free health services and family planning counseling as means to prevent unwanted pregnancies"[556].

549. The authority in question pointed out that, according to comparative experience and studies of the Colombian reality, sexual and reproductive education is one of the most effective solutions, as far as it leads both to avoid unwanted pregnancies and safeguarding the rights of women and girls if it is combined with the decriminalization of abortion:

> "On the contrary, the severe criminalization of abortion, especially when not accompanied by campaigns to prevent unwanted pregnancy, does not prevent abortions and instead generates clandestine abortion practices that affect the health of women, especially those who are poorest, who suffer the most unwanted pregnancies and have to abort in the worst health conditions"[557].

550. Although there are public policies related to comprehensive sex education focused on children and teenagers, with emphasis on the educational aspect[558] and a National Policy on Sexuality, Sexual Rights and Reproductive Rights formulated in 2014[559], as can be inferred from international recommendations and the concept of technicians in the field of sexuality, sexual and reproductive health requires the articulation of those rights with the exercise of criminal law, truly, as last resort.

551. In this sense, rather than resorting primarily to criminalization, the State must promote and guarantee a policy with a gender approach and an intersectional scope so it protects especially those who are exposed to more than one factor of vulnerability, such as women, girls, and pregnant women who live in rural areas or remote communities, those with disabilities, minors out of school, those who are forcibly displaced, refugees, migrants or destitute, those detained in institutions or detention, indigenous, Afro-descendants or members of the Rom population, and those who have already had a pregnancy and are heads of households. In this regard, the Constitutional Court has acknowledged that the convergence of structural factors of vulnerability has repercussions on the generation of additional risks against women and girls, in such a way that their combination creates "a situation of a concrete nature with greater burdens of discrimination due to the confluence of the factors"[560]. Consequently, in the face of "intersectionality, States are obliged to adopt different measures for the different population groups of discriminated women"[561]. In these cases, these are women and girls exposed to more than one factor of discrimination and, therefore, require extraordinary measures such as the systematization of solutions for their benefit, which articulate political and legislative measures to guarantee, among others, their reproductive health.[562]

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[556] Criminal Policy Advisory Commission. Final report. Diagnose and guideline proposal of criminal policy for the Colombian State, June 2012, p. 75.
[557] Ibidem.
[558] Law 1098 of 2006 provides in Article 44 that it is the obligation of directors and teachers of academic institutions and the educational community, in general, to "establish timely detection and support and guidance in cases of malnutrition, mistreatment, abandonment, sexual abuse, domestic violence, and economic and labor exploitation, contemporary forms of servitude and slavery, including the worst forms of child labor". Article 13 of Law 115 of 1994 stipulates that, "[t]he primary objective of each and every level of education is the comprehensive development of students through structured actions aimed at: [...] Developing a healthy sexuality that promotes self-awareness and self-esteem, the construction of sexual identity within developing a healthy sexuality that promotes self-knowledge and self-esteem, the construction of sexual identity within the respect for gender equity, affectivity, mutual respect and preparing for a harmonious and responsible family life". In Article 14 states that, "In all official or private establishments that offer formal education, it is compulsory at the pre-school, kindergarten, primary and secondary levels comply with: […] e) Sex education, provided in each case in accordance with the psychological, physical, and affective needs of the students according to their age". On the other hand, Law 1620 of 2013, "Whereby the National System of School Coexistence and Training for the Exercise of Human Rights, Education for Sexuality and the Prevention and Mitigation of Violence. Prevention and Mitigation of School Violence", has among its objectives "[t]o contribute to the prevention of adolescent pregnancy and the reduction of sexually transmitted diseases".
[559] Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/LIBRO%20POLITICA%20SEXUAL%20SEPT%2010.pdf [last seen: July 7, 2021]
[560] Court Ruling C-754 of 2015.
[561] Court Ruling C-754 of 2015.
[562] The concept of intersectionality was used in the "In-depth study on all forms of violence against women" in the 2006 report of the United Nations Secretary-General to explain that the "intersection of multiple forms of discrimination" makes women more

552. In addition to sexual and reproductive education measures, it is worth mentioning alternatives such as social, psychosocial, and welfare assistance in favor of pregnant women, which has a direct impact on life which is forming.

553. There are also bills aimed at providing psychosocial counseling, in a non-face-to-face manner, to women to attend and follow up on their mental health "with a promotional approach to quality of life", to reduce their vulnerability during pregnancy. For example, it has been proposed to provide telephone, psychosocial and legal assistance to pregnant women to prevent risks to their mental health, to pregnant women to prevent risks, as well as to "promote, comprehensively attend and follow up on mental health interventions with a promotional approach to quality of life", to reduce their vulnerability and the abandonment of minors[563]. Likewise, adoption from the mother's womb has been proposed as an alternative to "unwanted pregnancy"[564] and the creation of "cradles of life for newborns."[565] Without implying a judgment of constitutionality concerning such initiatives, these are measures that seek to balance criminalization with the rights of women and girls.

554. Additionally, Legislative initiatives related to VIP in cases in which the Constitutional Court in Court Ruling C-355 of 2006 considered it manifestly disproportionate to exercise the criminal law are highlighted and, therefore, to impose on the woman the duty to terminate the pregnancy, in cases related to: (i) danger to the life or health of the woman; (ii) serious malformation of the fetus that makes its life unviable, and, (iii) when the pregnancy is the result of conduct constituting carnal access or sexual act without consent, abusive or non-consented artificial insemination or transfer of a fertilized ovum, or incest.

555. Concerning the above mentioned, it has been proposed to impose disciplinary and administrative sanctions against obstetric violence derived from the delay in the practice of abortion in non-criminalized cases[566] and guarantees the access to this practice in favor of the victims of sexual violence, especially those derived from the armed conflict[567]. Concerning the latter, one of the few initiatives that have managed to consolidate it was introduced by Law 1719 of 2014, which provided for measures such as the right of pregnant women, victims of violent carnal access due and in the course of the armed conflict,

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vulnerable. Likewise, in development of Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, the CEDAW Committee, in 2010, issued General Recommendation No. 28, in which reiterated that gender-based discrimination against women can be intersectional, as it coincides with other factors of inequality, and that such intersectionality requires States to adopt different measures for different population groups of discriminated women. Likewise, the IACHR Court, in the case of González Lluy v. Ecuador, stated: "certain groups of women suffer discrimination throughout their lives based on more than one factor combined with their sex, which increases their risk of suffering acts of violence and other violations of their human rights. In this regard, the Special Rapporteur on violence against women, its causes and consequences has established that 'discrimination based on race, ethnicity, national origin, ability, socioeconomic class, sexual orientation, gender identity, religion, culture, tradition and other realities often intensifies acts of violence against women' (I/A Court H.R., Case of Gonzales Lluy et al. v. Ecuador. Judgment of September 1, 2015, p. 288). In this case, the IACHR Court declared the responsibility of the State of Ecuador for violating the rights to life and personal integrity, to education and to judicial guarantees in the criminal proceedings against Talía Gabriela Gonzales Lluy. This was caused by the failure of the State to comply with its duty to supervise and oversee the work of the entities that provided health services, as she was infected with the HIV virus.

[563] Bill 167 of 2016, "Whereby support and guidance is provided to pregnant or breastfeeding women at risk and other provisions are enacted".

[564] Bill 094 of 2019, House of Representatives, "whereby adoption from the mother's womb is authorized, the National Medical and Psychological Assistance Program for Women in a State of Unwanted Pregnancy is created, and other provisions are enacted. the National Program of Medical and Psychological Assistance for Women in a State of Unwanted Pregnancy and other provisions are enacted". In the legislative background of this initiative, the following was stated: "Without affecting the individual guarantee of protecting the woman's right to practice abortion, it was stated that: "Without affecting the individual guarantee of protecting the woman's right to practice abortion, it was stated that the woman's right to have an abortion as a procedure to terminate a pregnancy when she requests it, even if she is in one of the three grounds defined by the Constitutional Court, the existence of alternatives for women in a state of unwanted pregnancy must be strengthened. For this reason, this bill proposes to grant women the possibility of giving their children up for adoption even if they have not been born and to create the possibility of creating a new law that allows women to give their children up for adoption even if they have not been born and to create the National Program of Medical and Psychological Assistance for Women in a State of Unwanted Pregnancy."

[565] Bill 094 of 2010, Senate of the Republic, "which establishes the adoption of the unborn child - the unborn child - and cradles of life for newborns, and other provisions are enacted". The purpose of the initiative was to "reduce induced abortion and morbimortality due to abortion, giving way to the adoption of the unborn child -nasciturus-, as well as to protect babies under six (6) months of age from the birth of the child."

[566] Bill 147 of 2017, "Whereby measures are enacted to prevent and punish obstetric violence". Article 2 of the initiative stated the following: "Obstetric violence is understood as any conduct, action or omission exercised by natural or legal person of the health system, either directly or indirectly, that affects women during the processes of pregnancy, childbirth or puerperium, expressed in: […] h) Delaying the practice of termination of pregnancy in legally admissible cases."

[567] Bill 37 of 2012, House of Representatives and 244 of 2013, Senate of the Republic, current Law 1719 of 2014.

to be informed, advised and answered about the possibility of continuing or interrupting their pregnancy[568]; the "obligation"[569] of the entities of the General System of Social Security in Health "to implement the Protocol and the Model of Integral Health Care for Victims of Sexual Violence, which will include for the procedures for VIP the objection of doctors and the counseling of the woman in continuing or interrupting the pregnancy"[570].

556. Finally, it is necessary to refer to the legislative initiatives that have sought to stipulate conditions of atypical nature of consented abortion when the cause is the social and economic conditions of the woman, her partner, or her family, after consultation with medical personnel[571], proposed before the issuance of Court Ruling C-355 of 2006.

12.4.4.2. The international guidance towards a less intensive use of criminal law to regulate the social problem, of constitutional importance, of voluntary abortion.

557. In the following lines, additional reasons are presented to demonstrate the unnecessary use of criminal law, given the existence of less harmful alternative mechanisms to achieve an analogous standard of protection for life in gestation, and more respectful of the rights of women, girls, and pregnant women.

558. Although in comparative law most models of regulation of consensual abortion are debated between the more or less intense use of criminal law, the fact is that there is a legislative and case law trend to reduce its use and move toward legal systems that protect and guarantee the rights of women, girls, and pregnant women. In general, there has been a move towards partial decriminalization through three types of regulation: the grounds model,[572] the time limit model[573], and the mixed system[574]. This has led to a gradual shift from criminal law to public policies that include administrative and health provisions for the regulation of this social problem, within the framework of reproductive health services. In other words, it has opted for gradual and incremental regulations that protect life in gestation, but at the same time protect the rights that come into tension with this guarantee.

559. In this context, it is possible to affirm that a way of regulating the social problem of consensual abortion has emerged, which combines public administrative and health policies[575] with total or partial decriminalization, which allows for the protection of the legal right that criminalization is intended to protect -pregnant life-, and at the same time avoids the wide margins of lack of protection for the dignity and rights of women, as described in detail in this decision. Next, the Court will give an account of how this new regulatory model has been implemented. As mentioned above, comparative law is used only to illustrate how other legal systems have dealt with the issue.

[568] Article 13.12.
[569] In Court Ruling C-754 of 2015, the Constitutional Court declared the expression "power" unenforceable and replaced it with the expression "obligation".
[570] Article 23.
[571] Bills 151 of 1989, Senate and 218 of 1993, House of Representatives.
[572] These are legal systems that regulate certain hypotheses in which consensual abortion is not criminalized, either because of atypicality or because of the absence of unlawfulness of the conduct, regardless of the gestational age.
[573] It has been adopted in legal systems in which criminalization is eliminated if the voluntary abortion is performed within a certain period of the gestational process. Under an incremental conception of the protection of life in development, in countries that use this system, consensual abortion is criminalized in the last quarter of pregnancy.
[574] These are legal systems that combine grounds with time limits, this is, voluntary abortion is not penalized in certain hypotheses, regardless of gestational age, and in the other situations the penalization depends on the time of pregnancy at which the procedure takes place.
[575] On the model of "total decriminalization and health regulation" and its effects in the countries that have adopted it, see the technical concept presented in this process by Dejusticia (p. 27 et seq.), in response to the request made in the Order of October 19, 2020.

560. In Canada, for example, as mentioned above, consensual abortion ceased to be a crime in 1988 with the Court Ruling Morgentaler v. The Queen[576]. Since then, this social problem has been regulated exclusively through health regulations. After that decision, the Supreme Court has issued several rulings that address the issue as a public health problem; at the same time, various laws and health regulations have been issued that seek to provide conditions for the performance of safe abortions. As a public health issue, the performance of the voluntary termination of pregnancy procedure depends on the medical capabilities of each authorized institution. Therefore, given that access to reproductive health services and resources is not equal throughout Canada, territorial regulation has been based on the medical and technical capabilities of its hospitals and clinics. Finally, according to statistics from the Canadian Institute for Health Information (CIHI),[577]more than 90% of consented abortions occur in the first trimester of pregnancy.

561. In the case of Australia, specifically in the Australian Capital Territory, a special district within the State of New South Wales, consensual abortion is completely decriminalized. This change in the regulatory model came about as a result of understanding the problem of consensual abortion as a public health issue. As in the case of Canada, the possible barriers that may remain are because not all clinics and hospitals can perform the procedure beyond 15 weeks of gestation; however, what is guaranteed is the referral of the patient to an institution within the territory that can render the service[578]. As indicated in the aforementioned study, one of the researches showed that 92% of voluntary abortions were performed within the first 14 weeks of gestation.[579]

562. In the case of the State of New York (United States), since 1970 there was a regulation that allowed consensual abortion up to 24 weeks, except when the woman's life was at risk, an event in which there were no limits related to gestational age. Wade's Court Ruling of 1973[580] of the Supreme Court of the United States was interpreted as decriminalizing consensual and induced abortion in the first 24 weeks for all the states of that country. Now, most recently, in 2019, the State of New York eliminated the federal crime of abortion and updated its legislation[581]. The data that exists on consensual abortions in New York State predates the 2019 law; however, according to the Centers for Disease Control and Prevention, by 2019, 91.4% of consensual abortions in New York State were performed before 14 weeks gestation and only 2.2% were performed after 21[582].

563. In the case of Mexico, in September 2021, the Supreme Court of Justice of the Nation, upon hearing an action of unconstitutionality against some articles of the Criminal Code of the State of Coahuila,

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[576] Supreme Court of Canada. Morgentaler v. The Queen, January 28, 1988. Available at : https://scc-csc.lexum.com/scc-csc/scccsc/ en/288/1/document.do

[577] Regarding voluntary abortion statistics in Canada from 2007 to 2019, the following document, which compiles annual statistical information from the Canadian Institute for Health Information (CIHI), can be consulted: https://www.arcc-cdac.ca/wp content/uploads/2020/07/statistics-abortion-in-canada.pdf.

[578] Cf., in this regard, Talina Drabsch's study on abortion in New South Wales, available from the New South Wales Parliamentary Research Service: Abortion and the law in New South Wales. Research Service of the New South Wales Parliamentary Bookshop: Abortion and the law in New South Wales. NSW Parliamentary Library Research Service. Available at: https://www.parliament.nsw.gov.au/researchpapers/Documents/abortion-and-the-law-in-newsouth-wales/Abortion%20and%20index.pdf

[579] Ibidem.

[580] Supreme Court of the United States. Roe v. Wade, January 22, 1973. Available at: https://tile.loc.gov/storageservices/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf

[581] On January 22, 2019, New York State passed the Reproductive Health Act in which it essentially (i) removed the crime of abortion from the Criminal Code, to treat it as a purely health care issue; (ii) allowed other health care professionals, (ii) allowed other health professionals, in addition to physicians, physician assistants, nurses and licensed midwives, to provide the service of voluntary termination of pregnancy; (iii) decriminalized the use of abortion as an abortion service; and (iii) decriminalized voluntary abortion after 24 weeks of gestation, if the woman's health or life is at risk or if the fetus is at risk. (iii) decriminalized voluntary abortion after 24 weeks gestation, if the woman's health or life is at risk or if the fetus is unviable and specified that it would be up to each provider, according to its medical criteria and other technical factors, to determine the existence of the determine the existence of casuals.

[582] Center for Disease Control and Prevention. Abortion Surveillance - United States, 2019. Available in: https://www.cdc.gov/mmwr/volumes/70/ss/ss7009a1.htm#T10_down

unanimously declared the unconstitutionality of the absolute criminalization of abortion[583]; a Court Ruling in which, after having passed more than eight votes in favor, is binding for all judges and courts of the Nation.

564. Although the text of the ruling is not yet available, from the transcriptions that are publicly available, it is evident that part of the discussion was oriented to understand the relationship between consensual abortion and public health in Mexico. In particular, it was discussed the impact its criminalization had on women's rights to life, personal integrity, and dignity by totally suppressing their rights and leaving them without any alternatives to decide[584]. Likewise, the discussion revolved around the impact of the Court's decision in 2007, which decriminalized the voluntary termination of pregnancy within the first 12 weeks of gestation in Mexico City, and how it led to decrease a 15% of the use of this intervention by 2021[585].

565. The first three cases show models of regulation that have opted for total decriminalization of consensual abortion -not of other types of abortion, such as abortion without the consent of the pregnant woman-; in turn, in all four models, it has been highlighted the necessity for a health regulation that replaces a *prima ratio* use of criminal law that persecutes women, girls and pregnant women who have abortions or the medical personnel who perform it.

566. In other countries where abortion is permitted, whether under a system of grounds, time limits, mixed or on request, mechanisms are in place to ensure that women are aware of the risks and consequences of abortion.[586] As indicated by the organization Dejusticia in the technical concept presented in this process, some States have even opted for a "counseling" model, in which the pregnant woman must be informed of the alternatives to termination of pregnancy, "as a means of reconciling the protection of life expectancy and thewarranty of women's rights"[587].

567. In Germany, for example, voluntary termination of pregnancy is allowed up to 12 weeks of gestation without the need to subject such termination to any ground or justification, provided that the woman proves, through a certificate, that she received counseling from a legally recognized entity at least three days prior to the intervention[588]. According to the German Criminal Code, such counseling protects prenatal life, encourages the woman to continue with the pregnancy and to open up prospects for a life with her daughter or son and helps her make a responsible and conscious decision.[589]

568. In Italy, pregnancy can be voluntarily terminated within the first 90 days of gestation, under a system of grounds . To carry out the procedure, the woman must first go to a public clinic, a social-health institute or to her doctor of trust, who must provide information aimed at "removing the causes that would lead to the termination of the pregnancy"[590], especially when it is due to her economic or

[583] Action of Unconstitutionality 148/2017. Reporting Minister: Luis María Aguilar Morales. Resolution of the Plenary of the Supreme Court of Justice of the Nation of September 7, 2021. Press Release available at: https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6579
[584] Shorthand version of the ordinary public session of the plenary of the Supreme Court of Justice of the Nation, held on Tuesday, September 7, 2021, available at: https://www.scjn.gob.mx/sites/default/files/versiones-taquigraficas/documento/2021-09- 13/7%20de%20septiembre%20de%202021%20-20Versi%C3%B3n%20definitiva2.pdf.
[585] Shorthand version of the ordinary public session of the plenary session of the Supreme Court of Justice of the Nation, held on Monday, September 6, 2009. of 2021, https://www.scjn.gob.mx/sites/default/files/versiones-taquigraficas/documento/2021-09- 09/6%20of%20September%20of%20202021%20-%20Final%20Versi%C3%B3n%20definitive3.pdf
[586] This is the case in Mexico, where the "General Guidelines for the Organization and Operation of Health Services Related to the Interruption of Pregnancy" in the Federal District require the provision of "truthful, objective, sufficient and timely information on the procedures, risks, consequences and effects, as well as the existing support and alternatives, so that the pregnant woman can make the decision in a free, informed and responsible manner".
[587] Technical concept presented by Dejusticia, p. 26.
[588] Pregnancy and Family Support Amendment Act, art. 7.
[589] German Criminal Code, § 219.
[590] Law 194 of 1978, art. 5.

social conditions. Once the consultation has been made, and unless it is proven that the intervention is urgent, the physician must certify the pregnancy status and the request to interrupt the pregnancy and invite the woman "to desist for seven days"[591]. Once this period of “reflection” has elapsed, the woman can have the pregnancy terminated in the authorized institutions.

569. In Spain, it is possible to terminate a pregnancy within the first 14 weeks of gestation, without any grounds, as long as *(i)* the woman has been informed about the rights, benefits, and public aid for maternity support and *(ii)a* period of at least three days has elapsed since she was provided with such information[592]. Specifically, the woman should receive, in a sealed envelope, information about *(a)* public assistance available to pregnant women and health coverage during pregnancy and childbirth; *(b)* labor rights related topregnancy and maternity, public benefits and assistance for the care and attention of children, tax benefits and other relevant information on incentives and assistance for childbirth; *(c)* data about centers available to receive adequate information on contraception and safe sex; and *(d)* information on centers where she can receive voluntary counseling before and after the discontinue of pregnancy.

570. In line with the Spain legislation, it is possible to have some benefits, aid and rights in the event of continuing with the pregnancy. Some countries have adopted regulations aimed at guaranteeing state assistance during this period and during the first years of life of the child, in order to guarantee state assistance during this period and the first years of the child's life

571. For example, at the end of 2020, Argentina's Congress passed the "National Law on Comprehensive Health Care and Attention during Pregnancy and Early Childhood" (Law 27611 of 2020, also known as the1,000 Days Law). Among other measures, it provides economic subsidies for pregnant women and for those who have children under three years of age in their care (either by birth or adoption). In addition, free public provision of essential supplies for pregnancy and early childhood, such as medicines, vaccines and food.

572. Regarding subsidies, the law *(i)* increased from six to nine monthly payments of the pregnancy allowance received by pregnant women since 12th week of pregnancy[593] *; (ii)* made the requirements more flexible and expanded the beneficiaries of the allowance for the birth of a son or daughter[594] and *(iii)* created the comprehensive health care allowance, which consists of the annual payment for each child under three years of age in the care of the beneficiaries[595]. On the other hand, it provides that the State “shall implement the free public provision of essential supplies for pregnant women and children up to three (3) years old"[596]. In particular, it states that it will provide the provision of essential medicines, vaccines, milk, and food for healthy growth and development in for healthy growth and development during pregnancy and childhood.

573. In June 2021, the Community of Madrid (Spain) announced the implementation of a "Strategy to support the birth rate, maternity protection and the reconciliation of family, work and

[591] Ibid.
[592] Law 2/210, article 14, It should be noted that the preamble of this law states that "[e]experience has shown that the protection of prenatal life is more effective through active policies to support pregnant women and maternity."
[593] Law 27611 of 2020, art. 7.
[594] Ibid., art. 8.
[595] Ibid., arts. 4, 5 and 6.
[596] Ibid., art. 20.

personal life", which would come into force in January 2022, once it is defined and approved by the Government Council. According to preliminary official information[597] this strategy foresees a monthly subsidy of 500 euros for "pregnant women under 30 years of age from the fifth month of pregnancy until their child reaches the age of two", which is compatible with the exercise of a paid work activity. It also provides that women pregnant women up to 35 years of age have priority in the presentation of applications for rental housing and that all mothers in the Community of Madrid who are unemployed, regardless of their age, participate in "specific labor exchanges adapted to their needs and in training plans with educational support in case they want to complete their studies".

574. Thus, the design of public policies and regulation, both at the legal and administrative and sanitary regulations - that it mainly benefits those who are exposed to more than one factor of vulnerability - are ideal measures for protecting life during pregnancy and are less harmful to the rights of women, girls and pregnant women. Therefore, rather than resorting exclusively to criminal law as the principal means of social control, States should promote measures related, among others, to sexual and reproductive health and education; the prevention of unwanted pregnancies; the planning and management of sexual and reproductive health and education, the planning and the responsible definition of the time to procreate and the number of children desired; safe motherhood and prenatal care and the different alternatives for women, girls and pregnant women and girls who are in conflict with pregnancy.

13. Solution of the constitutional tension

575. In this case, there is tension between, on the one hand, the imperative constitutional purpose that Article 122 of the Criminal Code seeks to achieve, following the conditions imposed on it Decision C-355 of 2006: to protect life in gestation, by criminalizing abortion of 2006: to protect life in gestation, through the criminalization of abortion with consent -except in the three cases referred to in the ruling as mentioned above- and, on the other hand, to and, on the other hand, the constitutional values and principles to which reference was made in the referred to when examining the charges of the lawsuit.

576. For the reasons outlined in the analysis of each of these charges, at present, despite the conditional reasons outlined in the analysis of each of these charges, at present, even though the conditioning of article 122 of the Criminal Code, which was the object of Ruling C-355 of 2006, article 122 of the Criminal Code gives rise to intense affectations in the values, principles and constitutional rights the values, principles and constitutional rights referred to above.

577. On the one hand, maintaining the criminalization in its current form and without such measure being part of a comprehensive policy, it constitutes a structural barrier to access to abortion in the three grounds currently authorized by the challenged provision. On the other hand, because it does not contemplate any type of weighting in the solution of the tension evidenced between the duty of gradual and incremental protection of life in gestation and the rights to health and reproductive health, equality and freedom of conscience of pregnant women. Disregarding this constitutional reality means tacit preference to the imperative constitutional purpose that challenged provision seeks to achieve, without the defendant's provision, without assessing these relevant effects.

[597] Available at: https://www.comunidad.madrid/noticias/2021/06/17/diaz-ayuso-anuncia-plan-natalidad-ayudas-14500eu-hijos-madres-under-30-years-old

578. Now, to consider the case as a comparison between values, principles, rights, and interests, with the protection afforded by the provision granted by the challenged provision to the legal good to protect -pregnant life-is to oversimplify the competence of constitutional control exercised by the Court and sacrificing to a high degree the legislative competence.

579. Therefore, this constitutional tension cannot be resolved by means ofthe preference of any of these guarantees, because it would imply the absolute sacrifice of the other. In other words, the preference of one of them generates the absolute sacrifice of the other, which undoubtedly reduces the material effectiveness of the Constitution -as *a whole*, regardless of the preference.

580. If the preference corresponds to life in gestation -and, therefore, it is resolved to declare the constitutionality of the norm -, the fundamental reasons given when examining the charges in this the critical reasons outlined in an examination of the charges, which demonstrate the intensity with the current criminalization of the crime of voluntary abortion - under the conditioning it was subject to in 2006- affects constitutional values, principles and rights that each one of them implies. If preference is given to the latter, for the compelling reasons developed in the analysis of each of these charges -and therefore the latter, for the compelling reasons developed in the analysis of each of these charges - and, therefore, it is resolved to declare the provision unconstitutional with immediate effects the provision -a protective measure that has been considered relevant to discourage the practice of consensual abortion, which, in the end, frustrates the expectation ultimately frustrates the expectation of the birth of a new being.

581. These reasons justify the need not so much to opt for the declaration of the simple constitutionality of the challenged provision, or its immediate unenforceability, but to achieve an intermediate formula, within the normativecontext in which the challenged provision is inserted, which gives relevance toeach of the guarantees in tension, in contrast to subtracting constitutional protection -because of the result that would follow from giving preference to one of these guarantees- a greater realization of the totality of values in tension is achieved.

582. In other words, a constitutional optimum is obtained when, instead of completely sacrificing one of the extremes in tension, an intermediate formula is sought wich despite their reciprocal concessions, gives rise to a better aggregate constitutional result: one that avoids the wide margins better aggregate constitutional result: one that avoids the wide margins of unprotected the wide margins of unprotection of the guarantees on which the charges analyzed are based and, at the same time, protects the life in protects life in gestation without disregarding such guarantees.

583. This interpretation is consistent with that recently adopted by the Chamber in Ruling C-233 of 2021, when analyzing the compatibility of the criminal offense of mercy killing - Article 106 of Law 599 of 2000, Code of Criminal Procedure - with the criminal offense of mercy killing - Article 106 of Law 599 of 2000, Code of Criminal Procedure with the Constitution.

584. As in the present case, the case resolved in the aforementioned decision had as its antecedent the declaration of conditional constitutionality of a norm with a normative content similar to the one evaluated in Court Ruling C-239 of 1997: Article 326 of Decree Law 100 of 1980 (former Criminal Code). In the 1997 judgment, the Court declared the conditional harmony of the criminal type of mercy killing - a provision that, as in the present case, protects the right to life, although not in

gestation -, to indicate that criminal liability couldnot be derived for the physician who committed the conduct, if the will of the passive subject of the conduct concurred, as long as it involved "terminally ill patients".

585. In the recent judgement of 2021, the Constitutional Court broadened the scope of the conditioning to which the criminal offense was subject, not onlyto cover the situation of the "terminally ill", but also for those who suffer "intense physical or psychological suffering, resulting from suffering from "intense physical or psychological suffering, resulting from injury or death." Serious and incurable illness", thus medically qualified. From explicitly, it was stated*:*

> *"In the opinion of the Full Chamber, it is necessary to expand the established precedent, so that autonomy and self-determination at the moment of death arealso exercised in the face of illnesses that are not terminal, but which areserious and incurable and produce intense suffering, as required by Article 106 of Law 599 of 2000*"[598].

586. This idea was justified by the need to maximize the rights, principles and constitutional values in tension, based on the jurisprudential standard defined in 1997, as a result of the evidence provided in the analysis of the charges proposed by the plaintiff, as follows:

> *"By this token, the weighting carried out in 1997 constituted a transcendental milestone regarding the fundamental right to dignity, especially in what has to do with the dimension of autonomy and self-determination of persons; as well as in the understanding of life based on a conception that goes beyond mere subsistence and concerns minimum conditions of existence. || In this order of ideas, observing that the criminal offense of mercy killing requires, from its legislative configuration, a set of extreme health conditions,as well as an experience of intense suffering, which ensure that the benefits for a dignified death are directed, only to persons whose conditions do not currently have medical answers other than the attempt to manage intense pain, as will be explained in more detail in the following paragraphs, in the opinion of the Chamber the additional requirement of a prognosis of near death (or terminal illness) does not contribute to maximizing autonomy and self- determination and, instead, may impose the continuation of life in conditions that the person considers undignified or humiliating*"[599]

587. As indicated in the aforementioned judgment, the broadening of the scope of the conditioning to which the criminal type was subject was justified,in particular, by the following idea that recapitulates the grounds for the decision:

> *"In view of the protection deficit indicated and with the aim of optimizing the fundamental rights at stake, the Chamber reiterated that the Constitution does not privilege any model of life and, instead, it does assume a serious commitment to autonomy and the free development of the personality that implies counting on the free option to choose a dignified way of death. In this sense, he specified, human dignity protects the subject who finds himself in health circumstances that cause him*

[598] Decision C-233 of 2021.
[599] Decision C-233 of 2021.

> *intense suffering from physical or moral degradation, or from prolonged and indefinite exposure to a health condition that he considers cruel,given the intensity of pain and suffering"*[600]*.*

588. For the aforementioned reasons, the Court will propose a formula that, as opposed to subtracting constitutional protection -because of the result that would follow from giving preference to one of the extremes in tension referred to above-, achieves a greater realization of the totality of the values involved. The idea of regulation is to avoid the wide margins of lack of protection for the guarantees that are the subject of the charges that the Court is deciding on this opportunity and, at the same time, to protect life gradually and incrementally in gestation. This formula or constitutional optimum, in the current normative context in which the challenged provision is inserted, is made up of three elements:

589. The first, constituted by the three "extreme hypotheses of affectation of [the] dignity"[601] of women, as evidenced by the Court in Ruling C-355 of 2006.

590. The second, constituted by the concept of "autonomy", which allows the abstract maximization of the assets in tension, since it refers to the moment in which it is possible to evidence that the dependence of the life information of the pregnant person is broken, which justifies its reinforced protection by the criminal law in the current normative context.

591. The third, which promotes dialogue in the instances of democratic representation[602] , so that, in response to the conditions of the provision under review, they formulate and implement a comprehensive public policy that avoids the wide margins of lack of protection for the dignity and rights of pregnant women, profusely described in this ruling, and, in turn, gradually and incrementally protects the life of pregnant women.

592. The Court's decision assumes that the Legislator is competent to adopt a comprehensive regulation aimed at effectively protecting the legal interests at stake, since this decision is adopted taking into account the current regulatory context in which the challenged provision is inserted, which would be modified by the Legislator when adopting the comprehensive policy urged by the Court.

13.1. The first element of constitutional optimal is Ruling C-355 of 2006.

592. The starting point of this constitutional optimum, due to the particular circumstances of the present case, is the conditioning of the norm that was the object of the defendant in Ruling C-355 of 2006:

> "Declare Article 122 of Law 599 of 2000 EXEQUIBLE, on the understanding that the crime of abortion is not incurred when the termination of the pregnancy occurs in the following cases: (i) When the continuation of the pregnancy constitutes a danger to the health/life of the woman (must be certified);(ii) When there is a serious malformation of the fetus that makes its life unviable, certified by a doctor; and (iii) When the pregnancy results from conduct duly denounced, constitutes carnal access or non-consensual, abusive or

[600] Decision C-233 of 2021.
[601] Decision C-355 of 2006.
[602] As Emilio Lledó states in the general introduction to Plato's Dialogues, published by Editorial Gredos: "Because a dialogue is, in

non-consensual sexual intercourse or artificial insemination or transfer of a fertilized ovum without consent, or incest".

593. This standard should be part of the constitutional optimum, since it was established by jurisprudence based on the idea that these cases constitute the "extreme hypotheses of affectation of [the] dignity" of women[603].

594. It is important to emphasize that one of the reasons - not determinant - for the above decision was the absence of active legislative intervention in the regulation of the social problem of voluntary abortion fifteen years after the enactment of the 1991 Political Constitution. For this reason, the Court:

"The law was limited to pointing out the three extreme hypotheses that violate the Constitution, in which, with the will of the woman and prior fulfillment of requirements, the termination of pregnancy occurs. However, in addition to these hypotheses, the legislator can foresee others in which the public policy. The law also states that "the only way to deal with abortion is not by criminal sanction, taking into account the circumstances in which it is practiced, as well as the education of society and the objectives of public health policy".

595. In this regard, the Court stated that "it could be discussed whether the nature of these measures for the protection of life in gestation should be a criminal nature or whether other types of provisions would be more effective, such as social or benefit policies that ensure the life that is in the process of gestation through the guarantee of medical care, food or income of the pregnant woman". According to the Court, the definition of this type of measures corresponds in the first place to the Legislator, who must "decide among the universe of possible measures those most appropriate to protect the legal rights of constitutional relevance and his decision, in principle, may only be subject to control when it is manifestly disproportionate or unreasonable". In a broad manner, he specified:

"Indeed, it is not for the constitutional judge to determine the character or nature of the protective measures to be adopted by the legislature to protect a specific legal asset; this is an eminently political decision reserved to the power that has democratic legitimacy to adopt this type of measures, with the intervention of the constitutional judge and exclusively to analyze whether the decision adopted by the legislator does not exceed the limits of its power "[604].

596. Since the aforementioned judgment, fifteen years of legislative omission in the comprehensive regulation of this complex and constitutionally relevant problem of consensual abortion have passed, which is why on this occasion a new call is made to Congress to exercise its competence within the margin of configuration conferred by the Constitution[605].

597. This starting point is justified by the particular scope of the modulated judgments, particularly the additive integrating judgments, such as C-355 of 2006. These types of rulings establish a relationship with the rule under review since the ruling becomes part of its prescriptive content -it integrates the provision's content. Thus, when the ruling entails the exclusion of specific options or consequences, following Article 243 above implies that concerning these, "no authority may reproduce the material

[603] Decision C-355 of 2006.
[604] Decision C-355 of 2006.
[605] In particular, those made in judgments T-532 of 2014 and SU-096 of 2018.

content of the legal act declared unenforceable for substantive reasons, while the provisions that served to make the confrontation between the ordinary norm and the Constitution subsist in the Charter."

598. In this sense, when in 2006 the Court ruled on the crime of voluntary abortion, it excluded the possibility of criminally punishing women who wish to terminate their pregnancy under any of the three grounds determined in that ruling so that no authority can reestablish the sanction concerning the assumptions introduced by the ruling in question.

599. Therefore, for such a standard, under the terms of the aforementioned constitutional article, it is not possible for any other authority -whatever it may be, legislative, administrative, or judicial- to reproduce the material content of the legal action that is incompatible with the Constitution. In any case, the Corporation cannot make a substantive pronouncement on other aspects of the provision that continue to generate relevant constitutional tension, as evidenced by the study on the charges examined on this occasion.

600. Now, given this starting point in the normative context, there may be two elements that complement the constitutional optimum through an additional intervention of the Court that established: (i) the definition of a system of time limits so that the practice of consensual abortion is not considered typical conduct, or (ii) a public policy regulation that contemplates measures related, among others, to sexual and reproductive health and education; the prevention of unwanted pregnancies; family planning and the responsible definition of the moment to procreate and the number of children desired; safe motherhood, prenatal care and the different alternatives for women, girls, and pregnant women who conflict with pregnancy, widely referred to throughout this providence and many of them contemplated in dozens of legislative projects on the subject presented since 1975.

601. Both correspond to alternatives that consider the arguments of the four charges analyzed as constitutionally relevant and that, therefore, seek a better balance than the current institutional arrangement defined by Article 122 of the Criminal Code -including the conditioning of which was the object of Ruling C-355 of 2006-.

602. The first alternative makes it possible to resolve more adequately the abstract constitutional tension that arises in the current normative context in which the challenged provision is inserted, as will be specified below, and which is the basis for the declaration of the conditional constitutionality of the challenged provision..

603. The second alternative allows justifying the exhortation made in the operative part to the Legislature and the national Government, taking into account, as the Court stated in Decision C-355 of 2006, that the definition of this type of means corresponds in the first place to the Legislature; hence it is the Legislature that must "decide among the universe of possible measures those most appropriate to protect the legal assets of constitutional relevance and its decision, in principle, may only be subject to control when it is manifestly disproportionate or unreasonable." In this regard, the Court added in the decision mentioned above:

"If the legislator decides to adopt criminal provisions to protect certain constitutionally relevant goods, due to the seriousness of these measures and their potential to restrict human dignity and individual freedom, its margin of configuration is more limited. In the case of

The decision as to which of these rights, principles, and constitutional values should prevail and to what extent is a decision with profound social repercussions, which can vary as society advances and public policies change, so that the legislator can modify its decisions in this regard and is the constitutional body called upon to configure the response of the State to the tension of rights, principles, and constitutional values. || *On the one hand, there are various constitutional rights, principles, and values of the pregnant woman, to which extensive reference was made in previous paragraphs, such as human dignity, the free development of the personality, and the right to health, and even her integrity and her own life, each with its specific contents; on the other hand, life in gestation as a good of constitutional relevance that must be protected by the legislator"*[606]*.*

604. In any case, as the Court stated on that occasion, the starting point is the assumption that "the life of the unborn child is a good protected by the constitutional order and therefore the decisions adopted by the pregnant woman on the interruption of the gestational life of the unborn child are not subject to any legal obligation transcend the sphere of their private autonomy and are of interest to the State and to the legislator"[607].

13.2. The second element that integrates the formula for the decision of the case includes the declaration of conditional constitutionality of the provision, based on the concept of "autonomy".

605. The second element that integrates the constitutional optimum has to do with the choice of a normative concept that allows maximizing the legal goods in tension during the different stages of the gestation period. Unlike the legislative choice to resolve this type of tension, which is much broader, the constitutional judge's choice is more restrictive, since his decision cannot be constitutional mandates and international human rights law that are part of the constitutional block, grant life in its different stages, among which is included of course life in gestation, the character of a constitutionally protected good". Based on reasons of convenience or opportunity, but on legal reasons must resort, in the present case, to a normative concept that allows resolving, in the current regulatory context, the tension referred to. Now, in the system of time limits, there are essentially two normative concepts, with constitutional relevance, that serve as a basis for alternative models to resolve the tension between the legal goods referred to:

606. (i) The concept of existence, which is associated with the moment in which life begins, which can be based on the notions of "fertilization" -the moment of fusion of the ovum and the spermatozoon- ,"conception" - the moment at which the zygote is formed, a process that, it is estimated, culminates within 23 hours after fertilization - and "implantation" or "nidation" - the process in which the zygote advances through the tubes, enters the uterus and implants there, which can take about 14 days after fertilization.[608]

[606] Ruling C-355 of 2006.
[607] Ruling C-355 of 2006. In the aforementioned judgment it was stated that "various constitutional and international human rights law mandates, that are part of the block of constitutionality, grant life in its different stages, which of course includes life in gestation as a constitutionally protected good."
[608] As indicated in one of the sections of the judgment issued by the IACHR Court in the case of Artavia Murillo et al.in Vitro" v. Costa Rica, of November 28, 2012, which seeks to illustrate the different notions of the term "conception", "[t]he Court observes that in the current scientific context two different readings of the term 'conception' stand out. One current understands 'conception' as the moment of encounter, or fertilization, of the ovum by the spermatozoon. Fertilization results in the creation of a new cell: the zygote. Some scientific evidence considers the zygote as a human organism that harbors the necessary instructions for the development of the embryo[266] . Another current understands 'conception' as the moment of implantation of the fertilized ovum in the uterus[267]. This is because the implantation of the fertilized ovum in the maternal uterus enables the connection of the new cell, the zygote, with the maternal circulatory system that allows it access to all the hormones and other elements necessary for the development of the embryo268 ". IACHR Court. Case of Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica, Judgment of November 28, 2012, fj. 180.

607. (ii) The concept of autonomy, which is associated with the moment from which it is possible to consider that the dependence of the life in formation on the pregnant person is broken, that is, when a greater probability of extrauterine autonomous life is accredited (close to 50%), a circumstance that has been evidenced with greater certainty as of the first week of pregnancy 24 gestation, which corresponds to the most advanced stage of embryonic development[609]

608. For the Court, the concept that in the current normative context allows a constitutional optimum to resolve the tension referred to is that of autonomy, which corresponds to the moment in which there is a greater probability of extrauterine autonomous life of the fetus. Furthermore, it is the concept that best corresponds to the idea of gradual and incremental protection of life in gestation, as mentioned above.

609. In effect, to totally decriminalize abortion with consent in the current regulatory context, without the existence of alternative measures for the protection of life during pregnancy, would place the Colombian State in a situation of non-compliance with its constitutional and international obligation to adopt measures for this purpose. To this must be added the fact, as stated in the jurisprudence on review of tutelas cited in this decision, that the currently existing barriers prevent the practice of abortion in the first weeks of pregnancy in the three grounds provided for in Decision C-355 of 2006, which is why decriminalizing abortion only up to the first weeks, without guarantees for the exercise of the rights of pregnant women, would not resolve the constitutional tension referred to above under the current conditions.

610. This term is also consistent with the information provided to the constitutionality process, widely referred to, according to which the practice of consensual abortions had a lower percentage incidence at that time, which implies, therefore, more protection in general of life in gestation, even by criminal law. According to Profamilia, in the technical concept provided to the process, based on comparative data, most abortions are performed in the first trimester. This comparative data is contrasted with its data as follows:

> *"In Profamilia, of the total number of abortions performed between 2017 and 2019,93.77% corresponded to the first trimester, 4.47% to the second trimester, and only 1.75% were in the last trimester [sic], the latter, as a consequence of multiple barriers and socioeconomic circumstances that hinder early access for these women"*[610].

611. The other concept of existence does not allow for a constitutional optimum since it does not grant adequate relevance to the reasons that support the charges of unconstitutionality that were extensively analyzed. In addition, there is a problem with the definition, of a moral, philosophical, or ethical nature, about the moment life begins. This aspect is beyond the competence of this Court. Likewise, in any of the assumptions on which it is based, it is the most restrictive, not only because of the imminence of the time for its configuration but also because of the lesser possibility of the pregnant person knowing her condition, as well as the fact that in the mentioned stages of gestation, the highest percentage of spontaneous abortions occur. The pregnant person cannot know her condition, and in the mentioned stages of gestation, the highest percentage of spontaneous abortions occur. The pregnant person cannot

[609] This gestational limit for the practice of voluntary abortion has been adopted, among others, in the Netherlands, in several states of the United States, in several of the provinces and territories of Canada, in Singapore and in some states of Australia. This concept, also associated with the term "viability", was decisive in defining the limit at which the state interest in protecting life in gestation was Considered justified and, therefore, allowing states to prohibit the practice of voluntary abortion, in the cases of Roe v. Wade (1973) and Planned Parenthood v. Casey (1992), of the Supreme Court of the United States. In the first case, in view of the state of the technique at that time, the term "viability" was set at 28 weeks of gestation; in the second, as a result of advances in medical technology, this term was considered to occur sometime between 23 and 24 weeks of gestation.
[610] Technical opinion of Profamilia, in response to the invitation made by means of an order dated October 19, 2020, fl. 27

know her condition. This severely restricts the possibility of making autonomous decisions prior to that moment.

612. Given the relevance of the concept of autonomy, which is associated with the capacity for extrauterine life, the Chamber will expand on the reasons given and, for the purposes mentioned above, will refer (i) to this concept in constitutional jurisprudence, (ii) to fetal viability as one of the relevant criteria in two emblematic cases of the United States Supreme Court and (iii) to the relationship of some legislations that restrict abortion when the fetus is "viable" or, in other words, when its autonomous existence is probable, this is, irrespective of the pregnant person. The concept of autonomy, extrauterine autonomous life, or viability is not foreign to the language of this court, nor is it foreign to comparative jurisprudence and norms.

13.2.1. The concept of the possibility of autonomous extrauterine life in constitutional jurisprudence

613. So far, Colombian constitutional jurisprudence has not addressed the concept of fetal autonomy or viability as a criterion for determining the constitutional validity of the criminalization of consensual abortion, much less has it indicated from what gestational stage it is possible to consider that extrauterine life is viable.

614. In Ruling C-133 of 1994, which declared constitutional Article 343 of Decree 100 of 1980 (Criminal Code), which criminalized consensual abortion, the Court held that the Constitution protects life from the moment of gestation because this process "is a necessary condition for the independent life of the human being outside the mother's womb." Furthermore, he pointed out that conception "generates a third being that is existentially different from the mother, and whose development and perfection to acquire viability of independent life, The birth of a child cannot be left to the discretion of the free decision of the child's parents.

615. Decision C-355 of 2006, which reevaluated the thesis outlined in Decision C-133 of 1994 and considered that voluntary termination of pregnancy was not typical in three exceptional circumstances, referred to the concept of viability to refer to one of the assumptions that were considered atypical of the conduct of voluntary abortion: "When there is a serious malformation of the fetus that makes its life unviable, certified by a doctor." In this regard, it pointed out that, in such cases, the state's duty to protect the life of the unborn child loses weight "because it is in the situation of an unviable life" and added that forcing a woman to carry to term a pregnancy of this nature "is a violation of the right to life" nature means subjecting it too cruel, inhuman, and degrading treatment.

616. Ruling SU-096 of 2018 analyzed the case of a woman who requested the termination of her pregnancy due to severe malformations. The Court gathered some scientific and academic concepts related to the probability of extrauterine autonomous life provided by the Colombian Federation of Obstetrics and Gynecology, the Society of Surgery of Bogota, the Pontificia Universidad Javeriana, and the National University of Colombia.

617. On that occasion, the Colombian Federation of Obstetrics and Gynecology maintained that the fetus's viability depends on the technology available to assist it artificially to bring it to a point where its life can be truly autonomous. However, she indicated that the Royal College of Obstetrics and Gynecology of the United Kingdom "maintains that there is international consensus on the absence of extrauterine life expectancy at 22 weeks and that 22 weeks six days is considered to be the limit of the human extrauterine

viability under conditions of maximum technological support"[611]. Despite this, he added, "the incidence of severe sequelae for survivors born at this gestational age is very high: at least one major sequela in 66% of those born between 22 and 23 weeks".

618. The Society of Surgery of Bogota, for its part, pointed out that the viability of the fetus is reached "from 24 to 26 weeks" and added that above 24 weeks of gestation, it would be mandatory to perform a feticide to terminate the pregnancy[612], since this term "corresponds to the limit of fetal viability."

619. The Pontificia Universidad Javeriana, in turn, explained that a neonate fit to make the transition from fetal life to extrauterine life is "one that has 37 weeks or more of gestation (this is counting from the first day of the last menstrual period) and/or 2500 grams of weight". In contrast, the National University of Colombia stated that "the definition of a viable fetus is considered from the 24th week in developed countries and in Colombia depending on the institution adopts the international or expert consensus definition which is 26 weeks or 650 grams of weight".

620. One of the dissenting opinions concerning the judgment above was that the Court did not set time limits for the application of a judgment and had not set the practice of abortion incurred in a "protection vacuum for autonomous and viable lives from the 24th week of gestation "[613]. In this sense, it was explained that, in the current state of science, there is consensus that "from the 24th week of gestation, the fetus has sufficient development to achieve autonomous viability". After this period, it added, although gestation is important for the development of the fetus, "it is not indispensable for its survival." Therefore, it concluded that the Court "should have recognized that as of the 24th week of gestation when the autonomous viability of a fetus is not sufficient for its survival". The human being allows the unborn child not to depend on the pregnant person, the life and integrity of this autonomous human being is amply protected constitutionally".

13.2.2. Fetal viability as a relevant criterion in two landmark U.S. Supreme Court cases

621. The concept of fetal viability was relevant in Roe v. Wade and Planned Parenthood v. Casey, decided by the U.S. Supreme Court on January 22, 1973 and June 29, 1992, respectively.

[611] Regarding the possibility of autonomous life after 22 weeks of gestation and the medical care that should be offered to the unborn baby, a study carried out by the Center of Gynecology and Obstetrics of Monterrey points out that "in the so-called 'gray zone', between 23 and 25 weeks of gestation or less, survival is subtle, Therefore, it would seem correct to offer 'palliative comfort care' to those born at 23 weeks or less, and for those born alive between 24 and 25 weeks of gestation, as the birth weight improves their survival will improve, considering that with those of 26 and 27 weeks of gestation the natural impulses of the physician are challenged,which lead him to try to save lives, although the chances are slim". Cfr., Lozano-González, Carlos H. et al. Limits of neonatal life. In: Perinatología y reproducción humana, vol. 27, n.º 2. Mexico, 2013. Available in: http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0187-53372013000200002. According to the obstetrician Raúl Carlos Nico, "the implicit concept, accepted as reasonable, of viability is the following: 'A fetus is viable when its probability of life reaches a certain magnitude.' In one of the dissenting opinions regarding the previous judgment, it was even stated that the Court, by not having set time limits for the In this sense, he points out that "a fetus is not viable at 22 weeks (500 grams) and we must always consider it viable at 26 weeks (750 grams)". Cfr., Nico, Raúl. A perinatological issue: on the concept of fetal viability. Mar del Plata, Argentina, 2000. Available at: http://hpc.org.ar/wp-content/uploads/107-viabifetal.pdf. This last source was referred to one of the dissents to Ruling SU-096 of 2018.

[612] In this regard, he specified that "feticide is the death of a viable fetus. Technically, feticide is indicated when there is no death of the fetus when the gestation is interrupted. Therefore feticide prior to evacuation is proposed to avoid useless measures in a fetus with a poor prognosis". For its part, the Colombian Federation of Obstetrics and Gynecology explained that "feticide is a procedure prior to the termination of pregnancy, which should be considered in gestational ages over 20 weeks to avoid vital signs transient in fetuses that have not yet reached viability and always at gestational ages greater than 22 weeks when extrauterine survival is possible and therefore, if feticide is not performed previously, the procedure would no longer be a voluntary termination of pregnancy, but an early delivery."

[613] As indicated in the aforementioned dissenting opinion, "Contemporary scientific studies point out that, since medicine is essentially probabilistic, it has been understood that 'a fetus is viable from the moment its probability of life reaches a certain magnitude'. Therefore, according to scientific literature, it is considered that a fetus is absolutely unviable before 20 weeks (500 grams) and is viable after 24 weeks (750 grams)."

622. In Roe v. Wade, the high court noted that fetal viability "is generally located around seven months (28 weeks), but can occur earlier, even at 24 weeks." In that sense, it concluded that:

> "(a) For the stage prior to approximately the end of the first trimester [of gestation], the decision to abort and the performance of the abortion must be at the discretion of the pregnant woman's attending physician. || (b) For the stage after approximately the end of the first trimester [of gestation], the State, in furtherance of its interest in the health of the woman, may, if it so desires, regulate the abortion procedure in ways that are reasonably related to maternal health. || (c) For the post-viability stage, the State, in furtherance of its interest in the potentiality of human life, may, if it so desires, regulate and even prohibit abortion, except when necessary, according to appropriate medical judgment, for the preservation of the life or health of the woman."[614].

623. In Planned Parenthood v. Casey, the high court reiterated the essential rationale of Roe v. Wade, and as to the concept of viability noted:

> "It must be said at the outset and clearly that the jurisprudential rule of Roe, which we reaffirm, consists of three parts. The first is a recognition of a woman's right to choose an abortion before the viability [of the fetus] and to obtain it without undue interference by the State. Before viability, the State's interests are not vital enough to support a ban on abortion or the imposition of a substantial obstacle to a woman's effective right to choose that procedure. The second is a confirmation of the power of the State to restrict abortions after fetal viability if the law contains exceptions for pregnancies that endanger the life or health of the woman. Moreover, the third principle is that the State has a legitimate interest in protecting the woman's health from the beginning of pregnancy. Legitimate interests in protecting the woman's health and the fetus's life that may become a new life. These principles do not contradict each other; we adhere to each to each of them "[615].

13.2.2. Some legislation that restricts consensual abortion from the notions of "viability" or "autonomy".

624. The legislation of several States, even the most flexible, restricts voluntary termination of pregnancy when gestation is at an advanced stage, and extrauterine life is generally considered viable (i.e., between 20 and 24 weeks of gestation).

625. In the Netherlands, it is permitted to perform an abortion, with the woman's consent, up to 24 weeks of gestation. After this time limit, it is only possible to terminate the pregnancy for medical reasons, including the non- viability of the fetus outside the womb. In such a case, the physician must observe due care criteria for late termination of pregnancy[616].

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[614] Supreme Court of the United States. Roe v. Wade, January 22, 1973. Available at: https://tile.loc.gov/storage-services/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf

[615] Supreme Court of the United States. Planned Parenthood v. Casey, June 29, 1992. Available at: https://tile.loc.gov/storage-services/service/ll/usrep/usrep505/usrep505833/usrep505833.pdf. Based on what was decided in Planned Parenthood v. Casey, on June 27, 2016, the Court decided Whole Woman's Health v. Hellerstedt, in which it declared unconstitutional two provisions of a Texas state law that imposed restrictions on admission to abortion clinics. Thistime, the Court recalled that "in Casey we discarded the trimester framework and now use 'viability' as the relevant point at which a State may begin to limit women's access to abortion for reasons unrelated to maternal health." U.S. Supreme Court. Whole Woman's Health v. Hellerstedt case, June 27, 2016. Available at: https://www.supremecourt.gov/opinions/15pdf/15-274_new_e18f.pdf.

[616] Official information from the Government of the Netherlands, available at: https://www.government.nl/topics/abortion/question-and- answer/what-is-the-time-limit-for-having-an-abortion

626. In Australia, legislation in the State of Victoria allows a registered medical practitioner to perform an abortion up to 24 weeks gestation. To terminate a pregnancy beyond that time limit, it is necessary for the physician to reasonably believe that such a procedure is appropriate and to have consulted at least one other physician who agrees. In doing so, it is necessary to consider all relevant medical circumstances and the pregnant woman's current and future physical, psychological, and social circumstances [617].

627. The State of New York (United States) eliminated the crime of abortion from its legislation, on January 22, 2019. Since then, no person may be criminally prosecuted for the consensual termination of a pregnancy, even after the 24th week of gestation. However, abortion performed after that period is considered illegal, unless it is necessary to preserve the life or health of the pregnant woman or the fetus is not viable[618]

628. Great Britain does not criminalize the termination of pregnancy after the 24th week of gestation if its continuation involves a risk to the pregnant woman's or her children's physical or mental health. In addition, the law does not provide for a time limit for abortion in the case of severe and permanent damage to the woman's physical or mental health, the risk to her life, or the substantial risk that the fetus will suffer physical or mental abnormalities would leave it severely disabled[619].

629. In Germany, it is not a crime for a woman to terminate her pregnancy up to 22 weeks gestation, if she is in an exceptional situation, has received prior counseling and the abortion procedure is performed by a physician[620].

630. Spain authorizes exceptionally the termination of pregnancy after the 22nd week of gestation, when there is a serious risk to the life or health of the pregnant woman or risk of serious anomalies in the fetus. If fetal anomalies incompatible with life are detected, as determined by a medical specialist or an extremely serious and incurable disease of the fetus confirmed by a clinical committee, the possibility of terminating the pregnancy has no time limit[621].

631. South African legislation provides that after the 20th week of gestation it is possible to terminate a pregnancy if its continuation would endanger the life of the pregnant woman, result in a serious malformation of the fetus or pose a risk of injury to the fetus[622].

632. India, on the other hand, authorizes the termination of pregnancy between 20 and 24 weeks of gestation, if its continuation involves a risk to the life of the pregnant woman, serious harm to her physical or mental health or there is a substantial risk that the child born will suffer from a serious physical or mental abnormality[623].

633. Finally, although abortion is permitted in Canada at any stage of pregnancy, regardless of its motivation, in practice, it is uncommon for this procedure to be performed beyond the 23rd week of

[617] Abortion Law Reform Act 2008. Available at: http://www5.austlii.edu.au/au/legis/vic/consol_act/alra2008209/s4.html
[618] Reproductive Health Act, article 25A, section 2599-BB. Available at: https://www.nysenate.gov/legislation/laws/PBH/2599-B
[619] Abortion Act 1967. Available at: https://reproductiverights.org/sites/default/files/documents/Great%20Britain%20%20Abortion%20Act.pdf
[620] German Criminal Code, section 218. Available at: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p181
[621] Organic Law 2/2010, of March 3, 2010, on sexual and reproductive health and voluntary interruption of pregnancy. Available
[622] Choice on Termination of Pregnancy Act, 1996.Available at: https://reproductiverights.org/sites/default/files/documents/South%20Africa%20-%201996%20Choice%20on%20Termination%20of%20Pregnancy%20Act.pdf
[623] The Medical Termination of Pregnancy (Amendment) Act, 2021 (No. 8 of 2021), available at: https://egazette.nic.in/WriteReadData/2021/226130.pdf. This regulation amended The Medical Termination Of Pregnancy Act, 1971 (Act No. 34 of 1971), available at: https://health.mp.gov.in/sites/default/files/documents/mtp-Act-1971.pdf. The 2021 regulation extended to 24 weeks the term for performing the procedure of voluntary termination of pregnancy, which since 1971 could only be performed up to 20 weeks gestation.

gestation. This is only the case in the states of Quebec, where abortion services are available up to 23 weeks, Alberta and Ontario, up to 24 weeks, and British Columbia, up to 24 weeks and 6 days gestation[624].

13.2.3. Declaration of conditional constitutionality and its immediate effects.

634. Suppose a constitutional optimum is sought that protects in a weighted manner the legal goods in tension referred to above. In that case, the fundamental point of distinction in the current normative context cannot be other than considering that the dependence on life in the formation of the pregnant person is broken. Given the greater probability of extrauterine independent life, the preference for protecting the clear constitutional purpose intended by Article 122 of the Criminal Code is maximized. For that reason, there will be a greater probability of protection of the compelling constitutional purpose that the criminal offense seeks to achieve that the pregnancy culminates in the birth of a new being. Suppose preference is given to the protection of the life in formation in earlier stages, without alternatives for the realization of the rights of pregnant women. In that case, such rights will end up being intensely affected since, as already stated, the existing barriers prevent the practice of abortion in the first weeks of pregnancy in the three grounds foreseen in Decision C-355 of 2006, which is why decriminalizing only up to the first weeks, without guarantees for the exercise of the rights of pregnant women, would not solve the constitutional tension referred to above under the current conditions.

635. This idea of privileging the concept of autonomy is also consistent with the thesis according to which life is a legal good that is protected at all stages of its development, but not with the same intensity[625], since it is not an absolute right[626]. This is why its protection through criminal law, as an imperative constitutional purpose, is also gradual and incremental. It is this double condition that allows for a legal - and not a moral - solution to the tension that is evident and the that allows for a constitutional optimum in the current normative context that gives The law is a response to the lack of protection of the rights and guarantees of women, girls and pregnant women, as well as to the ineffectiveness of the criminal response to protect life during pregnancy.

636. For the foregoing reasons, the constitutional optimum referred to above is obtained by declaring the conditional executory validity of the norm in question, in the sense that the conduct of abortion provided for therein is only punishable, in the current regulatory context in which the norm is inserted, when it is performed after the twenty-fourth (24) week of gestation, which is the limit of the period of gestation. This is not applicable to the cases in which Ruling C-355 of 2006 established that abortion is not a crime.

637. This decision has immediate effects. The temporal effects of the judgments issued by this Court by virtue of the abstract control of constitutionality, as a general rule, are ex nunc and immediate. The former refers to the fact that, unless expressly indicated otherwise in the judgment, the judgments have effects into the future[627], "which is supported, as this Court has explained, by the principles of security of the Constitution, and the right of the State to exercise its jurisdiction in the future. The presumption of the constitutionality of the norms that make up the legal system is presumed as long as this presumption is not rebutted by this Court by means of a judgment with erga omnes effects"[628].

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[624] Information from the National Abortion Federation, available at https://nafcanada.org/abortion-coverage-region/.
[625] Cf., in this regard, the judgments cited therein and the interpretation therein of Articles 11 of the Constitution and 4.1 of the ACHR: judgments C-355 of 2006, C-327 of 2016 and judgment of November 28, 2012 of the IACHR Court in the case of Artavia Murillo and Others ("In Vitro Fertilization") v. Costa Rica.
[626] In this sense, the Chamber ruled in decisions C-239 of 1997, C-177 of 2001, C-251 of 2002, C-899 of 2003, C-355 of 2006, C-233 of 2014, C-327 of 2016, C-430 of 2019 and C-233 of 2021.
[627] According to Article 45 of Law 270 of 1996: "the judgments issued by the Constitutional Court on the acts subject to its control under the terms of Article 241 of the Political Constitution, have effects towards the future unless the Court resolves otherwise."
[628] Cfr., judgments C-037 of 1996, C-280 of 2014, C-408 of 2017 and SU-937 of 2019.

638. On the other hand, in relation to the moment from which judgments produce effects, the Court has pointed out that "when the effect of the judgment has not been modulated, that is, when its effects have not been expressly deferred, they are produced from the day following the date on which the Court exercised, in that specific case, the jurisdiction vested in it", that is, from the day following that on which the Full Chamber makes the decision , and not from the date on which it is signed, in that specific case, the jurisdiction of which it is vested"[629], that is, from the day following the day on which the Plenary Chamber makes the decision[630] and not from the date on which the text corresponding to it is subscribed, or the date of its notification - by means of edict- or execution[631].

639. Consequently, once the judgment is officially disclosed, i.e., its full text is published or, failing that, the respective press release, the knowledge and compliance with the decision of the ruling is enforceable on all legal operators. In our legal system, citizens have the right to control political power by exercising, among other mechanisms, public action of unconstitutionality (Article 40.6 of the Constitution). In the exercise of this action, they control the power of configuration of the legal system that the Constitution attributes to the Congress and, exceptionally, to the President of the Republic, for which they can sue before the Constitutional Court the laws and decrees with the force of law, both for their material content and for procedural defects in their formation. In this process, citizens also have the right to intervene as challengers or defenders of the norms subject to control -article 242 of the Constitution. Given its public character and the fact that it is a society that is the of the decisions on constitutionality, it is imperative to guarantee the principle of publicity through its disclosure. To this end, the Constitutional Court resorts to press releases, which do not replace the full text of the judgment but which, in any case, "contain both the arguments that make up the reason for the decision and the full text of the decision, as well as the full text of the judgment.

The "definitive text of the operative part of the corresponding decision" allow balancing the need to have the full text of the decision with the obligation to immediately communicate the sense of the decision and its reasons "because of its inseparable link with the principles of legality and legal certainty."[632].

640. The foundations of the described rules are essentially two: on the one hand, the safeguarding of the integrity and supremacy of the Constitution[633], and on the other hand, the preservation of the principles of legality, legal certainty, and *res judicata*[634].

641. However, this does not mean that the service of the constitutional ruling - which, by mandate of Article 16 of Decree-Law 2067 of 1991, must be made by edict - or that the term of execution runs from the removal of the edict is irrelevant. Although they are inconsequential for determining the temporal effects of the decision, they allow for defining, for example, the term within which the nullity of the decision may be alleged due to an "evident, proven, significant, and transcendental"[635] violation of due process[636], "that is, one that has substantial and direct repercussions on the decision or its effects"[637].

642. For the Court, the declaration of conditional enforceability of the provision under the previously mentioned terms does not create a gap or regulatory void. On the one hand, the conduct it regulates continues to be punishable when carried out after the twenty-fourth (24th) week of gestation. This is

[629] Decision C-973 of 2004.
[630] Law 270 of 1996, article 56.
[631] Cfr., in this sense, judgments T-832 of 2003, C-973 of 2004 and Autos A-022 of 2013, A-155 of 2013 and A-521 of 2016.
[632] In this sense, cfr. Among others, Writ 155 of 2013.
[633] See Constitution, article 241 and Ruling C-963 of 2004.
[634] Rulings C-973 of 2004 and C-521 of 2016.
[635] Writ 381 of 2014.
[636] Rulings C-973 of 2004 and C-521 of 2016
[637] Writ 381 of 2014. Similarly, Writ 068 of 2019.

because, from that moment on, the need to maintain the criminal protection of life in gestation becomes evident in the current regulatory context. On the other hand, the Legislature retains a significant margin of configuration to determine the legal treatment of this constitutional relevance issue at each stage of pregnancy, taking into account the gradual and incremental nature of the protection of life in gestation. In fact, this recognition underlies the third element that makes up the constitutional optimum referred to, as explained below.

13.3. The third element that comprises the constitutional optimum referred to involves the adoption of a comprehensive public policy on the matter

643. The third element comprising the constitutional optimum referred to involves adopting a comprehensive public policy, not merely a criminal one, regarding the constitutional relevance that voluntary abortion entails, for which the Congress of the Republic and the national government are urged.

644. The Court cannot ignore the absence of policies specifically aimed at guaranteeing the protection of life in gestation that, in contrast to the criminal sanction declared conditionally enforceable in this ruling, respect the rights of women, girls, and pregnant individuals, and offer real alternatives to VIP while at the same time protecting life in gestation. Given the serious omission of the Legislature in regulating the matter, despite the exhortations made by this Court[638], the Court reiterates its call and extends it to the national government so that, regardless to the immediate compliance with this ruling and in the shortest possible time, they formulate and implement a comprehensive public policy on the matter.

645. In addition, the Court cannot overlook - because it was evidenced in the proceedings - that women, girls, and pregnant individuals currently suffer a deficit in the protection of their sexual and reproductive health rights, which goes beyond the barriers to access VIP in the three hypotheses provided for in Ruling C-355 of 2006, and which have been identified by this corporation in rulings on constitutional review of guardianship, as evidenced by its extensive jurisprudential line on the matter, widely referenced in this ruling[639]. In the face of this reality, public institutions cannot be mere spectators of the phenomenon. On the contrary, they require harmonious action to overcome that state of affairs, as provided for in Article 113 of the Constitution[640]. Moreover, it requires considering that an effective guarantee of rights imposes an understanding that integrates the different branches of the State. This vision advocates for a dialogic conception of the relationship between the constitutional judge and other public authorities and social institutions intrinsic to the functioning of our democratic model.

646. In this sense, the Constitutional Court considers that, within the limits imposed by the Constitution, the Legislature has broad power to design measures to protect the life of the unborn, taking into account the gradual and incremental nature of such protection and, at the same time, measures to ensure the realization of the rights of women, girls, and pregnant individuals, including alternatives to VIP according to the stage of development.

647. Finally, it should be clarified that this decision does not constitute a value judgment on abortion, as what is being decided is about the constitutionality of its criminalization in the current regulatory context based on the charges of unconstitutionality brought by the plaintiffs. In this sense, it is pertinent to reiterate

[638] All of these, and a new one, are accounted for in the Full Chamber Ruling SU-096 of 2018.
[639] Specifically, it consists of Rulings T-171 of 2007, T-988 of 2007, T-209 of 2008, T-946 of 2008, T-388 of 2009, T-585 of 2010, T-636 of 2011, T-959 of 2011, T-841 of 2011, T-627 of 2012, T-532 of 2014, T-301 of 2016, T-731 of 2016, T-697 of 2016, T-931 of 2016, and SU-096 of 2018.
[640] This form of relationship between the different organs and branches of public power, in the pursuit of the essential and social purposes of the State, is expressed in the following terms, in the final section of paragraph 2 of the cited article: "The different organs of the State have separate functions but collaborate harmoniously for the realization of their purposes.

what the Court said in Ruling C-355 of 2006, as these considerations remain valid and relevant in the current debate on abortion:

> "9.5.1. It is necessary to break the myths about the issue to address it responsibly and clearly. First, it must be made clear that, as Anibal Faúndes and José Barzelatto say in their book 'The Drama of Abortion [5]', the alleged confrontation between those in favor and those against abortion is not true. On the contrary, there is a generalized consensus that abortion should be avoided, and no one proposes it as a desirable alternative or just another planning method. The difference between one position and another is that while for no one it is desirable, some completely deny this possibility and, based on absolute values of a religious or philosophical nature, argue in favor of criminalization, leaving all the responsibility of the decision about their unwanted, non-consensual, non-viable or risky pregnancy to the woman, who faces what has been called in law a 'tragic decision' or assumes motherhood that is offensive or harmful to her physical or mental health or even to her life, or exposes herself to be punished by the State and to undergo unscientific abortion treatments outside the protection of the State, also at risk to her health or life.
>
> 9.5.2. The other position is that of those for whom abortion is an unfortunate decision in which values must be weighed and to which circumstances beyond her generally lead the woman will or are prompted by nature, State negligence, and gender, economic or social inequalities. For the latter, the most effective measures to prevent abortion are not repressive; on the contrary, these latter become a moral reproach that in no way contributes to the solution of the problem. From this perspective, responsibility cannot be demanded solely of the woman while the State has failed to fulfill its obligations to promote women's rights, education, protection, prevention, guidance, and assistance before gestation, does not guarantee access to health services, and does not offer support during pregnancy or after childbirth. From this latter perspective, the State's legitimacy to criminalize VIP is questioned. When assessing the legitimacy of the State to criminalize abortion in the terms in which it is enshrined, it is inevitable to evaluate the responsibility of the State, its diligence to prevent, with mechanisms other than repression, the fact that the woman has to be in such a difficult situation"[641].

VII. SUMMARY OF THE DECISION

648. Before addressing the charges of the lawsuit and in response to the arguments of some interveners and the Attorney General of the Nation, the Court examined preliminary issues related to legislative omission and *res judicata*, concluding that, in this case, (i) there is no absolute legislative omission in the regulation of consensual abortion; and (ii) although the Court had already decided on the constitutionality of article 122 of the Criminal Code in Ruling C-355 of 2006, a new pronouncement is appropriate for three reasons: firstly, the current lawsuit presents different charges of unconstitutionality than those examined in Ruling C-355 of 2006 and, therefore, were not resolved at that time. Secondly, there has been a change in the material meaning of the Constitution regarding the constitutional issue posed by the crime of consensual abortion. Thirdly, a change in the regulatory context of which article 122 of the Criminal Code

[641] Ruling C-355 of 2006.

is part was identified. The first reason explains the relative character of *res judicata* in this matter, and the latter two, as pointed out by constitutional jurisprudence, exceptionally allow a new substantive pronouncement, even if it concerns a provision that was subject to constitutional control in the past, as in such cases *res judicata* is considered overcome.

649. In examining the charges of the lawsuit, the Court found that they met the requirements and, therefore, it had to decide on (i) the disregard of the obligation to respect the right to health and reproductive rights of women, girls, and pregnant individuals (articles 49, 42, and 16 of the Constitution); (ii) the violation of the right to equality of women in vulnerable situations and in irregular migration situations (articles 13 and 93 of the Constitution, 1 of the American Convention on Human Rights and 9 of the Convention of Belem do Pará); (iii) the infringement of the freedom of conscience of women, girls, and pregnant individuals, regarding the possibility of acting according to their convictions in relation to their reproductive autonomy (article 18 of the Constitution), and (iv) the incompatibility of the criminalization of consensual abortion with the preventive purpose of the penalty and non-compliance with the constitutional requirements attached to the ultima ratio character of criminal law (Preamble and articles 1 and 2 of the Constitution).

650. The Court found that there was a tension of constitutional relevance between, on the one hand, the protection of life in gestation – an imperative constitutional purpose that article 122 of the Criminal Code aims to protect, even after the conditioning it was subject to in Ruling C-355 of 2006 – and, on the other hand, the rights to health and reproductive rights; the equality of women in vulnerable situations and in irregular migration situations; freedom of conscience; and the general preventive purpose of the penalty, as well as the last resort – ultima ratio – character of criminal law.

651. For the Court, this constitutional tension cannot be resolved by giving preference to any of the guarantees in tension, as this implies the absolute sacrifice of the others. For this reason, it is considered necessary to adopt a formula that recognizes the constitutional relevance of each of these guarantees in such a way that, unlike diminishing their protection - due to the result that would follow from giving preference to any of them - a greater realization of all the rights, principles, and values in conflict is achieved.

652. The Court resolved this tension, taking into account the current regulatory context in which the challenged provision is inserted, by identifying an optimal point in the gestation term that, in the abstract, avoids the wide margins of disregard for the dignity and rights of women - as referred to in the charges studied on this occasion - and, at the same time, protects the life in gestation to the greatest extent possible, based on three elements:

653. The first, is constituted by the three "extreme hypotheses of the violation of [the] dignity" of the woman, evidenced by the Court in Ruling C-355 of 2006.

654. The second, constituted by the concept of "autonomy", allows the abstract maximization of the goods in tension since it refers to the moment when it is possible to show that the dependence of the developing life on the pregnant person is broken, which justifies its reinforced protection by criminal law in the current regulatory context. Indeed, fully decriminalizing consensual abortion, without alternative measures to protect the life in gestation, would place the Colombian State in a situation of non-compliance with its constitutional and international obligation to adopt measures for that purpose. This is compounded by the fact, as noted in the jurisprudence of guardianship review cited in this ruling, that the existing barriers prevent the practice of VIP in the first weeks under the conditions outlined in Ruling C-355 of 2006, which is why decriminalizing only up to the first weeks, without guarantees for the exercise of pregnant people's rights, would not allow resolving the constitutional tension referred to in the current conditions.

655. The third element promotes dialogue in the democratic representation instances so that, in response to the conditioning of the challenged provision, they formulate and implement a comprehensive public policy that avoids the wide margins of disregard for the dignity and rights of pregnant women, widely described in this ruling, and, at the same time, protects life in gestation gradually and incrementally, without intensely affecting such guarantees.

656. The Court's decision is based on the assumption of the Legislature's competence to adopt a comprehensive regulation aimed at effectively protecting the legal interests in tension, in relation to which it reiterated what was stated in Ruling C-355 of 2006, in the sense that "it could be discussed whether the nature of these measures to protect life in gestation must be of a criminal nature or if provisions of another type, such as social policies or benefits, would be more effective in ensuring the life that is in the process of gestation through the guarantee of medical care, food or income for the pregnant woman." As the Court indicated at that time and reaffirms now, the definition of this type of measures corresponds to the Legislature, which is why it must "decide among the universe of possible measures those most appropriate to protect the legal interests of constitutional relevance, and its decision, in principle, can only be subject to review when it is manifestly disproportionate or unreasonable."

657. Finally, regarding the *ultima ratio* nature of criminal law, the Court reaffirmed its jurisprudence in the sense that the State may resort to criminal sanctions when it has exhausted all preventive mechanisms at its disposal to reduce the commission of acts that undermine legitimately protected interests or when it has offered alternatives for the exercise of the rights with which the criminal sanction is in tension. This is because its fragmentary nature imposes on the State the exercise of its punitive power in cases that most severely affect social interest. According to this feature of criminal law, it is only possible to apply the criminal sanction of loss of freedom to the most severe cases of infringement of protected interests.

VIII. DECISION

Considering the above, the Full Chamber of the Constitutional Court, administering justice in the name of the people and by mandate of the Constitution,

RESOLVES:

FIRST. To declare **CONDITIONALLY CONSTITUTIONAL** Article 122 of Law 599 of 2000 "by means of which the Criminal Code is issued," in the sense that the conduct of abortion provided therein will only be punishable when performed after the twenty-fourth (24th) week of gestation, and in any case, this time limit will not apply to the three cases in which Ruling C-355 of 2006 ruled that the crime of abortion is not committed, that is, "(i) When the continuation of the pregnancy poses a danger to the life or health of the woman, certified by a physician; (ii) When there is a severe malformation of the fetus that makes its life unviable, certified by a physician; and (iii) When the pregnancy is the result of a duly reported conduct constituting non-consensual carnal abuse or non-consensual sexual act, abusive behavior, non-consensual artificial insemination, non-consensual transfer of a fertilized egg, or incest.

SECOND. **EXHORT** the Congress of the Republic and the National Government, without prejudice to the immediate compliance with this ruling and, as soon as possible, to formulate and implement a comprehensive public policy –including the necessary legislative and administrative measures, as appropriate–, that prevents the wide margins of unprotected dignity and rights of pregnant women described in this ruling, and at the same time, protects the legal interest of life during gestation without

affecting such guarantees, based on the conditioning mentioned in the previous resolution. This policy must include, at a minimum, (i) the clear dissemination of options available for pregnant women during and after pregnancy, (ii) the elimination of any obstacles to the exercise of sexual and reproductive rights recognized in this ruling, (iii) the existence of instruments for pregnancy prevention and planning, (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 children born in circumstances where pregnant women wished to have an abortion.

CRISTINA PARDO SCHLESINGER

President

With dissenting vote

DIANA FAJARDO RIVERA

Justice

With clarification of vote

JORGE ENRIQUE IBÁÑEZ NAJAR

Justice

With dissenting vote

ANTONIO JOSÉ LIZARAZO OCAMPO

Justice

PAOLA ANDREA MENESES MOSQUERA

Justice

With dissenting vote

GLORIA STELLA ORTIZ DELGADO

Justice

With dissenting vote

JULIO ANDRÉS OSSA SANTAMARÍA

Co-justice

With clarification of vote

JOSÉ FERNANDO REYES CUARTAS

Justice

With clarification of vote

ALBERTO ROJAS RÍOS

Justice

With clarification of vote

MARTHA VICTORIA SÁCHICA MÉNDEZ

Secretary General

ANNEXES

Annex 1. Requests for public hearings

Annex 2. Requests for citizen participation in the process

Annex 3. Requests for inhibition due to lack of minimum requirements for the claim

Annex 4. Interventions and opinions of citizens and private organizations during the listing, which refer to the lack of competence of the Constitutional Court to rule on the matter.

Annex 5. Concepts and interventions that reference the existence of Constitutional *res judicata*.

Annex 6. Interventions and opinions of citizens, private organizations, public authorities, and *amicus curiae* refer to the non-existence of constitutional *res judicata*.

Annex 7. Interventions and opinions of citizens, private organizations, and amicus curiae requesting the constitutionality of the challenged provision.

Annex 8. Interventions and opinions of citizens, private organizations, and amicus curiae requesting the unenforceability of the challenged provision.

Annex 9. Number of interventions and opinions, according to their origin.

Annex 10. Other annexes.

Annex 10.1. General statements against abortion and in favor of maintaining its criminalization.

Annex 10.2. Motions requesting to dismiss the claim before its admission.

Annex 10.3. Motions requesting to dismiss the claim after admission and before listing.

Annex 10.4. Motions filed before listing, requesting the constitutionality of the provision.

Annex 10.5. Motions filed before listing referring lack of competence of the Constitutional Court to rule on the matter.

Annex 10.6. General interventions submitted before listing in favor of maintaining the criminalization of abortion.

Annex 10.7. Blank emails filed before listing where the subject refers to general interventions against abortion.

Annex 10.8. Motions referring to the existence of Constitutional *res judicata* submitted after the listing period.

Annex 10.9. Motions referring to the nonexistence of Constitutional *res judicata*, submitted after the listing period.

Annex 10.10. Motions requesting the constitutionality of the challenged provision, filed after the listing period.

Annex 10.11. Motions requesting the un constitutionality of the challenged provision, filed after the listing period.

Annex 10.12. General interventions against abortion and in favor of maintaining its criminalization filed after the listing period.

Annex 10.13. Blank emails where the subject contains general statements against abortion and in favor of maintaining its criminalization.

ANNEX 1

REQUESTS FOR PUBLIC HEARINGS

NUM.	APPLICANT	FILING DATE
1	David Alejandro Dávila Gutiérrez de Piñeres	10/20/2020
2	Bernardo Henao Jaramillo and Martha Cecilia Rodríguez Neira / Chairman of the Board of Directors and Martha Cecilia Rodríguez Neira / Chairman of the Board of Directors and Martha Cecilia Rodríguez Neira / President of the Board of Directors executive director of the Asociación Únete por Colombia	10/29/2020
3	Juan Carlos Novoa Buendía / Colombian Association of Catholic Jurists	11/29/2020
4	Valeria Alejandra Gutiérrez Urbano, Daniela Alejandra Lara Montoya, Camilo Cuitiva Corena, Diego Gutiérrez, Karen Herrera Gudiño, Gilma Fiorella Gutiérrez Urbano, Claudia Urbano, Nicolás Hernández, Reinaldo Ángel, Daniel Smith Useche, Isabel Díaz Galvis, José Gabriel Perlaza Grueso, Laura Ramos Bocanegra, Jenifer Carolina Flórez Manrique, Manuel A. Contreras, Karen Yesenia Quintero Parra, Ángela Milena Ávila, Katherine Argüello, Lina Andrea Páez Félix , Eduar H. de la Cruz Villora, Liseth Patricia Guardo Pua, Andrés Benavidez Sánchez, Diana Patricia Castilla, Sol Angie Murcia, Geidy Lozano Castro, Luisa Fernanda Guzmán, Ender Meléndez Julio, Hadison Zavala, Paula Balcarcel Jaimes, María Isabel Villalba, Ana Paola Mora, Jonathan García Parra, Aldo Mauricio Chaparro Sánchez, Mónica Ángel Díaz, Angie Ángel Díaz, David Reinaldo Ángel Díaz, Angie Carolina Serrano Bamba, Cristofer Ramos Rodríguez, Camila Mendoza, Carmen Patricia Mayo, Jenny Fernanda Rodríguez, Jhon Cubillos, Jocabed Cañavera Casanova, Álvaro Quiceno Gil, Rut Saray Gutiérrez, Elizabeth Villota, Mauricio Martínez, Sandra Margarita García Hernández, Josué Oliveros, Leybis Fragozo Arias, Sebastián Benavidez, Rut Arroyave, Leidy Herrera Moreno, Geber Villareal Becerra, Nancy González, Marta Solís, James Alberto Rave, Andrés José Rave, Angélica María Montero, Jesica González, Juan Marcos Heredia, Iza María Calderón Melo, Samuel David Calderón Meló, Victoria Meló Correa and Claudia Maria Espitia / Jucum Provida Network	10/30/2020
5	Gloria Yolanda Martínez Rivera /member of Vida por Colombia	11/8/2020
6	Joel David Gaona	11/12/2020
7	Juana Acosta	11/12/2020
8	Diana Rodríguez Franco / District Secretariat for Women (Bogotá)	11/12/2020 and 11/24/2020
9	Alejandra Coll	11/12/2020
10	Mayra Rodríguez and Catalina Gutiérrez / former IFPP amicus abortion clinic director CURIAE and general coordinator of Provida Latin America -Colombia	11/12/2020
11	Martha Esther Téllez Cámara Asociación Benéfico Cristiana Promotora de Desarrollo Integral -ABC	11/12/2020
	PRODEIN	

12	Claire Culwel and Ángela Vélez Escallón	11/12/2020
13	Patricia E. Gallo / coordinator of Project Hope for the Healing of induced abortion and of post-abortion gestational bereavement	11/12/2020
14	Martha Elena Soto Rojas / legal representative of Fundación Derecho a Nacer (Right to be Born Foundation)	11/12/2020
15	Angela Maria Anduquia	11/12/2020
17	Carlos Eduardo Corsi Otalor and Andres Forero Medina from Laicos por Colombia	11/12/2020
18	Ana María Idárraga, José Miguel Rueda, Cindy Vanessa Espitia, Johan Caldas, Sofía Barrera, Michelle Infante, Catherine Peña, María José Tribín, Sandra Martínez, Silvana Jiménez, Luis Fernando Rodríguez, Carolina Ortiz, Camila Heredia and Jessika Puerto / members of the Public Interest and Human Rights Legal Clinic of the Universidad de La Sabana, together with Cristóbal Soto, Verónica Hernández, David Ramírez and Catalina Rodríguez, students of the University of La Sabana	11/12/2020
19	Elsa Eugenia Hurtado Hurtado	11/24/2020
20	Francisco Javier Higuera / Vida por Colombia member	11/25/2020
21	Javier Alejandro Acevedo Guerrero/director of the School of Law and Political Science of the Universidad Industrial de Santander (UIS), Alicia Toloza Pabón, Carolina Isabel Montes Perea, Paula Alejandra Martínez Rodríguez, Doris Fernanda Cardona Gelvez, Julieth Vanessa Sanabria Almeyda, Ramiro Pinzón Asela, Brayan Andrés Vargas Benavides and José Jans Carretero Pardo	11/27/2020
22	Emma Claudia Castellanos and Ángela Patricia Sánchez	11/27/2020
22	Ana Cristina González Vélez, Mariana Ardila Trujillo, Cristina Rosero Arteaga, Aura Carolina Cuasapud Arteaga, Angélica Cocomá Ricaurte and Valeria Pedraza Benavides / plaintiffs	12/16/2020
23	Catalina Gutiérrez and Samuel Andrés Ángel / legal coordinator Provida Latinoamérica and President of the Institute for Social Research Solidarity	02/4/2021
24	Isabel Cristina Jaramillo Sierra / professor Universidad de Los Andes	02/25/2021
25	Juan Ernesto Méndez / resident professor Washington College of Law, American University	02/25/2021
26	Jasmín Romero Epiayu / Legal Representative of the Feminist Movement Women, Wayüü girls.	02/26/2021
27	Natalia Andrea Diaz Restrepo / Support Medical Coordination of Doctors without Borders	03/01/2021
28	María Camila Correa Flórez / Professor at the Faculty of Jurisprudence of the Universidad del Rosario	03/01/2021
29	María Paula Houghton Martínez / founding partner of the Grupo Médico por el Derecho a Decidir (Medical Group for the Right to Decide)	03/01/2021
30	Roberto Gargarella	03/01/2021
31	Lady Alejandra Vera Laguado / executive director of the Corporación Mujer Denuncia y Move over	03/03/2021

32	Moisés Wasserman Lerner	03/03/2021
33	Orlando Enrique Santamaría Echeverría, Jorge Alberto Ramírez Gómez, Natalia Rueda Vallejo and Simón Rodríguez Serna / Centro de Estudios sobre Genética y Derecho de la Universidad Externado de Colombia	03/03/2021
34	Juliana Martínez Londoño / office secretary / Women's Secretariat of the Mayor's Office of Medellin	03/03/2021
35	Aida Verónica Simán / United Nations Population Fund representative	03/05/2021
36	Arianne Van Andel and Nicolás Panotto of the Other Crosses Foundation	03/08/2021
37	Silvia Serrano Guzman and Oscar A. Cabrera	03/09/2021
38	Dayana Blanco Acendra / general manager of ILEX Acción Jurídica	03/10/2021
39	Néstor Iván Javier Osuna Patiño	03/17/2021
40	Anand Grover / former UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. enjoyment of the highest possible level of physical and mental health	03/19/2021
41	María Susana Peralta Ramón / Lawyer of the Peace and Transitional Justice Area of Colombia Diverse	03/19/2021
42	Paula Sánchez Mejorada Ibarra / co-director of Católicas por el Derecho a Decidir - Mexico	03/22/2021
43	Susheela Singh / vice-president Guttmacher institute	03/24/2021
44	Angélica Lisbeth Lozano Correa / senator of the Republic	03/25/2021
45	Juan Carlos Lozada Vargas / representative to the Chamber of Deputies	03/25/2021
46	Ángela Robledo / Representative to the Chamber of Deputies	03/25/2021
47	Mauricio Andrés Toro Orjuela / representative to the Chamber of Deputies	03/26/2021
48	Daniel González Pérez / Coordinator of the Research Area Fundación Grupo de Acción y Transgender Support (GAAT)	03/26/2021
49	Joanna Erdman MacBain Chair in Health Law and Policy and Associate Professor	04/13/2021
50	Leidy Johanna Cepeda Saavedra / co-founder / Grupo de Enfermería por el Derecho a Decidir (Nursing Group for the Right to Decide)	04/14/2021
51	Catalina Gutiérrez /general coordinator of Provida Latin America request that he be invited to the audience Leandro Rodriguez	04/15/2021
52	Juliana Bustamante Reyes /coordinator of the Action for Equality and Inclusion Program Social -PAIIS of the Universidad de Los Andes	04/19/2021

ANNEX 2

REQUESTS FOR CITIZEN PARTICIPATION IN THE PROCESS

NUM.	APPLICANT	FILING DATE
1	Sergio Moreno	07/21/2021
2	Carmen Alicia Martínez Rivera	07/21/2021
3	Henry Eduardo Patiño Bueno	07/22/2021
4	David Rafael Lacouture Méndez	07/22/2021
5	Diana V. Baquero F.	07/22/2021
6	Gloria Cristina Sierra Yepes	07/22/2021

7	Jenaro enrique de Jesus Quiñones Jiménez	07/22/2021
8	Luisa Fernanda Cruz Rey	07/22/2021
9	María del Pilar Angarita Díaz	07/22/2021
10	Mariano Ordóñez	07/22/2021
11	Adriana Prieto	07/22/2021
12	Alexandra Pinto Rubio	07/22/2021
13	Martha Lucía Barrera Garzón	07/22/2021
14	Paloma Valencia	07/22/2021
15	Martha Zapata	07/23/2021
16	Shirley Inés González Fúnez	07/23/2021
17	Alexandra Díaz Vento	07/23/2021
18	Sandra Milena Angarita Vargas	07/24/2021
19	Ma. Carolina Ortegon Monroy	07/26/2021
20	Pablo Gonzalez Gaitan	07/26/2021
21	Héctor Saúl Mantilla Serrano	07/27/2021
22	María Lucero Castelblanco Reyes	07/27/2021

ANNEX 3

REQUESTS FOR INHIBITION DUE TO LACK OF MINIMUM

REQUIREMENTS FOR THE CLAIM

NUM.	INTERVENERS AND GUESTS PARTIES	FILING DATE
1	Ana María Idárraga, José Miguel Rueda, Cindy Vanessa Espitia, Johan Caldas, Sofía Barrera, Michelle Infante, Catherine Peña, María José Tribín, Sandra Martínez, Silvana Jiménez, Luis Fernando Rodríguez, Carolina Ortiz, Camila Heredia and Jessika Puerto / members of the Public Interest and Human Rights Legal Clinic of the Universidad de La Sabana, together with Cristóbal Soto, Verónica Hernández and David Ramírez, students of the Universidad de La Sabana. Savannah	11/12/2020
2	Harold Eduardo Sua Montaña	11/12/2020
3	Carlos Eduardo Corsi Otalor / president / and Andrés Forero Medina / executive director / Laicos for Colombia.	11/12/2020
4	Francisco José Chaux Donado / Vice-Minister for the Promotion of Justice of the Ministry of Justice of the Dominican Republic	11/12/2020
5	María Camila Ospina Navarro, Pedro Daniel Contreras and Mateo Arana Brando / Plataforma Civic New Democracy	11/12/2020
6	Emma Claudia Castellanos and Angela Patricia Sánchez	11/27/2020
7	Ilva Myriam Hoyos Castañeda	11/12/2020
8	Fernando Velásquez Velásquez	11/13/2020
9	Claudia Carbonell Fernández and Juliana Mejía Quintana	11/5/2020
10	Red Futuro Colombia /Andrés Forero Medina	11/10/2020

11	Edith del Carmen Bonilla Bonilla	11/10/2020
12	Johana Álvarez Botero	11/10/2020
13	Elizabeth Garcés Sánchez	11/10/2020
14	Isabela Domínguez Guzmán	11/10/2020
15	Alba Matilde Chávez Otálora and Fredy Enrique Alvarado Benavides	11/10/2020
16	Ana María Domínguez Guzmán	11/10/2020
17	Carlos Eduardo Corsi Otálora	11/10/2020
18	Gloria Lucia Lagos	11/10/2020
19	Leopoldo Varela Acosta	11/10/2020
20	Martha Rocío Montoya Murillo	11/10/2020
21	Claudia Bellaiza	11/10/2020
22	Daniela Salazar Silva	11/10/2020
23	Maritza Guzman Velasco	11/10/2020
24	Clemencia Salamanca Mariño	11/10/2020
25	Yolanda Albany	11/10/2020
26	Juan Carlos Navarrete Navarrete	11/10/2020
27	Martha Elena Guerrero Ramirez	11/10/2020
28	Laura Domínguez Guzmán	11/10/2020
29	Carlos Gilberto Leiva Rizzo	11/10/2020
30	Jean Carlos Botina	11/10/2020
31	Lizeth Benavides	11/10/2020
32	Paola Chavez, Wilson Montoya and Rocio Gonzales	11/10/2020
33	Paola Chávez, Wilson Montoya, Rocío Gonzales, Jhon Jairo Botinw and Hermes Botina	11/10/2020
34	Angela Martinez	11/10/2020
35	Gladys Mireya Castro Muñoz	11/10/2020
36	Rodolfo Martinez	11/10/2020
37	Martha Elena Soto Rojas	11/10/2020
38	María Elker Montoya Pizarro	11/10/2020
39	Astrid Pantoja Cerón	11/10/2020
40	Álvaro Infante Haro, Ángela Montaño, Carol Stefanny Borda Acevedo, Jonathan Steven Silva Mocetón, Carolina Rugeles Linares, Elizabeth Garcés Sánchez, Esperanza Guerrero Oviedo, Jesús Magaña, María Elker Montoya Pizarro, Martha Yaneth Martínez, Yolanda Albany	11/11/2020
41	Francisco José Tamayo Collins	11/12/2020
42	Claudia Carbonell Fernández and Juliana Mejía Quintana	11/5/2020
43	Juan del Valle Arellano	11/12/2020
44	Sonia Dabeiba Cárdenas, Angélica María Ospina Romero, Paola Sarmiento, Astrid Viviana Robayo and Gloria Carvajal Carrascal	11/12/2020
45	Raquel Sarria Acosta, Fabio Pulido Ortiz, Paola García	11/11/2020
46	Amanda Janneth Rodríguez López/head of Affectivity and Sexuality Department University of the Savannah	11/12/2020

WRITS OF INHIBITION FOR LACK OF MINIMUM REQUIREMENTS OF THE CLAIM[642]		
NUM.	**APPLICANT**	**DATE OF SUBMISSION OF THE WRITING**
1	Cristina Amparo Cárdenas de Bohórquez	11/10/2020
2	Magali Portilla Villamizar	11/10/2020
3	Alba Liliana Restrepo Ocampo	11/10/2020
4	Magali Portilla Villamizar, Yolanda Paredes	11/11/2020
5	Teresa Perez	11/12/2020
6	Verónica Rodríguez Blanco, Susana Mosquera, María del Pilar Zambrano, Laura Victoria Chavista Diaz, Laura Sofía Serrato Pedraza, Juan Cianciardo, Federico Bonaldo, Luis Castillo-Córdoba and Luciano D. Laise and Isabel Trujillo	11/11/2020
7	Ilva Gema Alfonso Mugno	11/12/2020
8	Jeannethe Martínez /Legal representative of Fundación Creo	11/12/2020
9	Catalina Rodriguez, student at Universidad de La Sabana	11/12/2020

ANNEX 4

INTERVENTIONS AND OPINIONS OF CITIZENS AND PRIVATEORGANIZATIONS DURING THE LISTING, WHICH REFER TOTHE LACK OF COMPETENCE OF THE CONSTITUTIONAL COURT TO RULE ON THE MATTER

NUM.	**INTERVENERS AND GUEST PARTIES**	**FILING DATE**
1	Adriana Marcela Suárez Parra, Ángela Marcela Jiménez Guzmán, Cecilia Jiménez, Esperanza Guerrero Oviedo, Luisa Fernanda Rincón Cáceres, María Esther Garzón Ayala, Rosa Consuelo Garzón Amaya, Martha Emilia Ovalle Burgos, Olga Lucía Muñoz Ríos and Óscar Stewill Amaya Castillo	10/29/2020
2	Ana Carolina Alzate Cianci, Andrea Giraldo Mera, Diana Díaz, Inés Fabiola García, Juan Camilo Roncallo Sarmiento, Lina Cristina Peña Rico, Mariana Mora Barranco, Martha Soleida García and Nathalia Andrade Valdez	10/29/2020
3	Martha Inés García Sanín	10/29/2020
4	Ana María Cabanzo Huertas	10/30/2020
5	Angela Rodriguez	10/30/2020
6	Catalina María Cauca González	10/30/2020
7	Daniela Duque Aristizábal	10/30/2020
8	Inés Fabiola García	10/30/2020
9	Nathalia Andrade Valdez	10/30/2020
10	Vivianne Parra Cadena	10/30/2020

[642] This list corresponds to persons who do not identify themselves as Colombian citizens.

11	Claudia Cristina Capacho Covelli	10/31/2020
12	Ivonne Elena Linares Cortés	10/31/2020
13	Héctor Hernando Arango Muñoz	11/1/2020
14	Santiago Valencia	11/1/2020
15	Diana Henao Rodríguez, Emerita Barrera Mancilla, Francisco Javier Higuera, Liliana Patricia Cardona Berrio, Lorena Patricia Alzate, Maria de los Angeles Blanco Baron and Maria Cristina Ramirez Arias	11/2/2020
16	Yenifer Vanesa Márquez Gómez	11/2/2020
17	Adriana Beatriz González Guerrero, Alexandra Osorio Navarro, Fanny Morales Leal, Joba Navarro Díaz, Catalina Vergara Chaves, Constanza Patricia Leal Rozo, Daisy García, Germán Esteban Pineda Castillo, Leonardo Rebolledo Ruíz, Liliana Cortés, Lina María García Gutiérrez, Marta Inés Posada, Miguel Ángel Aguilar Gómez, Martha Socorro del Rosario Cárdenas, Nery Andrea Gil Penagos, Juan Carlos Poveda Bayona, José Isidro Gil Mojica, María Camila Penagos Triana, Nery Marleny Penagos Castellanos, and Néstor Edgardo Rada Leal	11/3/2020
18	Daniela Elisa Rodríguez Ocampo, Diana María Loaiza Valencia, Geraldine Murcia Posada, Jenifer Ramírez, Juliana Hernandez Roa and Pamela Delgado Carrasquilla	11/3/2020
19	Olga Lucía Cubides Cruz	11/3/2020
20	Alba Nubia Rios Aguirre	11/4/2020
21	Blanca Delia Ríos Aguirre	11/4/2020
22	Elizabeth Ortiz	11/4/2020
23	Islen Alarcón Cifuentes	11/4/2020
24	Néstor Edgardo Rada Leal	11/4/2020
25	Johana Álvarez Botero	11/6/2020
26	Lía Salomé Sánchez	11/6/2020
27	María del Pilar Castellanos Pabón	11/6/2020
28	Miguel Ángel Galeano Marín	11/6/2020
29	Paola Andrea Castaño Montes	11/6/2020
30	Clemencia Salamanca Mariño	11/9/2020
31	Diego Fernando Ruíz Oviedo, Dilia Inés Martín Herrera, Erika Duarte, Karen Julieth Guevara Torres, Nelly Patricia Ortiz and Sandra Patricia Duarte Atuesta	11/9/2020
32	Victor Fernando Gomez Tabares	11/9/2020
33	Alba Inés Alzato Giraldo	11/10/2020
34	Alba Liliana Restrepo Ocampo	11/10/2020
35	Alba Matilde Chávez Otálora and Fredy Enrique Alvarado Benavides	11/10/2020
36	Ana María Domínguez Guzmán	11/10/2020
37	Angela Martinez	11/10/2020
38	Astrid Pantoja Cerón	11/10/2020
39	Carlos Eduardo Corsi Otálora	11/10/2020
40	Carlos Gilberto Leiva Rizzo	11/10/2020
41	Claudia Bellaiza	11/10/2020
42	Clemencia Salamanca Mariño	11/10/2020
43	Daniela Salazar Silva	11/10/2020
44	Edith del Carmen Bonilla Bonilla	11/10/2020

45	Elizabeth Garcés Sánchez	11/10/2020
46	Gladys Mireya Castro Muñoz	11/10/2020
47	Gloria Lucia Lagos	11/10/2020
48	Isabela Domínguez Guzmán	11/10/2020
49	Javier Armando Suárez Pascagaza	11/10/2020
50	Jean Carlos Botina	11/10/2020
51	Johana Álvarez Botero	11/10/2020
52	Juan Carlos Navarrete Navarrete	11/10/2020
53	Kelly Gomez	11/10/2020
54	Laura Domínguez Guzmán	11/10/2020
55	Laura Valentina Salinas	11/10/2020
56	Leopoldo Varela Acosta	11/10/2020
57	Lizeth Benavides	11/10/2020
58	Magali Portilla Villamizar	11/10/2020
59	María de los Ángeles Serna Botero	11/10/2020
60	María Elker Montoya Pizarro	11/10/2020
61	Maritza Guzman Velasco	11/10/2020
62	Martha Elena Guerrero Ramirez	11/10/2020
63	Martha Elena Soto Rojas	11/10/2020
64	Martha Rocio Montoya Murillo	11/10/2020
65	Paola Chavez, Wilson Montoya and Rocio Gonzales	11/10/2020
66	Paola Chávez, Wilson Montoya, Rocío Gonzales, Jhon Jairo Botinw and Hermes Botina	11/10/2020
67	Rodolfo Martinez	11/10/2020
68	Sonia Vega Calderon	11/10/2020
69	Xiomara Cadena Herrera	11/10/2020
70	Yenifer Reyes Quesada	11/10/2020
71	Yolanda Albany	11/10/2020
72	Adriana Morales Valero, Alba Lucía Valenzuela Correa, Albeiro Gálvez Ávila, Alinxon Scarpetta Scarpetta, Anamaría Gutiérrez Suárez, Anny Carolina Espinosa Ospina, Astolfo Eduardo Moreno C., Carlos Arturo Rojas Bermeo, Claudia Ribero Rincón, Diana Isabel Chaves Varela, Edith Mireya Montealegre Carrasco, Iván Mauricio Jiménez Castro, Juanita Pardo Luengas, Luis Fernando Uribe Gómez, Luz Mariela Prieto Vanegas, María Luz Ángela Izquierdo Chaves, Martha Cecilia Rodríguez Cruz, Martha Lucía Ortiz, Martha Rivera, Migdonia Villamil Montoya, Mónica Patricia Velásquez Conde, Norma del Socorro López González, Rubiela Villamil Montoya	11/11/2020
73	Álvaro Infante Haro, Ángela Montaño, Carol Stefanny Borda Acevedo, Jonathan Steven Silva Mocetón, Carolina Rugeles Linares, Elizabeth Garcés Sánchez, Esperanza Guerrero Oviedo, Jesús Magaña, María Elker Montoya Pizarro, Magali Portilla Villamizar*, Martha Yaneth Martínez, Yolanda Albany, Yolanda Paredes*.	11/11/2020
74	Birgit Scharfenort	11/11/2020
75	Carolina Sanchez and Diego Arias Sanchez	11/11/2020
76	Claudia Posada Arévalo, Laura Gómez, Laura Gómez, Omar Martín Blanco	11/11/2020

	Preciado and Yudi Angélica CiroDiaz	
77	Lina Patricia Ramírez Toro	11/11/2020
78	Raquel Sarria Acosta, Fabio Pulido Ortiz, Paola García	11/11/2020
79	Adriana Cely, Agustín Rueda Gaviria, Aida Rocío Rocío Montañez Bohórquez, Roberto Alexander Mora Mora, Ana Mercedes Mora Díaz, Andrés Arias, Andrés Felipe Arias Astorquiza, Carlos Parra, Diana CarolinaSalas Carvajal, Édison Gerleins Hernández Bernal, Esperanza M. Astorquiza, Federico Hernández, GinnaIvonne Alvarado Pedroza, Ismael Martínez Guerrero, Jesús David Ramírez Castaño, Juliana Osorio Posada, Luisa María Villegas López, Lyda Jimena Castillo, Martha Cecilia Bahamón Z., José NicolásTorres, Sandra Patricia Frasser Escallón, Gloria Gallo, Sandra Lilia Zamora Sánchez and Susana Rueda Gaviria	11/12/2020
80	Adriana García López	11/12/2020
81	Adriana María Amórtegui González	11/12/2020
82	Alida del Socorro Becerra González	11/12/2020
83	Ana Ximena Halabi Echeverry	11/12/2020
84	Angela Diaz	11/12/2020
85	11/12/2020	11/12/2020
86	Ángela Viviana Sánchez Cubides, Yohana Marcela y John	11/12/2020
87	Astrid Pantoja Cerón	11/12/2020
88	Camilo Andrés Serrano Velandia	11/12/2020
89	Carlos Alberto Parra, Angélica María López Alarcón, Catherine Maldonado Villarreal, Claudia Garavito, Diana Lucía Gutiérrez Álvarez, Dora María Silva Arias, Esther Vargas Fernández, José FernandoNaspirán Ávila, María Angélica Martelo, Olga Isabel Vargas, Ramón Rojas Puello, Sandra Patricia Alarcón Villar, and Sandra Lilia Zamora Sánchez	11/12/2020
90	Carmen Cecilia Rojas Miranda	11/12/2020
91	Carolina Castiblanco Rojas	11/12/2020
92	Claudia Patricia Talero Rodriguez, Edgar Alfredo Perez Azuero, Eraida Rubiela Martinez Muñoz, Gloria Lucía Lagos Castellanos, Marco Andrés Gil, Martha Rocío Montoya Murillo and Sandra Liliana Ipujan Getial.	11/12/2020
93	Clemencia Gallo Castillo	11/12/2020
94	Citizen Go Community, Lilia Rodriguez and others	11/12/2020
95	Cristina Restrepo Patiño	11/12/2020
96	Daniel Felipe García Cárdenas	11/12/2020
97	Danna Sofía Suárez Suárez	11/12/2020
98	Diana Giovanna Garzón Cadena	11/12/2020
99	Diana Patricia Cuartas	11/12/2020
100	Diego Vargas Diaz	11/12/2020
101	Dilma Nahir Bohórquez Coronado	11/12/2020
102	Elizabeth Garcés Sánchez	11/12/2020
103	Esperanza Hernández Corso	11/12/2020
104	Fabiola Cañón Martínez	11/12/2020

105	Francisco José Chaux Donado - Vice-Minister for the Promotion of Justice of the Ministry of Justice and Public Prosecutor's Office, Ministry of Justice and Public Prosecution. Law	11/12/2020
106	Francisco José Tamayo Collins	11/12/2020
107	Hermes Botina	11/12/2020
108	Ilva Myriam Hoyos Castañeda	11/12/2020
109	Inés Elvira Díaz	11/12/2020
110	Ingrid Yesenia Zapata Suárez	11/12/2020
111	Jaime Facundo	11/12/2020
112	Jean Carlos Botina	11/12/2020
113	Jesus Ladino Vargas	11/12/2020
114	Jhon Alexander Rosero Aranda	11/12/2020
115	Jhon Jailer Botina	11/12/2020
116	Juan Manuel Suárez Nemocón	11/12/2020
117	Juliana Hernández Roa	11/12/2020
118	Laicos por Colombia/Carlos Eduardo Corsi Otalor, president; Andres Forero Medina, executive director	11/12/2020
119	Laura Vanessa Mora Montañez	11/12/2020
120	Libia Paternina	11/12/2020
121	Lina María Olmos Carreño	11/12/2020
122	Lizeth Benavides	11/12/2020
123	Luis José Serna Zuluaga	11/12/2020
124	Luz Stella Flórez Patarroyo	11/12/2020
125	Margarita Castro	11/12/2020
126	María Angélica Martelo	11/12/2020
127	María Angélica Moreno Herrera	11/12/2020
128	María Camila Ospina Navarro, Pedro Daniel Contreras and Mateo Arana Brando of Plataforma Cívica NuevaDemocracy	11/12/2020
129	María de los Ángeles Muñoz Motta	11/12/2020
130	María Fabiola Rojas Carrillo	11/12/2020
131	María Inés Espinosa Calle	11/12/2020
132	María Isabel Arenas Ovalle	11/12/2020
133	María José Vargas Téllez	11/12/2020
134	María Margarita Vivas Martínez	11/12/2020
135	Maria Teresa Villaveces	11/12/2020
136	Martha Castro	11/12/2020
137	Martha Elena Soto /legal representative of Fundación Derecho a Nacer (Right to be Born Foundation)	11/12/2020
138	Michele Daniela Mora Méndez	11/12/2020
139	Nataly Rodríguez Tello	11/12/2020
140	Olga Teresa Alayón Varas	11/12/2020
141	Oscar Urbina Ortega/archbishop of Villavicencio, president of the Bishops' Conference	11/12/2020
142	Patricia Macias M	11/12/2020

143	Paula Lozada	11/12/2020
144	Piedad Rodríguez Salazar	11/12/2020
145	Rocio Gonzalez	11/12/2020
146	Sandra Liliana Rubiano Fontecha	11/12/2020
147	Susana Baena	11/12/2020
148	Viviana Andrea Caballero Navajas	11/12/2020
149	Yilneth Dayana Tobos Pérez	11/12/2020
150	Yineth Lily Bermeo Cardoso	11/12/2020
151	Yineth Lorena Beltrán Esquinas	11/12/2020
152	José Antonio Montañez Gómez and Gloria María Bohórquez Coronado	11/12/2020
153	Angela Maria Anduquia	11/12/2020
154	Guillermo Alberto Rosero Melo	11/12/2020
155	Armando Zabaraín D'Arce	11/25/2020

WRITS PRESENTED DURING THE PERIOD OF TIME FOR LISTING, WHICH REFER TO THE LACK OF COMPETENCE OF THE CONSTITUTIONAL COURT TO RULE ON THE MATTER[643]		
NUM.	**INTERVENERS AND GUEST PARTIES**	**FILING DATE**
1	Agustina Camargo Martínez, Beatríz González de Uribe, Clemencia Salamanca Mariño	10/29/2020
2	Martinés Posada	10/30/2020
3	Carmen Elvira Castellanos De Penagos	11/03/2020
4	Delly Ramírez	11/03/2020
5	Elizabeth Alejo	11/08/2020
6	María Atilia Reyes Álvarez	11/08/2020
7	Orlando Quintero Arias	11/08/2020
8	Rubi Pérez	11/08/2020
9	Mayte Brotons	11/09/2020
10	Adriana Rangel	11/10/2020
11	Ana Rud Bastidas	11/10/2020
12	Angie Prieto	11/10/2020
13	Cristina Amparo Cárdenas de Bohórquez	11/10/2020
14	Diego Parra F.	11/10/2020
15	Dinacela Marín Rendón	11/10/2020
16	Jhon Milton Rodríguez, María del Rosario Guerra, Eduardo Emilio Pacheco Cuello, Paola Holguín, Santiago Valencia, Esperanza Andrade de Osso, Milla Patricia Romero Soto, Germán Blanco Álvarez, Carlos Felipe Mejía, Carlos Eduardo Acosta Lozano, José Jaime Uscátegui, Edwin Ballesteros, Juan Espinal, Ángela Sánchez Leal, Álvaro Hernán Prada, Margarita Restrepo, Erwin Arias Betancur, Christian Garcés, Jonatan Tamayo Pérez, Juan Manuel Daza Iguarán, Gabriel Jaime Vallejo Chujfi y Edgar Enrique Palacio Mizrahi	11/10/2020

[643] This list corresponds to people who do not identify themselves as Colombian citizens.

17	Stephanie Bermúdez	11/10/2020
18	Ruth Acosta	11/11/2020
19	Usuario Gerencia Maka	11/11/2020
20	Usuario Music & Friends COMEDY	11/11/2020
21	Verónica Rodríguez Blanco, Susana Mosquera, María del Pilar Zambrano, Laura Victoria Chavista Diaz, Laura Sofía Serrato Pedraza, Juan Cianciardo, Federico Bonaldo, Luis Castillo-Córdoba y Luciano D. Laise e Isabel Trujillo	11/12/2020
22	Ana Milena Méndez Camacho, Benny Cheka Cheka	11/12/2020
23	Judith Téllez	11/12/2020
24	Marco Acosta Rico, Emel Rojas Castillo, Diana Marcela Diago Guaquetá, Gloria Elsy Díaz Martínez, Luz Marina Gordillo Salinas, Sara Jimena Castellanos Guerra, Adriana Carolina Arbeláez, Humberto Rafael Amín Martelo, Oscar Ramírez Vahos, Andrés Eduardo Forero Molina, Jorge Luis Colmenares, Nelson Cubides Salazar, Yefer Yesid Vega Bobadilla y Rolando González García / concejales de Bogotá	11/12/2020
25	Silvia Castilblanco	11/12/2020
26	Teresa Pérez Osorio	11/12/2020

ANNEX 5

CONCEPTS AND INTERVENTIONS THAT REFERENCETHE EXISTENCE OF CONSTITUTIONAL *RES JUDICATA*

NUM.	INTERVENERS AND GUESTS PARTIES	DATE OF SUBMISSION OF THE CONCEPT OR INTERVENTION
1	Adriana Marcela Suárez Parra, Ángela Marcela Jiménez Guzmán, Cecilia Jiménez, Esperanza Guerrero Oviedo, Luisa Fernanda Rincón Cáceres, María Esther Garzón Ayala, Rosa Consuelo Garzón Amaya, Martha Emilia Ovalle Burgos, Olga Lucía Muñoz Ríos, and Óscar StewillAmaya Castle	10/29/2020
2	Ana María Cabanzo Huertas	10/30/2020
3	Vivianne Parra Cadena	10/30/2020
4	Ivonne Elena Linares Cortés	10/31/2020
5	Diana Henao Rodríguez, Emerita Barrera Mancilla, Francisco Javier Higuera, Liliana PatriciaCardona Berrio, Lorena Patricia Alzate, María de los Ángeles Blanco Barón, and María Cristina Ramirez Arias	11/02/2020

6	Adriana Beatriz González Guerrero, Alexandra Osorio Navarro, Fanny Morales Leal, Joba Navarro Díaz, Catalina Vergara Chaves, Constanza Patricia Leal Rozo, Daisy García, Germán Esteban Pineda Castillo, Leonardo Rebolledo Ruíz, Liliana Cortés, Lina María García Gutiérrez, Marta Inés Posada, Miguel Ángel Aguilar Gómez, Martha Socorro del Rosario Cárdenas, Nery Andrea Gil Penagos, Juan Carlos Poveda Bayona, José Isidro Gil Mojica, María Camila Penagos, José Isidro Gil Mojica, María Camila Penagos, José Isidro Gil Mojica, María Camila Penagos, José Isidro Gil Mojica and Marta Inés Posada. Triana, Nery Marleny Penagos Castellanos and Nestor Edgardo Rada Leal	11/03/2020
7	Olga Lucía Cubides Cruz	11/03/2020
8	Néstor Edgardo Rada Leal	11/04/2020
9	Esperanza Andrade Serrano and John Milton Rodríguez	11/05/2020
10	Miguel Ángel Galeano Marín	11/06/2020
11	Johana Álvarez Botero	11/06/2020
12	María del Pilar Castellanos Pabón	11/06/2020
13	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León, María del Rosario Guerra, Adriana Magali Matiz Vargas, Nora García Burgos, Myriam Paredes Aguirre and María Fernanda Cabal Molina.	11/09/2020
14	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León and Adriana Magali Matiz Vargas	11/09/2020
15	Diego Fernando Ruíz Oviedo, Dilia Inés Martín Herrera, Erika Duarte, Karen Julieth Guevara Torres, Nelly Patricia Ortiz and Sandra Patricia Duarte Atuesta	11/09/2020
16	María de los Ángeles Serna Botero	11/10/2020
17	Birgit Scharfenort	11/11/2020
18	Lina Patricia Ramírez Toro	11/11/2020
19	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León, María del Rosario Guerra, Adriana Magali Matiz Vargas, Nora García Burgos, Myriam Paredes Aguirre and Diela Liliana Benavides.	11/11/2020
20	Adriana Morales Valero, Alba Lucía Valenzuela Correa, Albeiro Gálvez Ávila, Alinxon Scarpetta Scarpetta, Anamaría Gutiérrez Suárez, Anny Carolina Espinosa Ospina, Astolfo Eduardo Moreno C., Carlos Arturo Rojas Bermeo, Claudia Ribero Rincón, Diana Isabel Chaves Varela, Edith Mireya Montealegre Carrasco, Iván Mauricio Jiménez Castro, Juanita Pardo Luengas, Luis Fernando Uribe Gómez, Luz Mariela Prieto Vanegas, María Luz Ángela Izquierdo Chaves, Martha Cecilia Rodríguez Cruz, Martha Lucía Ortiz, Martha Rivera, Migdonia Villamil Montoya, Mónica Patricia Velásquez Conde, Norma del Socorro López González, Rubiela Villamil Montoya	11/11/2020

21	María Fabiola Rojas Carrillo	11/12/2020
22	Jesus Ladino Vargas	11/12/2020
23	Adriana María Amórtegui González	11/12/2020
24	Piedad Rodríguez Salazar	11/12/2020
25	Ingrid Yesenia Zapata Suárez	11/12/2020
26	Alida del Socorro Becerra González	11/12/2020
27	Laura Vanessa Mora Montañez	11/12/2020
28	María Angélica Martelo	11/12/2020
29	Michele Daniela Mora Méndez	11/12/2020
30	Paula Lozada	11/12/2020
31	Yilneth Dayana Tobos Pérez	11/12/2020
32	Yineth Lorena Beltrán Esquinas	11/12/2020
33	Ana Ximena Halabi Echeverry	11/12/2020
34	Camilo Andrés Serrano Velandia	11/12/2020
35	Carmen Cecilia Rojas Miranda	11/12/2020
36	Carolina Castiblanco Rojas	11/12/2020
37	Daniel Felipe García Cárdenas	11/12/2020
38	Danna Sofía Suárez Suárez	11/12/2020
39	Cristina Restrepo Patiño	11/12/2020
40	Luis José Serna Zuluaga	11/12/2020
41	María Inés Espinosa Calle	11/12/2020
42	Patricia Macias M	11/12/2020
43	Viviana Andrea Caballero Navajas	11/12/2020
44	Susana Baena	11/12/2020
45	Carlos Alberto Parra, Angélica María López Alarcón, Catherine Maldonado Villarreal, Claudia Garavito, Diana Lucía Gutiérrez Álvarez, Dora María Silva Arias, Esther Vargas Fernández, José Fernando Naspirán Ávila, María Angélica Martelo, Olga Isabel Vargas, Ramón Rojas Puello, Sandra Patricia Alarcón Villar and Sandra Lilia Zamora Sánchez	11/12/2020
46	Maria Teresa Villaveces	11/12/2020
47	María Isabel Arenas Ovalle	11/12/2020
48	Sheyla Rodríguez Real	11/09/2020
49	Sheyla Rodríguez Real and Yolanda Muñoz Gómez	11/09/2020
50	Diva Inés Serrano Ramírez	11/10/2020
51	Verónica Uribe Ramírez	11/10/2020
52	Elvia María del Pilar Martínez Neira	11/10/2020
53	Esther María Tous Rodríguez	11/10/2020
54	Alexandra Díaz, Ana Luz Ceballos López, Arturo Herreño Marín, Belkis Karina Erazo Polania, Berenice Velásquez Gómez, Carolina Cubides Plazas, Claudia Lorena Zapata Marín, Claudia Velasco, Diana Marcela Mesa Acosta, Diana Marcela Giraldo López, Francy Yuliana Castaño, Gloria Edith Herreño Marín, José Fernando Ramírez Prada, José Luis León Ledesma, Juan Carlos Caicedo Moreno, Marcela Suárez Ruano, Mónica Álvarez Cruz, Natalia Lorena Álvarez Morales, Natalia Ramírez	11/11/2020

	Álvarez, Sandra Dignora Estupiñán Alzate, SandraMilena Troncoso Rojas and Yorleny Alvarado	
55	Claudia Marcela Domínguez Rodríguez	11/12/2020
56	Adriana Eugenia Galvis Gómez	11/12/2020
57	Andres Naranjo Cruz	11/12/2020
58	Hasblade Ardila	11/12/2020
59	Johana Cristina Santana Valero	11/12/2020
60	Berta Luz Arbeláez	11/12/2020
61	Diana Cristina Marulanda Giraldo	11/12/2020
62	María Fernanda Valoyes	11/12/2020
63	Adriana Rivadeneira	11/12/2020
64	María Alejandra Rivadeneira	11/12/2020
65	Raquel Chocué Pillimue	11/12/2020
66	Estefani Chocué Pillimue	11/12/2020
67	Mari Luz Beltrán Martínez, Fredy Santamaría Machado and Giseth Paola Santamaría Beltrán.	11/12/2020
68	Paula Mariana Vásquez Arévalo	11/12/2020
69	Sandra Milena Villafe Torres	11/12/2020
70	Teresa de Jesús Bermúdez Restrepo, Carlos E. Posso, Margarita Restrepo de Bermúdez	11/12/2020
71	Tomás Estupiñán Murillo	11/12/2020
72	Flor Rodríguez Villamarín	11/12/2020
73	Adriana Carolina Rangel Rojas, Ana María Gómez Rojas, Assenth Serna Alzate, Darío Villegas Echeverry, Gabriela Gallo Martínez, Jaime Eduardo Villegas Serna and Nancy Helena VelandiaAcosta	11/12/2020
74	Adriana Marcela Orozco Silva	11/04/2020
75	Clemencia Salamanca Mariño	11/09/2020
76	Claudia Posada Arévalo, Laura Gómez, Laura Gómez, Omar Martín Blanco Preciado and YudiAngelica Ciro Diaz	11/11/2020
77	Juliana Hernández Roa	11/12/2020
78	Nataly Rodríguez Tello	11/12/2020
79	María José Vargas Téllez	11/12/2020
80	Diego Vargas Diaz	11/12/2020
81	Jaime Facundo	11/12/2020
82	Diana Patricia Cuartas	11/12/2020
83	Elizabeth Garcés Sánchez	11/12/2020
84	Libia Paternina	11/12/2020
85	Lizeth Benavides	11/12/2020
86	María de los Ángeles Muñoz Motta	11/12/2020
87	Rocio Gonzalez	11/12/2020
88	Sandra Liliana Rubiano Fontecha	11/12/2020
89	Angela Diaz	11/12/2020

90	Esperanza Hernández Corso	11/12/2020
91	Fabiola Cañón Martínez	11/12/2020
92	Hermes Botina	11/12/2020
93	Jhon Jailer Botina	11/12/2020
94	Jhon Alexander Rosero Aranda	11/12/2020
95	Lina María Olmos Carreño	11/12/2020
96	Luz Stella Flórez Patarroyo	11/12/2020
97	Martha Castro	11/12/2020
98	Claudia Patricia Talero Rodríguez, Edgar Alfredo Pérez Azuero, Eraida Rubiela Martínez Muñoz, Gloria Lucía Lagos Castellanos, Magda Yamile Ramos López, Marco Andrés Gil, Martha Rocío Montoya Murillo and Sandra Liliana Ipujan Getial	11/12/2020
99	Jean Carlos Botina	
100	Astrid Pantoja Cerón	11/12/2020
101	Edith del Carmen Bonilla Bonilla	11/10/2020
102	Johana Álvarez Botero	11/10/2020
103	Elizabeth Garcés Sánchez	11/10/2020
104	Isabela Domínguez Guzmán	11/10/2020
105	Alba Matilde Chávez Otálora and Fredy Enrique Alvarado Benavides	11/10/2020
106	Ana María Domínguez Guzmán	11/10/2020
107	Carlos Eduardo Corsi Otálora	11/10/2020
108	Gloria Lucia Lagos	11/10/2020
109	Leopoldo Varela Acosta	11/10/2020
110	Martha Rocío Montoya Murillo	11/10/2020
111	Claudia Bellaiza	11/10/2020
112	Daniela Salazar Silva	11/10/2020
113	Maritza Guzman Velasco	11/10/2020
114	Clemencia Salamanca Mariño	11/10/2020
115	Yolanda Albany	11/10/2020
116	Juan Carlos Navarrete Navarrete	11/10/2020
117	Martha Elena Guerrero Ramirez	11/10/2020
118	Laura Domínguez Guzmán	11/10/2020
119	Carlos Gilberto Leiva Rizzo	11/10/2020
120	Jean Carlos Botina	11/10/2020
121	Lizeth Benavides	11/10/2020
122	Paola Chavez, Wilson Montoya and Rocio Gonzales	11/10/2020
123	Paola Chávez, Wilson Montoya, Rocío Gonzales, Jhon Jairo Botinw and Hermes Botina	11/10/2020
124	Angela Martinez	11/10/2020
125	Gladys Mireya Castro Muñoz	11/10/2020
126	Rodolfo Martinez	11/10/2020
127	Martha Elena Soto Rojas	11/10/2020
128	María Elker Montoya Pizarro	11/10/2020
129	Astrid Pantoja Cerón	11/10/2020

130	Álvaro Infante Haro, Ángela Montaño, Carol Stefanny Borda Acevedo, Jonathan Steven Silva Mocetón, Carolina Rugeles Linares, Elizabeth Garcés Sánchez, Esperanza Guerrero Oviedo, Jesús Magaña, María Elker Montoya Pizarro, Martha Yaneth Martínez, Yolanda Albany	11/11/2020
131	Francisco José Tamayo Collins	11/12/2020
132	Ana María Orozco Silva	11/03/2020
133	Raquel Sarria Acosta, Fabio Pulido Ortiz	11/11/2020
134	Joaquín Elías Cano Vallejo / judicial and extra-judicial representative of the Ministry of Health and Social Protection	11/18/2020
135	Andrea Elizabeth Hurtado Neira / technical director of the Legal Directorate of the Ministry of Foreign Affairs, Ministry of Foreign Affairs Health and Social Protection	11/24/2020
136	Francisco José Chaux Donado / Vice-Minister for the Promotion of Justice of the Ministry of Justice of the Dominican Republic Justice and Law	11/12/2020
137	Óscar Urbina Ortega/ Archbishop of Villavicencio, President of the Bishops' Conference	11/12/2020
138	Legal Commission for Women's Equity / María Cristina Rosado Sarabia / coordinator Legal Commission for Women's Equality - Congress of the Republic	10/28/2020
139	Emma Claudia Castellanos and Angela Patricia Sánchez	11/27/2020
140	Nidia Marcela Osorio Salgado	11/10/2020
141	Armando Zabaraín D'Arce	11/25/2020
142	Fernando Velásquez Velásquez|	11/13/2020
143	Red Futuro Colombia / Andres Forero Medina	11/10/2020
144	Luis Gustavo Fierro Maya / head of the Legal Advisory Office - Ministry of National Education	11/12/2020
145	Gina Rocío Meyer Arévalo	11/06/2020
146	Martha Inés García Sanín	10/29/2020
147	Joel David Gaona Cruz	11/12/2020
148	Carlos Felipe Castrillón Muñoz	11/12/2020

PLEADINGS REFERRING TO THE EXISTENCE OF RES JUDICATA[644]		
NUM.	**APPLICANT**	**FILING DATE**
1	Agustina Camargo Martinez, Beatriz Gonzalez de Uribe, Clemencia Salamanca Mariño	10/29/2020
2	Martinés Posada	10/30/2020
3	Carmen Elvira Castellanos De Penagos,	11/03/2020

[644] This list corresponds to persons who do not identify themselves as Colombian citizens.

4	Makia Management User	11/11/2020
5	Judith Tellez	11/12/2020
6	Adriana Cely	11/11/2020
7	María Claudia Suescun	11/12/2020
8	Catalina Ramos Orozco, Laura Marcela Ramos Orozco and Natalia Ramos Orozco	11/05/2020
9	User Music & Friends COMEDY	11/11/2020
10	Olga Teresa Alayón Varas	11/12/2020
11	Ana Milena Méndez Camacho, Benny Cheka Cheka Cheka	11/12/2020
12	Cristina Amparo Cárdenas de Bohórquez	11/10/2020
13	Magali Portilla Villamizar	11/10/2020
14	Alba Liliana Restrepo Ocampo	11/10/2020
15	Magali Portilla Villamizar, Yolanda Paredes	11/11/2020
16	Teresa Perez	11/12/2020
17	Verónica Rodríguez Blanco, Susana Mosquera, María del Pilar Zambrano, Paola García, Laura Victoria Chavista Diaz, Laura Sofía Serrato Pedraza, Juan Cianciardo, Frederico Bonaldo, Luis Castillo-Córdoba and Luciano D. Laise and Isabel Trujillo	11/11/2020
18	User taxcafe Barranquilla	11/10/2020
19	Fabián Cárdenas/tenured professor of international law at the Universidad Jorge Tadeo Lozano	11/11/2020

ANNEX 6

INTERVENTIONS AND CONCEPTS OF CITIZENS, PRIVATE ORGANIZATIONS, PUBLIC AUTHORITIES AND *AMICUS CURIAE* REFERRING TO THE NON-EXISTENCE OF CONSTITUTIONAL *RES JUDICATA*

NUM.	INTERVENERS AND GUEST PARTIES
1	José Fernando Perdomo Torres
2	Ángela María Buitrago Ruíz
3	Gabriela Cala Porras, Isabella Lébolo Bula, Sofía Machado Parra, Isabel Gaviria Ormaza and María Valencia Ibáñez
4	Mónica Arango Olaya, Viviana Bohórquez Monsalve and María Paula Saffon Sanín
5	Juanita María Goebertus Estrada, Angélica Lozano Correa, Ángela María Robledo Gómez, Katherine Miranda Peña, María José Pizarro Rodríguez, Catalina Ortiz Lalinde, Juan Carlos Lozada Vargas, Juan Fernando Reyes Kuri, Inti Raúl Asprilla Reyes, Gustavo Bolívar Moreno, Abel David Jaramillo Largo, Wilson Neber Arias Castillo, León Fredy Muñoz Lopera, Antonio Sanguino Páez, Carlos Germán Navas Talero, Mauricio Toro Orjuela, Luis Alberto Albán Urbano, David Racero Mayorca, Wilmer Leal Pérez, Julián Gallo Cubillos and Jorge Gómez Gallego / representatives and senators of the Republic of Colombia.
6	Angie Daniela Yepes García, coordinator of the Public Actions Group (GAP) of the Universidad del Rosario, and María José Motta, Lorena Pardo Rojas and Viviana Basto Vergara members of GAP

7	María Alejandra Ramírez Arias, Lina Ríos Ortiz, Natalia Andrea González Barreto / students of the Advocacy and Social Action Group of the Legal Clinic of the Universidad de los Andes and Carlos Julián Mantilla Copete advisor of the Advocacy and Social Action Group of the Legal Clinic of the Universidad de los Andes and Carlos Julián Mantilla Copete advisor of the Advocacy and Social Action Group of the Legal Clinic of the Universidad de los Andes. Advocacy and Social Action
8	Luz Ángela Gómez Jutinico and others / director of the Gender and Equity Seminar Universidad Libre de Bogotá
9	José Alejandro Ramírez Chacón, Diana Valentina Amado Vega and Jorge Hernando Galeano Arias / members and coordinator Academician, respectively, of the "Less Crime, Better Justice" Research Group attached to the School of Law, Political and Social Sciences, Universidad Nacional de Colombia.
10	Jorge Kenneth Burbano Villamarín / director of the Observatory of Constitutional Citizen Intervention of the Law School of the Universidad Libre and David Andrés Murillo Cruz / professor of the Law School of the Universidad Libre and member of the Observatory; Camila Alejandra Rozo Ladino / lawyer and member of the Observatory and Leydy Jazmín Ruíz Herrera student and member of the Observatory
11	Viviana Rodriguez Peña / legal coordinator and María Fernanda Herrera Burgos, Karen Esmeralda Mora Chaparro and Marcia Rojas Moreno / lawyers of Corporación Humanas - Centro Regional de Derechos Humanos y Justicia de Género-.
12	Wilson de Jesús Castañeda Castro / legal representative and director of Caribe Afirmativo
13	Marcela Sánchez Buitrago / executive director, María Susana Peralta, Beldys Hernández, Juan Felipe Rivera Osorio and Alejandro Barreiro / members of the Legal Department of Colombia Diversa and Laura Frida Weinstein, Director and Tomás Anzola, Camila Becerra, Laura Flórez and Daniel González, members of the Fundación Grupo de Acción y Apoyo a Personas Trans (GAAT).
14	Álvaro Bermejo / Director General International Planned Parenthood Federation - IPPF
15	Érika Guevara Rosas / Director of Amnesty International's Regional Office for the Americas International Secretariat
16	Diana Cristina Caicedo Naranjo / executive director of the Gea Jurisgeneristas Cooperation and Carolina Espitia Becerra Collaborator of Capacity Building and Management Areas
17	Diana Rodríguez Franco / District Secretariat for Women (Bogotá)
19	Gustavo Gallón Giraldo, Julián González Escallón, David Fernando Cruz, Enith Bula Beleño and Sibelys Mejía Rodríguez - Colombian Commission of Jurists
19	Viviana Rodríguez Peña, Karen Esmeralda Mora Chararro, María Fernanda Herrera Burgos and Marcia Rojas Moreno / Corporación Humanas - Regional Center for Human Rights and Gender Justice
20	Universidad Externado de Colombia, through the Center for the Study of Genetics and Law and the International Migration Observatory of the Constitutional Law Department of the Law School/ Orlando Enrique Santamaría Echeverría, Jorge Alberto Ramírez Gómez, Natalia Rueda Vallejo and Simón Rodríguez Serna
21	Felipe Chica Duque, Miguel Angel Diaz Ochoa, Maria Acelas Celis, Sofia Ramos Lopez and Andres Rodriguez Morales

ANNEX 7

INTERVENTIONS AND OPINIONS OF CITIZENS, PRIVATE ORGANIZATIONS, AND *AMICUS CURIAE* REQUESTING THE CONSTITUTIONALITY OF THE CHALLENGED PROVISION

Grounds: (1) the rights of the nasciturus or fetus must be protected; (2) abortion undermines human rights; (3) prevalence of the rights of girls and boys; (4) non-existence of a fundamental right to VIP; (5) the right of parents (couple) to decide on the number of children; and (6) non-binding nature of the soft law norms on which the petition is based.				
NUMBER	**INTERVENERS AND GUEST PARTIES**	**BASIS**	**OTHER**	**FILING DATE**
1	Juan Carlos Novoa Buendía / Colombian Association of Catholic Jurists	1,4,6	The offense of abortion does not undermine the purposes and functions of punishment.	11/12/2020
2	María Camila Ospina Navarro, Pedro Daniel Contreras y Mateo Arana Brando / Civic Platform New Democracy	1, 4	Abortion poses a serious danger to the health and life of pregnant women. Abortion does not solve the violation of human rights of migrants or eradicate poverty. Abortion is violent and discriminatory if it is imposed on a woman or a family in extraordinary and vulnerable conditions as the only alternative. The existence of clandestine abortions does not justify its decriminalization. The number of children is susceptible to being chosen until before the moment of conception.	11/12/2020
3	Pamela Delgado / Spokesperson in Colombia for 40 Days for Life	1, 5	The legalization of abortion does not improve the risk of death for women who have abortions. The decision about the number of children is a decision made prior to the existence of the nasciturus. Additionally, the creation of a jurisprudential right to abortion violates freedom of conscience and makes the PRO-LIFE movement illegal.	11/12/2020

4	Deisy Johana Álvarez Toro / Legal representative of the Corporation “Uno Más” - Red Antioquia Pro-Life	1, 3, 4, 5	Gynecological and obstetric complications exist whether or not clandestine abortions occur. Abortion carries physical and psychological risks that threaten women's integrity. The lack of constitutionality of the norm would lead to an abusive interpretation of constitutional Article 42, given that it would allow the exercise of a right whose ownership is shared (by the couple) to be carried out to the detriment and obvious disadvantage of one of the parties, even though the same legal system may later reproach the denied party for failing to comply with their duties; it would encourage the abandonment and discarding of children who are unwanted; and it would send a message to society that encourages parental irresponsibility.	11/12/2020
5	Deisy Johana Álvarez Toro / Legal representative of the Corporation “Uno Más” - Red Antioquia Pro-Life	1	The decriminalization of abortion will deepen the institutional lack of protection for pregnant women who are going through a crisis. Human beings have the right to life from conception. Abortion is not a contraceptive method. It puts the lives and health of women going through a pregnancy crisis at risk.	11/12/2020
6	Martha Elena Soto / Legal representative of the Right to be Born Foundation	1, 4	Abortion undermines the integrity, physical, spiritual, psychological, emotional, and social health of women and those who practice it.	11/12/2020
7	Luis Alfonso Pizarro Jaramillo / Legal representative of the Church of Jesus Christ of Latter-day Saints		Marriage between man and woman is ordained by God, and the family is fundamental in the Creator's plan for the eternal destiny of His children.	11/12/2020
8	Oscar Urbina Ortega / Archbishop of Villavicencio, President of the Episcopal Conference	1, 3, 4	Abortion is not a method of birth control.	11/12/2020

9	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León, María del Rosario Guerra, Adriana Magali Matiz Vargas, Nora García Burgos, Myriam Paredes Aguirre and Diela Liliana Benavides		The right to life of the unborn must be protected (they also argue that there is constitutional *res judicata*)	11/11/2020
10	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León, María del Rosario Guerra, Adriana Magali Matiz Vargas, Nora García Burgos, Myriam Paredes Aguirre and María Fernanda Cabal Molina		The right to life of the unborn must be protected (it is also argued that there is constitutional *res judicata*).	11/09/2020
11	Esperanza Andrade Serrano and John Milton Rodríguez		The right to life of the unborn must be protected (it is also argued that there is constitutional *res judicata*).	11/05/2020
12	Esperanza Andrade Serrano, John Milton Rodríguez, Juan Carlos García Gómez, María Cristina Soto de Gómez, Buenaventura León León and Adriana Magali Matiz Vargas		The right to life of the unborn must be protected (it is also argued that there is constitutional *res judicata*).	11/09/2020
13	Juana Acosta López		There are no legal grounds to affirm the autonomous existence of the fundamental right to VIP. Declaring the admissibility of the claims in the lawsuit could give rise to an international wrongful act by implying the existence of an absolute right in favor of mothers against the absolute suppression of the right of the unborn. The use of abortion as the only alternative	11/12/2020

			to solving structural problems related to women's rights demonstrates the failure of the ideals of feminism.	

14	Ángela Rocío Martínez Rivera	1, 2, 3		11/03/2020
15	Ángela Paola Rada Martínez	1, 2, 3		11/12/2020
16	Ana Carolina Alzate Cianci, Andrea Giraldo Mera, Diana Díaz, Inés Fabiola García, Juan Camilo Roncallo Sarmiento, Lina Cristina Peña Rico, Mariana Mora Barranco, Martha Soleida García and Nathalia Andrade Valdez	1, 2, 4	Social Rejection	10/29/2020
17	Inés Fabiola García	1, 2, 4	Social Rejection	10/30/2020
18	Catalina María Cauca González	1, 2, 4	Social Rejection	10/30/2020
19	Daniela Duque Aristizábal	1, 2, 4	Social Rejection	10/30/2020
20	Nathalia Andrade Valdez	1, 2, 4	Social Rejection	10/30/2020
21	Ángela Rodríguez	1, 2, 4	Social Rejection	10/30/2020
22	Claudia Cristina Capacho Covelli	1, 2, 4	Social Rejection	10/31/2020
23	Héctor Hernando Arango Muñoz	1, 2, 4	Social Rejection	11/01/2020
24	Santiago Valencia	1, 2, 4	Social Rejection	11/01/2020
25	Yenifer Vanesa Márquez Gómez	1, 2, 4	Social Rejection	11/02/2020
26	Daniela Elisa Rodríguez Ocampo, Diana María Loaiza Valencia, Geraldine Murcia Posada, Jenifer Ramírez, Juliana Hernández Roa and Pamela Delgado Carrasquilla	1, 2, 4	Social Rejection	11/03/2020
27	Alba Nubia Ríos Aguirre	1, 2, 4	Social Rejection	11/04/2020
28	Blanca Delia Ríos Aguirre	1, 2, 4	Social Rejection	11/04/2020
29	Islen Alarcón Cifuentes	1, 2, 4	Social Rejection	11/04/2020
30	Lía Salomé Sánchez	1, 2, 4	Social Rejection	11/06/2020
31	Paola Andrea Castaño Montes	1, 2, 4	Social Rejection	11/06/2020
32	Víctor Fernando Gómez Tabares	1, 2, 4	Social Rejection	11/09/2020
33	Sonia Vega Calderón	1, 2, 4	Social Rejection	11/10/2020
34	Laura Valentina Salinas	1, 2, 4	Social Rejection	11/10/2020

35	Alba Inés Alzate Giraldo	1, 2, 4	Social Rejection	11/10/2020
36	Kelly Gómez	1, 2, 4	Social Rejection	11/10/2020
37	Xiomara Cadena Herrera	1, 2, 4	Social Rejection	11/10/2020
38	Yenifer Reyes Quesada	1, 2, 4	Social Rejection	11/10/2020
39	Carolina Sánchez y Diego Arias Sánchez	1, 2, 4	Social Rejection	11/11/2020
40	María Angélica Moreno Herrera	1, 2, 4	Social Rejection	11/12/2020
41	Margarita Castro	1, 2, 4	Social Rejection	11/12/2020
42	Diana Giovanna Garzón Cadena	1, 2, 4	Social Rejection	11/12/2020
43	Dilma Nahir Bohórquez Coronado	1, 2, 4	Social Rejection	11/12/2020
44	Juan Manuel Suárez Nemocón	1, 2, 4	Social Rejection	11/12/2020
45	Adriana García López	1, 2, 4	Social Rejection	11/12/2020
46	María Margarita Vivas Martínez	1, 2, 4	Social Rejection	11/12/2020
47	Clemencia Gallo Castillo	1, 2, 4	Social Rejection	11/12/2020
48	Yineth Lily Bermeo Cardoso	1, 2, 4	Social Rejection	11/12/2020
49	Adriana Cely, Agustín Rueda Gaviria, Aida Rocío Montañez Bohórquez, Roberto Alexander Mora Mora, Ana Mercedes Mora Díaz, Andrés Arias, Andrés Felipe Arias Astorquiza, Carlos Parra, Diana Carolina Salas Carvajal, Edisson Gerleins Hernández Bernal, Esperanza M. Astorquiza, Federico Hernández, Ginna Ivonne Alvarado Pedroza, Ismael Martínez Guerrero, Jesús David Ramírez Castaño, Juliana Osorio Posada, Luisa María Villegas López, Lyda Jimena Castillo, Martha Cecilia Bahamón Z., José Nicolás Torres, Sandra Patricia Frasser Escallón, Gloria Gallo, Sandra Liliana Zamora Sánchez and Susana Rueda Gaviria	1, 2, 4	Social Rejection	11/12/2020

50	Ángela Viviana Sánchez Cubides, Yohana Marcela and John	1, 2, 4	Social Rejection	11/12/2020
51	José Antonio Montañez Gómez and Gloria María Bohórquez Coronado	1, 2, 4	Social Rejection	11/12/2020
52	Vilma Graciela Martínez Rivera	2	Destruction of the family, covering up for state abandonment	11/08/2020
53	Carmen Alicia Martínez Rivera	2, 7	Destruction of the family, covering up for state abandonment	11/08/2020
54	Ángela Martínez and Fanny Estupiñán Ayala	2, 7	Destruction of the family, covering up for state abandonment	11/09/2020
55	Mario García Isaza	2, 7	Destruction of the family, covering up for state abandonment	11/10/2020
56	Adriana Elena Álvarez Rivera	2, 7	Destruction of the family, covering up for state abandonment	11/10/2020
57	Andrea Montealegre Cuéllar	2, 7	Destruction of the family, covering up for state abandonment	11/11/2020
58	Anyuley Barragán Rodríguez and Diana del Socorro Daza Ardila	2, 7	Destruction of the family, covering up for state abandonment	11/11/2020
59	Myriam Burgos and Orlando Díaz Prada	2, 7	Destruction of the family, covering up for state abandonment	11/11/2020
60	Blanca Victoria Prada Gil	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
61	Carmenza Piñeros Zúñiga	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
62	Elizabeth Nayibe Morales Rivera	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
63	Ana Ruth Rivera Pérez	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
64	Martha Cecilia Morales Rivera	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
65	Nelson Yesid Martínez Rivera	2, 7	Destruction of the family, covering up for state abandonment	11/12/2020
66	Clemencia Salamanca Mariño	1, 2, 3	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/09/2020
67	Claudia Posada Arévalo, Laura Gómez, Laura Gómez, Omar Martín Blanco Preciado and Yudi Angélica Ciro Díaz	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/11/2020

68	Juliana Hernández Roa	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
69	Nataly Rodríguez Tello	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
70	María José Vargas Téllez	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
71	Diego Vargas Díaz	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
72	Jaime Facundo	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
73	Diana Patricia Cuartas	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
74	Elizabeth Garcés Sánchez	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
75	Libia Paternina	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
76	Lizeth Benavides	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
77	María de los Ángeles Muñoz Motta	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
78	Rocío González	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
79	Sandra Liliana Rubiano Fontecha	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
80	Ángela Díaz	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
81	Esperanza Hernández Corso	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
82	Fabiola Cañón Martínez	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020

83	Hermes Botina	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
84	Jhon Jailer Botina	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
85	Jhon Alexander Rosero Aranda	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
86	Lina María Olmos Carreño	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
87	Luz Stella Flórez Patarroyo	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
88	Martha Castro	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
89	Claudia Patricia Talero Rodríguez, Edgar Alfredo Pérez Azuero, Eraida Rubiela Martínez Muñoz, Gloria Lucía Lagos Castellanos, Magda Yamile Ramos López, Marco Andrés Gil, Martha Rocío Montoya Murillo and Sandra Liliana Ipujan Getial	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
90	Astrid Pantoja Cerón	1, 2, 3, 7	VIP covers up social problems, affects the mother's health, and promotes objectionable practices	11/12/2020
91	Vilma Graciela Martínez Rivera	1, 2, 3	The right to life is inviolable	10/30/2020
92	Ana María Sánchez Musella	1, 2, 3, 4		11/01/2020
93	Ana María Orozco Silva		*Res judicata* (C-355/06) on the cases in which legal and safe abortion is permitted	11/03/2020
94	Elizabeth Ortiz	1, 2, 4	Life is a “divine” matter	11/04/2020
95	Claudia Carbonell Fernández and Juliana Mejía Quintana	1, 2, 5	The Court does not have multidisciplinary elements of judgment; to avoid the normalization of violence; VIP does not address the structural causes of the problem	11/05/2020

96	Gina Rocío Meyer Arévalo	1, 2, 3, 5	It is not feasible to import models implemented on the subject under social realities foreign to the Colombian one; VIP produces sequels in the mother; right to the life of the mother	11/06/2020
97	Amanda Rosas Camero, María Elsa Rosas Camero, Adriana María Lozano Rosas, Eleanor Rosas Camero, Guillermo Rosas Camero, Diana Carolina León Rosas and Jorge Alejandro León Rosas	1		11/10/2020
98	Carlos Alberto Soto Perea	1, 2		11/10/2020
99	Raquel Sarria Acosta, Fabio Pulido Ortiz	1, 2, 4, 6	The scope of the 'living right' attributed by the plaintiff lacks empirical and legal basis. The Congress is not obliged to completely eliminate the crime of abortion; there is no normative or judicial mandate. At most, there is a 'recommendation' contained in the questionable Ruling SU-096/18 to develop the 3 exceptions established in C-355/06 with the force of *res judicata*	11/11/2020
100	Ángela Vélez Escallón	1, 2	In the alternative, they request that the norm be declared constitutional for reasons 1 and 2. Personal experience should be considered, as well as the havoc that abortion has caused to its survivors (as in their personal case); the pain and suffering that the procedure causes to the unborn must be taken into account; women should be shown that there are other paths	11/12/2020
101	Joel David Gaona Cruz	1, 2, 4, 5, 6	The exceptions contemplated in Court Ruling C355/06 should be eliminated, as they do not pass the proportionality test. The Court should declare this in the present case. The State may limit freedom of	11/12/2020

			profession or occupation in the public interest. It is constitutional to ask health professionals to adhere to the parameters established in C-355/06. Stigmatization cannot be a criterion for decriminalization, as it is inherent in all criminal types. The purposes of the penalty cannot be confused with the criminal type	
102	Carlos Felipe Castrillón Muñoz	1, 6		11/12/2020
103	Ángela María Anduquia Sarmiento	1, 2, 3, 4, 5, 6, 7	The right to free development of personality is not absolute	11/12/2020
104	Juan del Valle Arellano	3 y 5		11/12/2020
105	Felipe Chica Duque, Miguel Ángel Díaz Ochoa, María Acelas Celis, Sofía Ramos López and Andrés Rodríguez Morales		They request, in the alternative, that the conditional constitutionality of the challenged norm be declared, declaring abortion legal up to 16 weeks of gestation	11/12/2020
106	Harold Eduardo Sua Montaña	1 y 2	the right to life is inviolable, and the State is obliged to guarantee it	11/12/2020
107	Valeria Alejandra Gutiérrez Urbano, Daniela Alejandra Lara Montoya, Camilo Cuitiva Corena, Diego Gutiérrez, Karen Herrera Gudiño, Gilma Fiorella Gutiérrez Urbano, Claudia Urbano, Nicolás Hernández, Reinaldo Ángel, Daniel Smith Useche, Isabel Díaz Galvis, José Gabriel Perlaza Grueso, Laura Ramos Bocanegra, Jenifer Carolina Flórez Manrique, Manuel A. Contreras, Karen Yesenia Quintero Parra, Ángela Milena Ávila, Katherine Argüello, Lina Andrea Páez Félix , Eduar H. de la Cruz Villora, Liseth Patricia Guardo Pua, Andrés Benavidez Sánchez, Diana Patricia Castilla, Sol Angie Murcia, Geidy Lozano Castro,		Life begins at conception, and from that moment, the State has an obligation to protect it.	10/30/2020

	Luisa Fernanda Guzmán, Ender Meléndez Julio, Hadison Zavala, Paula Balcarcel Jaimes, María Isabel Villalba, Ana Paola Mora, Jonathan García Parra, Aldo Mauricio Chaparro Sánchez, Mónica Ángel Díaz, Angie Ángel Díaz, David Reinaldo Ángel Díaz, Angie Carolina Serrano Bamba, Cristofer Ramos Rodríguez, Camila Mendoza, Carmen Patricia Mayo, Jenny Fernanda Rodríguez, Jhon Cubillos, Jocabed Cañavera Casanova, Álvaro Quiceno Gil, Rut Saray Gutiérrez, Elizabeth Villota, Mauricio Martínez, Sandra Margarita García Hernández, Josué Oliveros, Leybis Fragozo Arias, Sebastián Benavidez, Rut Arroyave, Leidy Herrera Moreno, Geber Villareal Becerra, Nancy González, Marta Solís, James Alberto Rave, Andrés José Rave, Angélica Maria Montero, Jesica González, Juan Marcos Heredia, Iza María Calderón Melo, Samuel David Calderón Meló, Victoria Meló Correa y Claudia Maria Espitia / members of JUCUM Pro-Life Network			
108	Magda Milena González, Alejandro Cotes, Andrés Felipe Ovalle, Nahum Arroyabe, Valentina Cruz Oyola, Leonor Muñoz Vargas, Janner Colon Correa, Anais Blanes Suárez, Efraín Espinosa, María Fernanda		Life begins at conception, and from that moment, the State has an obligation to protect it.	11/02/2020

	Vargas, Yerminson Perdomo, Ingrid Arroyo, Natalia Toro, Daniel Castro Henao, Ángelo David Cordero, Stephanie Escudero, Janebis Rodelo, Britney Dayana Márquez, Sebastián Díaz Galeano, José Samuel Castro Caballero, Sofía Buitrago Martínez, Camila Dechamps Sáez, Brandon Felipe Carrero Mora, María Angélica Forero Vargas, Karen Julieth Camacho, Diana María Rodríguez, Perla Iveth Murillo, Daniela Suárez y otros dos ciudadanos firmantes / members of the Citizen Collective for the Defense of Life			
109	Gloria Yolanda Martínez Rivera / member of Life for Colombia	2, 3, 5	Life is protected from conception onwards; the challenged norm is constitutional, as previously indicated by the Court's rulings; allowing abortion undermines the family.	11/08/2020
110	Daniel Felipe García, Melisa Castro Díaz y Andrea Catalina Suárez Jiménez / Choose Life Colombia Foundation	4	Life is protected from conception onwards; risks to the physical and mental health of the woman.	11/12/2020
111	Kemel A. Ghotme / profesor e investigador de la Universidad de la Sabana y Eduardo Cortés S. / profesor de Medicina y Neurocirugía de la Universidad de Antioquia	1		11/09/2020
112	Julián Camilo Solórzano Sánchez / coordinador Clínica de Movilidad Humana Transfronteriza, Ingrid Liliana Palacios Ríos y Andrea Galvis Malagón / members of the		The conditional constitutionality of the provision should be declared, under the understanding that the requirement of reporting sexual violence or abuse or providing proof of access to the healthcare system will not be required for migrant	11/11/2020

	aforementioned clinic at the University of Rosario		women in irregular migration status to access VIP without being charged with the crime of abortion, taking into account their vulnerable condition.	
113	Olga Isabel Restrepo Castro, Marco Fidel Castillo Zamora, María Paula Prieto, Yuly Tatiana Cuadros Duarte, Ana Carolina Rojas, Ana María Osorio, Catalina Vanegas, Juliana Hernández y Daniel Felipe Pardo / teachers and doctors of the University of La Sabana	1	Conscientious objection; adverse physical and psychological consequences	11/11/2020
114	Grupo de académicos y académicas de la Universidad de La Sabana y de profesionales de otras instituciones: María de los Ángeles Manzzanti, Juana Jaramillo Gómez, Álvaro Enrique Romero Tapia, Yahira Rossini Guzmán Sabogal, Gloria Carvajal Carrascal, Ana María Córdoba Hernández, Sandra Patricia Jarro Sanabria, Geraldine Bustos Zamora, Rosa Helena Bustos Cruz, Yuly Tatiana Cuadros Duarte, Ana María Moreno Arciniegas, Madenis Agudelo Urina, María Victoria Medina Arteaga, Melissa Gómez Áviles y Gilberto Gamboa Bernal	1, 5	Adverse physical and psychological consequences for the mother	11/11/2020
115	Martha Rocío González / Dean of the Faculty of Psychology - University of La Sabana		Adverse psychological consequences	11/12/2020
116	María Carmelina Londoño Lázaro / directora de la Maestría en Derecho Internacional de la Universidad de la Sabana y Andrés Felipe López Latorre, Carlos Enrique Arévalo	1, 4, 6	Abortion liberalization discriminates, especially against disabilities.	11/12/2020

	Narváez, María Camila Ospina, Paula Andrea Roa Sanchez / Professors of International Law at the University of La Sabana, among other institutions			
117				
118	Esther Téllez Cámara / Director of ABC Prodein	1, 4	Pressure on women to have abortions; post-abortion syndrome; the issue should be debated by Congress.	11/12/2020
119	Carol Stefanny Borda Acevedo y Jonathan Steven Silva Mocetón /directores de NAZER Colombia	1, 4	The right to life is inviolable.	11/12/2020
120	Margarita Gnecco de Forero / Director of Camino Foundation	1, 5, 6	The right to free development of personality is not absolute; lack of competence of the Court.	11/12/2020
121	Vicente José Carmona Pertuz / president of the Colombian Foundation of Ethics and Bioethics - FUCEB	4	The right to life is inviolable.	11/12/2020
122	Armando Suárez Pascagaza / Legal representative and president of the Husband-and-Wife Foundation	1, 2, 5, 6	The right to life is inviolable; the necessary argumentative burden is not met. The Court does not have jurisdiction; there is no violation of the right to free development of personality or sexual rights.	11/12/2020
123	Jesús Magaña / Director of the citizen platform United for Life, and Santiago Luna Rubio / member of the legal team of United for Life		Protection of sentient beings; deepens the problem of demographic winter.	11/12/2020
124	Patricia Edith Gallo Sánchez / coordinator of the Esperanza project		Adverse physical and psychological consequences.	11/12/2020
125				
126	Andrés Felipe Monsalve Sánchez / director of Alianza Juvenil Provida, “Ahora Sí”	1, 4		11/12/2020
127	Johan Mauricio Caldas García and Polonia M. Castellanos Flórez from the Spanish Association of Christian Lawyers	4	International law protects life from conception; the abortion rate increases with legalization.	11/12/2020

128	María Carolina Ortegón the legal representative of Red Familia Colombia and Ligia de Jesús Castaldi from the Institute for International Solidarity and Human Rights, and a law professor at Ave Maria School.	1, 4, 6		11/12/2020
129	Mayra Rodríguez y Catalina Gutiérrez de Pro vida Latinoamérica Colombia		Adverse physical, psychological consequences; abortion as a business.	11/12/2020
130	Soledad Bertelsen Simonetti / assistant Professor at the Law Faculty of Universidad de los Andes in Chile and Álvaro Paúl Díaz from the Pontifical Catholic University of Chile	6		11/12/2020
131	Álvaro Isidro Paúl Díaz / Álvaro Isidro Paúl Díaz, Professor of International Law at the Pontifical Catholic University of Chile	6	At the regional level, there is no duty to regulate in favor of abortion.	11/12/2020
132	Jesús Magaña presenta el amicus José María Fernández Abril of the Association International Center for the Defense of Human Life Cidevida	1	Hidden economic interests behind abortion promoters	11/12/2020
133	Tomás Henríquez y Neydy Casillas / representantes de ADF International y Ángela Vélez Escallón / lawyer ADF International	1, 6		11/12/2020
134	Inés Elvira Díaz	2 y 4		11/12/2020
135	Camila Alejandra Rozo Ladino / lawyer and member of the Constitutional Citizen Intervention Observatory of the Law Faculty of the Universidad Libre, and Leydy Jazmín Ruíz Herrera, student and member of the same Observatory.		Understood that: (i) the constitutional right to legal, free, and unrestricted VIP is guaranteed up to the 16th week of gestation, (ii) women are constitutionally guaranteed the fundamental right to VIP from the 17th week of gestation onwards, without limit, under the hypotheses contained in Court Ruling C-355 of 2006, enjoying the right to make their own decisions	11/12/2020

			free from pressure, coercion, duress, manipulation, and, in general, any impermissible interventions regarding their decision to terminate their pregnancy voluntarily	

WRITINGS FROM INDIVIDUALS, PRIVATE ORGANIZATIONS, AND PUBLIC AUTHORITIES THAT REQUEST THE CONSTITUTIONALITY OF THE NORM.[645]				
Grounds: (1) The rights of the unborn or fetus must be protected; (2) abortion disregards human rights; (3) prevalence of the rights of girls and boys; (4) non-existence of the fundamental right to IVE; (5) the right of parents (couple) to decide the number of children; and (6) non-binding nature of the soft law norms on which the demand is based.				
NUMBER	**APPLICANT**	**BASIS**	**OTHER**	**DATE SUMBISSION WRITING**
1	Víctor Raúl Martínez	1, 2, 3		10/29/2020
2	Delly Ramírez	1, 2, 4	Social Rejection	11/03/2020
3	Elizabeth Alejo	1, 2, 4	Social Rejection	11/08/2020
4	María Atilia Reyes Álvarez	1, 2, 4	Social Rejection	11/08/2020
5	Orlando Quintero Arias	1, 2, 4	Social Rejection	11/08/2020
6	Rubi Pérez	1, 2, 4	Social Rejection	11/08/2020
7	Mayte Brotons	1, 2, 4	Social Rejection	11/09/2020
8	Adriana Rangel	1, 2, 4	Social Rejection	11/10/2020
9	Ana Rud Bastidas	1, 2, 4	Social Rejection	11/10/2020
10	Angie Prieto	1, 2, 4	Social Rejection	11/10/2020
11	Diego Parra F.	1, 2, 4	Social Rejection	11/10/2020
12	Dinacela Marín Rendón	1, 2, 4	Social Rejection	11/10/2020
13	Stephanie Bermúdez	1, 2, 4	Social Rejection	11/10/2020
14	Silvia Castiblanco	1, 2, 4	Social Rejection	11/12/2020
15	Usuario Music & Friends COMEDY	1, 2, 3, 7	VIP conceals social problems, affects the health of the mother, and promotes reprehensible practices	11/11/2020
16	Olga Teresa Alayón Varas	1, 2, 3, 7	VIP conceals social problems, affects the health of the mother, and promotes reprehensible practices	11/12/2020

[645] The present list corresponds to individuals who do not identify as Colombian citizens.

17	Ana Milena Méndez Camacho, Benny Cheka Cheka	1, 2, 3, 7	VIP conceals social problems, affects the health of the mother, and promotes reprehensible practices	11/12/2020
18	Daniel Marín	1, 2, 4	Emotional sequels in the mother	10/30/2020
19	Mayra Figueredo Prada	1, 2	Allowing VIP would open the door to unacceptable practices.	11/09/2020
20	Verónica Rodríguez Blanco, Susana Mosquera, María del Pilar Zambrano, Paola García, Laura Victoria Chavista Diaz, Laura Sofia Serrato Pedraza, Juan Cianciardo, Frederico Bonaldo, Luis Castillo-Córdoba y Luciano D. Laise e Isabel Trujillo	1, 2, 4, 6	The scope of "living law" attributed by the plaintiff lacks empirical and legal basis. The Congress is not obligated to completely eliminate the crime of abortion; there is no normative or judicial mandate. At most, there is an "exhortation" contained in the questionable Ruling SU-096/18, to develop the 3 exceptions established in C-355/06 with the force of *res judicata*.	11/11/2020
21	Claire Culwell	1, 2	As a subsidiary request, they ask for the declaration of the constitutionality of the norm based on reasons 1 and 2. They argue that personal experience and the damage that abortion has caused to its survivors, as in their personal case, must be taken into account. They argue that the pain and suffering caused by the procedure on the unborn child should also be considered and that women should be shown that there are other alternatives available	11/12/2020
22	Pedro Nel Rueda Garcés	1, 2, 4, 5		11/12/2020
23	Jhon Milton Rodríguez, María del Rosario Guerra, Eduardo Emilio Pacheco Cuello, Paola Holguín, Santiago Valencia, Esperanza Andrade de Osso, Milla Patricia Romero Soto, Germán Blanco Álvarez, Carlos Felipe Mejía, Carlos Eduardo Acosta Lozano, José Jaime Uscátegui, Edwin Ballesteros, Juan Espinal, Ángela Sánchez Leal, Álvaro	1		11/10/2020

	Hernán Prada, Margarita Restrepo, Erwin Arias Betancur, Christian Garcés, Jonatan Tamayo Pérez, Juan Manuel Daza Iguarán, Gabriel Jaime Vallejo Chujfi y Edgar Enrique Palacio Mizrahi			
24	Rodrigo Cuevas	1	Conscientious objection: adverse physical and psychological consequences.	11/11/2020
25	Pier Paolo Pigozzi, / Professor of International Law at Universidad de La Sabana, among others.	1, 4, 6	Abortion liberalization discriminates, especially based on disability.	11/12/2020
26	Jorge Kenneth Burbano Villamarín / director of the Observatory of Constitutional Citizen Intervention at the Faculty of Law of Universidad Libre and David Andrés Murillo Cruz / Professor at the Faculty of Law of Universidad Libre and member of the Observatory		The provision shall be declared conditionally constitutional, provided that: (i) the constitutional right to legal, free, and unconditional VIP is guaranteed until the 16th week of gestation, (ii) women are constitutionally guaranteed the fundamental right to VIP from the 17th week of gestation, without any limit, under the hypotheses contained in Court Ruling C355 of 2006, enjoying the right to decide freely and without pressure, coercion, duress, manipulation, or any other kind of influence Regarding their decision to have a voluntary termination of pregnancy, unacceptable interventions are not allowed.	11/12/2020

27	Bernardo Henao Jaramillo / President of the Board of Directors and Martha Cecilia Rodríguez Neira / Director of the Think Tank of Unete por Colombia.	1, 3		11/12/2020

28	Commmunity Citizen Go: Deicy Martínez, Lilia Rodríguez, Juan Diego Castaño, María Clemencia Tangarife, Alejandra Trujillo Aristizábal, Irene Manrique, Daniel Pérez, Ismanda Correa Patiño, María Pena, Luzdary Arias, Nancy Guevara, Yeimi Sánchez, Adriana Jiménez, Carolina Parra, Rosa Alicia León, Laura Isabel Tobón Gallego, María V Castillo Laverde, Diana Gil, Wilma Karime Osma Sarmiento, Celina Jaramillo, Sofía Jaramillo, Magda Aguilera, María Osorio, Magnolia Sepúlveda V, Myriam Buitrago, María Marcela Clavijo Montaño, Norma Yolanda Arango Silva, Diana Quiñones, Diana Marcela Fúquenez Valencia, María Cristina Linares L, Mery Merlano, Mónica Esguerra, Yolanda Marlene Pinto Pérez, Rafael Rodríguez, Kelly Raigosa, Christian Gaviria, Jairo Esparza, Mónica Merlano, Mercedes Hernández, Natalia Londoño, Iván Gutiérrez, María Paula Sánchez Espitia, Adriana Merlano, Esperanza Astorquiza, Marcela Carvajal, Consuelo Fonseca Perdomo, María Fernanda Barajas, María Eugenia Santa Hernández, Adriana Carolina Niño Flórez, Julio López, Lewis Gilver, Avella Gómez, María Eugenia Giraldo Gómez, Luisa Fernanda Arias Hernández, María Antonia Guerrero Beltrán, Mauricio Franco, Erika Aguirre Olaya, Sandra Marcela Rojas Córdova, Uriel Gómez Molina, Andrea		Abortion is contrary to the Constitution	11/12/2020

	Espinosa, Leydi Saray Hernández, Luis Ernesto Peña, Carlos Guillermo Sosa Ramírez, Duver Esteban Loaiza Sánchez, Diana María Alzate, María Fernanda Aguilar Ramírez, Adriana Duque, Isabel Rodríguez, Irene Ríos, Angie Truque, Diego Cruz, Eduardo Medina Gómez, Jhon Alfredo Gutiérrez Jiménez, Dora Molano De Guampe, Ninfa Rubiela Zorro Herrera, David Erazo, Ximena Lorena Arias, Wilfredo Cifuentes Basallo, Ana Milena Duque Garzón, Raúl Eduardo Cáceres Sastoque, Eliana Carolina Mendoza, Reina Ruiz, Mile Lorena Piñeros, Arvey Zamora, Yaneth Araque Salamanca, Nubia Lucía Chaparro Benavides, José Gildardo Montes Rivera, Robert Rodríguez García, María Alzate, Diana Paola Cardoso M, Marina Caycedo, William Roldan, Clemencia Morales, Adriana María Upegui Vallejo, Nubia Esperanza Ruiz Rodríguez, Luz Elena Díaz Moreno, Adriana Quintero, Patricia Jaimes, Yesid de Infante, Claudia Carrillo, Irma Suarez, Marlyn Ordoñez, Katerine Bermúdez, Patricia Castaño, Bibiana Católico, María Del Pilar Cifuentes Marín, Nora Clemencia Patiño Ospina, Miguel Arias Contreras, Nixon Arias Mora, Mariana Salas Obando, Laura Torres, Omaira Contreras Villamizar, Gladys Cardona Orozco, Libia Linares Laverde, María Posada, Daniela Mejía, Julia Tovar Rojas, Jeannette Rodríguez Santos, Alejandra			

	Correa, Dorian Augusto Calderón Sánchez, Doralia Carrillo Preciado, Patricia Bahillo, Beatriz Del Hierro, Néstor Fabio Cardona Cifuentes, Gustavo Adolfo Castaño García, Elizabeth Gutiérrez Yepes, Martha Avella, Luz Stella Tuta Diaz, Janeth Rivera Pacheco, Luz Mery Ortiz Rodríguez, Nohora Castañeda Rozo, María Cristina Amador Neira, Pedro Hernando Rivera Benítez, Sofía Páez, Blanca Fabiola Valbuena Patiño, Constanza Torres, Brayan López, Jorge Pulido, Martha Inés Londoño Borda, Esperanza Ariza, Olga Ardila, Flor Esmira Buitrago Rodríguez, Jalima Shaker, Juan González, Elizabeth Montoya, Olga Sanín, Mónica Eugenia Montoya Arias, María Eddy Hurtado Forero, Carolina Uribe, Sonia Velásquez, María Rodríguez, Irma Ernestina Pérez Rodríguez, Ayda Tous Salgado, Elsy De Gómez, Carmen Santos, Jaime Camacho García, Francisco Javier Cristancho Cáceres, Yohanna Osorio Echeverri, Daniela Patiño, Merceditas Salamanca, Nicolás Menjura, Viviana Calero Rodríguez, Emma Neira, Sandra Calvache, Martha Lucía González Cely, María Camila Sarmiento Mejía, Esmeralda Hoyos, Zulma Lisbeth Ascencio Mesa, Ana María Orozco, Ana María Tapias, Gina Marcela Marín Herrera, Luisa Fernanda Ruiz Gómez, Lady Moyano, Emma Chávez Vanegas, María Del Pilar Gómez Arango, Liz Dayan Barranco Hernández,			

	Lina Carreño, Celina Guerra, Paola Peralta Díaz, Martha Judith Hernández Muñoz, Oscar Holguín, Sandra Milena Galvis Carvajal, Graciela Ramírez, Nancy Garzón, Martha Landines, Patricia Gómez Iza, Lucero Piñeros Parra, Carolina Guzmán, Luz Marina Naranjo Valencia, Juliana Yamal Barreto, Karen Tatiana Rodríguez Riveros, Carlos Enrique Uribe Lozada, Guiomar Chaura, Jaime Andrés Cuellar Facundo, Vilma Milena Angarita, Lina Jara, Carolina Hoyos Suárez, Luz Daza, Laura Galindo, Nury Vivas, Cristhian Felipe Acevedo Alzate, Eugenia Cardoso, Fabio Cortes, Harold Larrahondo Barona, Juan Carlos Escobar Estrada, María Alejandra Hoyos Muñoz, María Possos, Paola Orjuela, Luisa Fernanda Bernal, Nicole Briceño, Diana Álvarez, Laura Vanessa Cruz Camargo, Daniela Rúgeles Durán, Gustavo Orjuela, Anna Portilla Estrella, Magda Montoya, Miguel. Matamoros Costilla, Ricardo Cardona Castaño, Marlén Peña, Cindy Milena Téllez Rodríguez, Ignacio Murgueitio, Martha Losada, Paola Nigrinis, Jeimmy Rocío Soler Soler, Ana María Mejía Wills, María Camila Galeano Ariza, Sandra Castilla Anaya, Alejandra María Alba Corredor, Yuly Consuelo Pamplona Gil, Nidya Rodríguez, Alejandra Torres Lopera, Ignacio Jaramillo, María Elvira Jimeno Garcés, Marco Fidel Murillo Rodríguez, Carlos Andrés Herrera Diaz, Adriana Collantes,			

	Belinda Suárez Arámbula, Karem Josefina Palma Carbonell, Martha Cárdenas, Víctor Julio Calderón Salamanca, Marta Cecilia Hernández Alvarado, Clara Eugenia Megudan Méndez, Silvia Greco, Rosalba Romero Morales, Jane Echenique, Ximena García, Paulina Muñoz Criollo, Fabio Nelson Petrel Aristizábal, Javier Mauricio Peñafort Camacho, Carolina Pineda Hernández, Laura Nohelia Murcia Rueda, Sol Ángela Ordoñez Delgado, Cristina Peñafort, Ivonne Gutiérrez, Carolina Carvajal, Rosa Cadena, Ligia Galvis, Gregorio Chacón Villamizar, María Frías, Carlos Calero Arcila, María Teresa Medina, Ricardo Zambrano, Claudia Marcela Morales Morales, Daniela Burbano Galvis, Yisel Morales, Mireya Latriglia Vargas, Patricia Bustamante, Luz Maribel Dueñas Valderrama, Adriana Téllez, Marta Susana Sarmiento de Torres, Martha Parada, Luz Mary Zabaleta, Sandra Correa, Oscar Mauricio Linares Velandia, María Silva, María Jaramillo, María Constanza Silva, Ana María Tobar, Alfredo Ramón, Gloria Rodríguez Jácome, Sandra León, Iván Posada, Cynthia Florida Monroy de Luengas, Juliana Sorany Castaño Raigosa, Ximena Villalobos, Oscar Iván Buriticá, Eliany Marcela Rodríguez Rico, Nelcy Velasco, Javier Perea, Berta Elena Tenorio Arango, Luis Felipe			

	Arango, María Jimena Angarita, Doris Carrillo Josa, Olga Lucia Valero Olarte, Azael García Aristizábal, María Claudia Ávila Romero, Lisbeth Sánchez, Diana Villamil Ruiz, Ximena Camacho, Fabián Mahecha, Sonia Bernal, Ana María Alvarado, Natalia Bedoya, Gloria Piedad Castaño Giraldo, Alexandra Otálora, Paola Castelblanco, Jimena Jara, Lucy Sandoval, Sandra Gómez Teuta, Jorge López, Rodrigo Pulido, Jenny Londoño Villada, Nathalia Andrade, Carlos Jurado, Alexandra Pineda González, Ligia Durango, Emmanuel Restrepo, Katherin López Ramírez, Agustín Alonso López Arteaga, Ivonne Rojas, María Constanza PericoRamírez Guizado, María Consuelo Ardila, Alfredo Pérez, Danner Uribe, Dora Eunice Rendón Jiménez, Luis Stevenson, Steffanía Ruiz Tamayo, Julio César Muñoz, Marisol Rengifo, Yineth Milena Noreña Aristizábal, Daniel Gómez, Carolina Ramírez, María Nelly González Arias, José Salinas Parra, Martha Edith Guanumen Suárez, Iván Darío Enciso Congote, Juan García, Yennifer Nataly Jaramillo Cardona, Ximena Poveda, Héctor Aguilar, Jorge Montenegro Caicedo, Carmen Roció Rodríguez Olarte, Luz Stella Pinzón Sánchez, Martha Isabel Páez Arciniegas, Marcela Rincón, Daniela Echeverry, Gloria Flórez Blandón, Gilma Ochoa Pinzón, Sandra Arjona, Rina Tarantino,			

	Patricia Beltrán Ochoa, Juan David Arango Muñoz, Amanda Castro, Sandra Gil, Diana Moreno, Claudia Murillo Parra, Adriana Arboleda Vélez, Iván Neira, Álvaro Enrique Álvarez Pardo, Diana Carolina Páez López, Sandra Butterfield, Silvia López, Adriana Barrero, Karen Blesgraeft, Liliana Méndez, Luzdy Johana Sánchez Daza, Carolina Mora, Juan Pablo Rojas López, Elisabeth Cortés Restrepo, Iván Darío Matamoros Acosta, María Rivera, María Jaqueline Guevara Orduña, Laura Mercado, Paulina López, Eduardo Walker, Martha Doris Rúa Ríos, Juan Manuel Correa Sanabria, Luz Adriana Cardona, Beatriz Elena Garcés Balvin, Sindy Sanabria, Diana Ospina Gallego, Leonardo Gómez Cortázar, Alejandra Gómez, Sandra Rodríguez, Fernando Muñoz, Roció Parra, Cendy Molina León, José Andrés Ramírez Montaña, Marleny Roa, Andrés Felipe Ángel Gallo, Marta Peñalosa, Catalina Martínez, Leo Parra, Dora Leonor Parra, Nelson Rocha Urbina, Luz Marina Tiga Córdoba, Marcela González Lozano, Maritza Pilar Parra Báez, Rodrigo González Lesmes, Anyi Silva, Lyda Melgarejo, Martha Arriola, Claudia Cristina Valencia Álvarez, Jorge Mario Cardona Osorio, Néstor Fernando Serrano, Adelina Duarte Marín, David Vargas, Diana Carolina Martínez Castellanos, Luis Alirio			

	Gutiérrez Cuéllar, Lina Restrepo, María Beatriz Saavedra González, Niny Yohana Sterling Medina, John Ferney Valencia, Robinson Sepúlveda, María Rubiela Pérez De Beltrán, Claudia Pulido, Claudia Hernández, Lucely Pallares, Nataly Méndez Morales, Sandra Rodríguez, Esther María Vargas González, Liz Rey, Keith Tello Mogollón, Mónica Sierra, Juan Andrés Zarama, Claudia Valencia, Camilo Vargas, Alicia Meneses, Laura Marcela Pulido Avendaño, Carolina Patiño, Margarita Corzo, Ana Sánchez de Sarmiento, María Jacqueline Avendaño, Flordiomar Arango Muñoz, Martha Isabel Guadrón Torres, Carlina Victoria Paz Palmariny, Olga Londoño Arango, María Fernanda Zambrano Endara, Nury Yolanda Guevara Rojas, María Paula Vargas, Martha Arregoces, Claudia Esperanza Sana Niño, Viviana Andrea Villamil Rojas, Carolina Aristizábal, Olga Castañeda, Betty Caldas, Paola Vargas, Viviana Gómez, Luz Dary Moreno González, Adriana Pinilla Guzmán, Jaime Pardo, María Margarita Salazar La Rota, Martha Lucia Méndez Álvarez, Melba Prada, Mayra Huertas, Germán Montenegro Caicedo, Jimena González, German Patiño Ballen, Gloria Morales, María Margarita Salazar Sánchez, María Camila Gómez Lora, Sonia Durán, Ingrid Lucía Camacho Patiño, Ángela Patricia Vélez			

	Echeverry, Stivalis Melo, Ángela María Luna, Magda Alejandra Pérez Castañeda, Marta Lucia Barrera, Paola López, Ángela Fernanda González López, Laura Estefanía Moscoso Moreno, Ligia Cubides de Español, María Nubia Polania Andrade, Jenny Rocío Hoyos Pineda, Renny José Seco Mora, Doris Zambrano De Contreras, Luz Marina Rujana González, María Teresa Pinzón Pinilla, Edith Mireya Montealegre Carrasco, Elisabeth Montoya, Liliana Muñoz, Diana Margarita López Avendaño, Germán Esteban Pineda Castillo, Leydi Sanabria, Mercedes Cárdenas Ojeda, Gloria Arango Muñoz, Soraya Cano, Juliana Martínez, Gloria Amparo Lizarazo De Barragán, Erika Ochoa Córdoba, Rubén Darío Suárez Arias, Esperanza Meléndez Pérez, Olga Lucía Uribe Suárez, Carolina Riveros, C Córdoba Rodríguez, Araceli Gaspar, Daniel Blandón, Alexandra Téllez, María Flórez Flórez, John Jairo Morales Martínez, Vilma Cupa, Natalia Suárez, Mili Fernanda Álvarez Banguero, Laureano Mosquera Murillo, Flor Catalina Novoa Borda, Melby Cárdenas Moreno, Vanessa Bautista, Juan de Dios Durango Garro, Martha Moreno, Juan De J Vargas Arias, Olga Cecilia Barajas Meneses, Brenda Marina Pinedo Parodi, Socorro Arango, Ivón Maritza Ramírez Leal, Luz Angélica Malpica Flórez, Nubia Clavijo, Rosa Mercedes Moreno Suárez, Luz Marina Pulido, Amparo			

	Polania, Eddy Ramírez, Dolly Esperanza Restrepo Toro, Yerlin Pineda Pereira, Aura Baquero, Andrea Vivas, Laura Milena Zuluaga, Ana María Jiménez Zuluaga, Alejandra María Rojas Cortés, Luis Fernando Escobar Duque, Neydi Carolina Cruz, Teresita Montoya, Liliy Vargas, Rodrigo Durango Escobar, Abelardo Cárdenas Cárdenas, Yaneth Sánchez Yáñez, Carmen Mesa, Yesika López, Tairis Carolina Gutiérrez Jiménez, Marleny Calderón Bernal, Adriana Gantiva Guerrero, Juan Pablo Suarez Villada, Jaime Alberto Manjarrez Palacio, Jasmín Sánchez, María Vásquez, Sandra Noreña, Patricia González R González Ruiz, Lucy Ruiz, Ligia Jazmín Hernández López, Jordyn González, Jenny López, Amparo González, Ángela María Uribe Restrepo, Constanza Ruiz, Úrsula Cristoffel, Julia Rosa Palacio Hincapié, Ana Catalina Ávila Romero, Wendy Benítez, Marco Tulio Hincapié Giraldo, María Victoria Pineda Gómez, Otilia Vanegas Rodríguez, Ana María Guisao Zapata, Beatriz Ortiz, Elizabeth Rodríguez Monsalve, María Teresa Palacio Arias, Catalina Vergara Chaves, Yeny Porras, María Guarín Duque, Miguel Baquero, Leidy Garcés Ramírez, Mary Isabel Franco Torres, Berta Luz Arbeláez Zuluaga, Sandra Jaramillo, Gloria Patricia Chacón Rodríguez, Adela Guio, Laura Guerra Salcedo, Ileana Cortina, Angie López Duque,			

	Myriam Torres, Soledad Sánchez Artunduaga, Angelica Guevara, Nancy Gallego, Elizabeth Gómez Mancipe, Alba Nelcy Miranda Miranda, Eliana Figueroa, Henry Porras Flórez, Edilma Giraldo Ramírez, Alejandra Vega Rozo, Juan José Gómez, Amelia Morales Esquivel, Rosa Ramírez, Cristian Cepeda, José Armando Sosa Cardona, Carmen Peña, Jhonnatan Camilo Cepeda Chaparro, Carlos Mario Hurtado Llano, Luz Elena Fernández, Miriam Murcia, Elvia María Romero Aponte, Carlos Javier Calderón Lesmes, Gema Isabel Tocachucha, Adrián Torres Viloria, Luz Marina Salguero Jiménez, Luis Fernando Escobar Jiménez, Melisa Marulanda Gómez, Nancy Hernández, Michel Andrea Herrera Echavarría, María del Pilar Fonseca Londoño, Cindy Stephanie Rincón Chaves, María Camila Moreno Castillo, Clara Inés Velásquez Lemus, María Erlinda Sánchez Mancilla, Bibiana Dique, Laura Gómez, Estefanía Gómez Melo, Diana Yuliet Castellanos, José Antonio Romero Barliza, Diana Carolina Vargas Rivera, Lina Zipa, Camila Gil, Marta Cecilia Duque Gómez, Ivón Daniela Sepúlveda Pérez, Liliana Salcedo, Martha Sierra, Carolina López, Marcela Pinzón Maldonado, María Cristina Romero Sierra, Juliana Osorio Posada, Numidia Gómez Méndez, Maribel Henao, Alex Rodríguez, Nidia Ayala Sánchez, Lady Johana Orozco Amaya, María Teresa Rodríguez			

	Franco, Amelia Triana, Marta Lucila Arias Piedrahita, Jhon Zapata, Luzmila Hernández Muñoz, Isabel Rozo, José Arturo Gallo Contreras, Humberto Franco, Alicia Gutiérrez Acosta, Carmen Cecilia Granados Osorio, Luz Mery Vaquero Ospina, Diego Mauricio Morales González, Jorge Luis Alfonso Cucaita, Yolanda Acero, Luz Marina Giraldo Zuluaga, Juan Carlos Duarte, Wilbert Pineda, Ofelia Mejía Bustamante, Jorge Enrique Español S., Diana María López Carvajal, Diana Pineda, Yoany de Jesús López Buriticá, Carmenza Céspedes Villa, María Katherine, Cardona Tobón, Yehímy Aguilera Sarmiento, Diana Esperanza Ariza Bonilla, Fernando Varela, Adriana Iris García Rodríguez, Jorge Arboleda, Sandra Villamizar, Dora López, Claudia Sierra, Edwin Rodríguez, Henry Acosta Pulido, Jhon Torres, Ana Elva Rangel Ortiz, Martha Martínez Valencia, Daniela Restrepo, Sonia Huertas, Teresa De Jesús Salcedo Gutiérrez, Julieth Raba, William Ospina Vásquez, Melquisedec Navarrete Rodríguez, Jaime Alberto Montaño Ramírez, Wilson Gutiérrez Acosta, Juan Camilo Múnera Carmona, Nancy Blanco, Cenaida Verdugo Gil, Lina Luna, Sandra Villamizar, Astrid Sierra, Fernando García Rivera, Olga Lucía Mora Báez, Ángela Duque Ocampo, Ana Lucia García, Andrea Barreto, Myriam Barón, Oscar Rodríguez, Sandra Rodríguez Moreno, Diana			

	Carolina Salas Carvajal, Abi García, Sorelly Bustamante, Vivian Fernanda López Arango, Lina Isadora Ramírez González, Germán Darío García, Luisa Fernanda Jaimes Figueroa, Adriana Marcela Meola Patiño, Erika Pineda, Raúl García, Paola Andrea Chagüendo Zúñiga, Aura Luisa Camargo, Anderson Monsalve, Oscar Humberto Sastoque Velásquez, Manuel Antonio Carmona Duque, María Victoria Acosta Pulido, Bernardo Moreno, Dionicio Manchola, Jeison Larrea Herrera, José Absalón Soto Medina, Yancy Marín, Gladys Cerón, Leidy Natalia Vergara Ocampo, Guillermo Antonio Barón Chaparro, María De Los Ángeles González Arias, Rubiela Cartagena, Yuly Calvo, Karol Tatiana Suta Orjuela, Erika María Muñoz Giraldo, Claudia Patricia Gantiva Guerrero, Leidy Peña, Cindy Vanessa Muñoz Olarte, Luisa Natalia Pineda Martínez, Yanceli Naranjo Botero, Giovanni De Jesús Ocampo Galeano, David Stiben Ramírez Poveda, Ana Martínez, Andrés David Giraldo Quintero, Milena Alejandra Gómez Rodríguez, Leidy Viviana Cifuentes Pinto, Jhonn Alexander Morales Salazar, Jully Tatiana López Ramírez, Waldina Sanabria Ávila, Alba Sepúlveda, Flor Marina Cardona F, Ana Obdulia Quintero Alvarado, German Vera, Cristian Alejandro Rodríguez, Harlem Yaneth Solano Rodríguez, Nora Pineda			

	Restrepo, María Gilma Muñoz Ospina, Olga Lucia Otálvaro de Arboleda, Jeymmy Viviana Vargas, Paula Andrea Pulido Moreno, Emilce García Duque, Edwin Giraldo, Anny Carolina Ochoa Tabares, Andrés Florián, Ledis Vibiana Arias Alzate, Diana Yamile Meneses Zapata, Juana Buitrago, Anita Molano, Teresa Yesmin Monsalve Fuentes, María Stella Arroyave Lema, Enrique Medina González, Sandra Milena López, Ramírez, Silvana Alexandra Usme Cardona, Carmen Cardona, Andrés Álvarez, Claudia Patricia Giraldo Campiño, Esperanza Luque, Nataly Salazar, Diana Paola Morales Ramírez, Eylem Epifanía Bran Vargas, Yenni P Pulido, Adalberto Franco Torres, Camilo Bohórquez, María Socorro Vesga Rodríguez, Edwin Gauta Torres, Laura Cristina Martínez Ramírez, Blanca Beltrán, Marta Lucia Jiménez Alzate, Wilson Arango, Luz Adriana Aristizábal Pérez, Carlos Andrés Correa Guzmán, Diana Patricia Ramírez Marín, Gloria López, Luz Belia García Pimiento, Pablo Barón, Ana Rosa Galvis, Lady Katerine Rave Amaya, Sofía Moreno Garzón, Andrea Forero, Jaime Alfonso Córdoba, Oscar Andrés Aragón Montenegro, Nubia Amparo Guzmán López, Adriana Tabares, Carmen Pineda, Carol Vanessa Buriticá Rueda, Jurley Cristina García Zuluaga, Diego León Arango Giraldo, Tatiana Saucedo Bello, Amaury Argumedo, Nubia			

	Mireya Barreto Álvarez, Harol Vélez Rodríguez, Johanna Alzate Arenas, Soranlly Bran Vargas, Martha Vivas, Yohana Aristizábal Zuluaga, Paulo Sebastián García Vargas, Diana Moreno Triana, Erlaine Zapata, Sandra Lucía Becerra Camargo, Gloria Medina, Jesús Ramírez, Gerald Ng, Mitchell Samanta Villa Botero, Yolanda Becerra Camargo, Juan Pablo Marín Carmona, Leonel Santiago Gómez Higuera, Rafael Amaya, Johan Alexis Toro Arango, Yuly Correa Pizarro, Angélica Zuluaga Cortés, Jhorman Daniel Benjumea Alzate, Omar Fisgativa Sierra, Jorge Armando González Rodríguez, Beatriz Elena Gallego Sierra, Mónica Ruiz, María Consuegra, Nohemy Zapata Rincón, Javier Vesga, Paola Flórez, Tatiana Zapata Figueroa, Katherine Gallego, César García, Patricia Vargas Blanco, Verónica Lucía Velásquez Zapata, Yo Yo [sic], Nancy Dueñas, David García Carmona, Maryory Ríos Giraldo, Aura González, María Sánchez, Sandra Patricia Ibáñez Guzmán, Karla Patricia Vera Lagos, Camilo Alvarado, Claudia Piñeros, Blanca Nelly León Bermúdez, Luz Ángela Gutiérrez Rivera, Bibiana Andrea Molina Gómez, Santiago Echeverry, Rodrigo León Correa Guzmán, Rigo Aristizábal, Andrés Acosta Llorente, Sandra Diaz, Ángela Gómez, Ernesto Sanz, Clara Lee Lee, Marcela Zuluaga, Olga Rodríguez Martínez, Marisol Gómez Ríos, Martha Orozco, Alejandra Suarez, Javier			

	Salazar, Adriana Marcela Herrera Fuenmayor, Lore Velasco, Juan Pablo Giraldo Vega, Alejandra Montenegro, Cecilia Urrea Giraldo, Liliana Maryery Herrera, Luz Marina Velásquez Castañeda, Beatriz Adriana Vanegas Monsalve, David Vidales, German Rodríguez, Magda García, María Victoria Vélez Suárez, María Ligia Gallego De Marulanda, Beatriz Elena Tamayo Zuluaga, Daniel García, Laura Beatriz Samacá Giraldo, Nury Elena Zuluaga Yepes, Edwin Ferney Aristizábal Jiménez, Sandra Sánchez, Juan Castro B, Oswaldo Fabio Urrego Montes, Viviana Uribe C, Gloria Amparo M Moreno Naranjo, Ana Hilda Rodríguez Pachón, Liliana Bolaños, Ingrid Bautista Quesada, Luz Londoño, Mario Andrés Córdoba Acosta, Claudia Forero, Cristina Pérez, Yulieth Castaño Echeverri, Carolina Delgado, Biviana Urrego Montes, Sabine Heyer, Lina María Velasco, Lina Patricia Negrete Guzmán, Lida Patricia Gallego Gómez, Liliana Ossa, Luis Jaime Salazar Tamayo, Martha Elena Soto Rojas, Diana Lucía Padierna Alzate, Cristian Camilo Sánchez Sierra, Santiago López Bonilla, Luisa Paulina Gutiérrez González, Elizabeth Rincón, Karla Cárdenas, Mari Luz Cristancho, Sirley Vasco, Maria Molano, Jenny Marcela Cano Ospina, Ana Barrera, Gina María Bolívar, Diana Rojas Ramírez, Fabiola Ruiz, Johanna Stella Bolaño Chaparro, Álvaro			

	Carrizosa, Luz Marina Laverde, Sandra Múnera, Gilma Inés Murillo Lopera, Sandra Patricia Cartagena Echavarría, Mónica Escobar, José Fernando Jiménez Valdés, John Carlos Rojas Jara, Hernán Darío Arboleda Toro, Jaider García, Ximena Salamanca Porras, María Alejandra Cabrera, Diego Londoño Gallego, Catalina Ramírez Vallejo, Yeny Báez, Linda Tatiana Murcia Arias, Felipe Arboleda Ibarra, Guillermo Alberto Rosero Melo, Katherine Giselle Delgado Torres, Carolina Terranova Arango, Yeide Gisela Pulgarín Guevara, Andrey Pérez, Laura Victoria Duque, Sor Mélida Ramírez Rodríguez, Diana Carolina Moncayo Varela, Yuliana Solarte Martínez, Darlene Londoño García, Ángela Viviana Moncayo Varela, Yesid Danilo Quintero Muñoz, Maribel Jerez Torres, Fabián Alberto Orozco Amaya, Luz Yanet Acevedo Serna, Daniel Eduardo Arias Pérez, Adriana María Echeverri Gómez, Olga Ortiz, Zulma Raigosa Saldarriaga, Marisol Orozco Rojas, Jennifer Plazas Castelblanco, Rodrigo De Jesús Giraldo Restrepo, Orlando Rodríguez López, Carlos Andrés Gómez Rodas, Cindy Múnera, Carmencita Elena Leal Flórez, Yorman Estith Ayala Peña, María del Pilar Villamil, Leidy Ossa, Henry Cano, Doris Urrego Cossio, Carmen Oliva Lizarazo De Cárdenas, Diana Consuelo Muñoz Guerrero, Fénix Rojas Palacios, Alba Luz Cely Robles, Carlos Mario Ramírez Vélez, Diomar Gustavo Suarez Torres,			

	Alex Paz, Gabriel Jaime Vélez Pérez, Alexander Hernández Guisao, María Alejandra Gómez Pereira, Juan Manuel Daza, Julio Erazo, Rosana Valdivieso Sánchez, María Elena Salazar A., Michelle Johanna Carreño Fajardo, Nicole Vanessa Palacios Daza, Emilsen Taborda, Juliana Cardona, Daniella Zabala Avella, Nelson Gómez, Omaris Zapata Duque, Gloria Estela Gómez Cuartas, Adriana Palma Gómez, Carlos Geovany Lopera, Nelson Ortiz, Luz Mary Urrego Argáez, Diana Maritza Rodríguez Cárdenas, Daniel Restrepo Colorado, Henry Velandia Chegwin, Gerardo Ballén, Nancy Toro, Isabel Zapata, Luis Alberto Vidales Holguín, Luisa Fernanda Ramírez Ortiz, Elizabeth Quintero García, Marcela Ferreira Cristancho, Brayan Daniel Rincón Giraldo, Yuri Durango, Wilinton López Vasco, María Teresa Polanco Cardona, Gheraldin Tocora, Luz Montes, Martha Lucía Arguello Delgado, Sonia Gaviria, Julio César Ángel Gómez, Socorro García Giraldo, Luis Fernando Urrego Argaez, Catalina López, Paola Raicillas, Alecxis Zapata, Liliana Escobar, Carlos Rodrigo Castro Gordillo, Sandra Milena Galvis Quintero, María Eugenia Bermúdez Romero, Patricia Mesa, Nicolle Suárez Rodríguez, Juliana Álvarez, Iván Ramírez, Luis Fernando González Álvarez, José Iván Arango Franco, Carmen Rocío Obregón Salazar,			

	Nerissa Soto, Aracelly Ospina, Jerome Sanabria Herrera, Otilia Bechara Garcés, Jessica Murphy, Patricia Esponda, Juliana Ríos Conde, Luisa María Rivera, Luz Marina Buitrago Grajales, Magdinayibe Santofimio Cardoso, María Ester Téllez Cámara, Shirley Montoya, Dayana Olascuaga Vargas, Miguel Ángel Cárdenas, Clara Betancourt, Yeraldin Hernández Castillo, Elsa Mireya Salazar Ramírez, Edith Rivas, Eduardo Alfredo Ospina Angarita, Jhon Castellanos, Sandra Clavijo Buitrago, Cecilia Valbuena J., Magdalena Cárdenas, Viviana Andrea Rojas, Emperatriz Ramírez, Myriam Ramos Villalobos, Rosario Acosta, Dinacela Marín Rendón, Angie Prieto, Ana Rud Bastidas, Adriana Rangel, Mónica Sepúlveda, Itél Atencio Antolínez, Margarita María Gómez Uribe, Juliana Jaramillo, Domingo Eduardo Ortegón Ortegón, Martha Isabel Casas Cárdenas, Lucia Álvarez Acero, María Atilia Reyes Álvarez, Elizabeth Alejo, Orlando Quintero Arias, Loancy Becerra Mayorga, Gloria Martínez, Edna Margarita Jiménez Urbano, Kathia Amín Bajaire, Paula Tatiana Arias Osorio, Diana Gómez, Sonia González, Nelza Zambrano, Alba Nohora Osorio Giraldo, Aida Yolanda Cardona Bedoya, Flor María Niño Muñoz, Irene Gracia, Rocío Ospina Restrepo, María Teresa Guerrero Ramírez, Oscar Tobón Salazar, Martha Rodríguez,			

	María Eugenia Castro Gómez, Sandra Gelvez González, Gilberto Osorio, Marta Patricia Ramírez Mirque, María Claudia Cubillos de Arango, Andrea Gómez Tabares, Ahixa Chaves, Bellssy Sánchez, Kelly Rodríguez, Sandra Milena Márquez Ochoa, Julieta Moreno, Martha Zapata, Jorge Humberto Cárdenas Moreno, Víctor Fernando Gómez Tabares, Javier Onofre Lancheros Páez, David Rivera López, Luz Adriana Pastrana, Luisa Pastrana, Amalia Mendoza Caicedo, Sara Díaz, Adriana Giraldo, Isabella Ardila Pardo, María Ruiz, María Consuelo Salcedo Cruz, Ana María Salcedo, Beatriz Castaño, Ayde Flórez, Leidy Katherinne Hernández Pabón, Yenis Parra Chávez, Eliana María Castrillón Rojas, Yane María Cañas Ortiz, Martha Susana Alfonso Rodríguez, Martha Mendoza, Jenny Leila Orrego, Guillermo Alberto Rosero Melo, Liliana Pardo, Mariela Gutiérrez Arcila, Jimena Santos, María Lucia Gómez, Lina Patricia Muñoz, Danelia Ríos de Aguilera, Ángela Jimena Aguilera Ríos, Juan Gil, Ana Tilia Flórez Páez, Jesús Alexander Gaviria Muñoz, María Laborde, Ana Avella de Garavito, Imelda Ruiz Zaldúa, Juan Duarte, Juan José Cabezas, Jeannette Samper Alum, Santiago González, Isaura Rendón de Muriel, Norma Cardona, Margarita María Pineda Cardona, Eucaris Santa Jaramillo, Sandra Zamora, Ana			

	Karina Carrero Lamus, María Inés Espinosa Calle, María Helena Cabezas, Santiago Medina Panesso, María Mercedes Gómez, Camila Espinosa, Gonzalo Hoyos, Beatriz Posada, Silvia Janneth Pérez Negro, Alfredo Sogamoso Cardona, Juan Fernando Monsalve Tavera, Bibiana Arias Naranjo, María C. Ramírez, Martha Gómez López, Jenny Novoa, María Del Pilar Rodríguez Pinilla, Elsa Suarez, Carolina Nossa, Jesús Antonio Navarro Martínez, Marcela Betancourt, Marcela Rubio, María Cristina Mariño De Uribe, Jonathan Portilla, Margoth López López, Myriam Mercado de Pugliese, María Samara Sánchez, Carolina Salazar Uricoechea, Carolina Díaz, Gloria Luz Cano, Henry Vásquez Vásquez HevasanSánchez , María Emilia Naranjo Ramos, Purita Quintero Castilla, Elsie Duque de Ramírez, Laura Vargas Fernández, Rosa Hernández, Mónica Salazar De Quintana, Fadyia Amín, Santiago Zapata Martínez, José Benítez Benítez, Héctor Nicolás Ortiz Soto, Martha Tello Bárcenas, Liliana María Gaviria Muñoz, Elizabeth Franky, Blanca Rubiela Molina, Lucia Esperanza Rodríguez Cruz, Cesar Uguer León Medina, Lina Marcela López Florián, Leónidas Torres Benavides, Daniela Muñoz Muñoz, Martha Mera, Concepción Guarín, Hernán Quintero, Vanessa Rojas, Luz			

	Aida Parra Duran, Melva Liliana Marín García, María Elena Casta, Alcides Duque Ocampo, Gabriele Prandi, Olga Rodríguez, Luz Andrea Gálvez, Nury Isabel Sánchez Casas, Gladys Galvis, Luz Dary Córdoba Morales, María Cristina Tosne Rojas, Juan Yamith Sandoval Covaleda, Norma Pérez, Ligia León Sánchez, Pilar Constanza Gómez Gil, Eva Isabel Álvarez Betancur, Cecilia Córdoba Osorio, Claudia Jiménez, Emelina Morales Bernal Mor, Luis Alfredo Becerra Samudio, Imelda Hernández Navarrete, Yenny Marcela Sierra Rojas, Luz Dary Orjuela, María Cristina Arias, Azucena Cervantes, Andrés Sánchez Castiblanco, Ángela Consuelo Peñuela Marín, Lucia Guerra Campos, Osmerys María Garrido Niebles, Diana Yaneth Holguín Plazas, Héctor Villa, Elton Calderón, Reinaldo Augusto Buitrago Álvarez, Zulima Pulido Pardo, Carolina Gutiérrez, Lizbeth López, Adolfo Rebolledo Ruiz, Martha Cecilia Gómez López, Rocío del Pilar Palacio Villegas, Daniel Andrés Marín, Jonathan Sáenz Méndez, Lyda Gaviria, Sandra Milena Betancur Gómez, Sara Medina Ardila, Liliana Figueroa, Elizabeth Aparicio, Bibiana Goyeneche, Clara Contreras, Carlos Rey, Jeyson Pedraza, Adriana María Arismendy Montoya, Carla Rojas F, Alicia Orozco, Margarita María Arias Restrepo, Juliana Campo Funieles, Margarita Santos Rodríguez, Magda Liceth Rodríguez Ortiz, David García,			

	Nicolás Henao Vásquez, Juan Guillermo Ramírez R, Yeison Felipe Tabares Buitrago, Soledad Benavides G, Joaquín Alberto Villa Marciales, José Fermín Silva Ariza, Verónica Johana Salazar Gutiérrez, Myriam Fernández, María Helena Ramírez, Mirastelly Arenas León, Águeda Torres Cudriz, Juan Carlos Giraldo Hoyos, Juan Mario Rodríguez Montealegre, Nora Lucia Cardona Alzate, María Eugenia Castro Ospina, Deysa Patricia Vargas Vivas, Beatriz De La Espriella, Ana Pedraza, Yulieth Manzano, Rodrigo Becerra, Ramón Zúñiga, Katherine Mandón, Nubia María Robles Marún, Gloria Nancy Bustos Sánchez, Mercy Ruiz, Sandra Angarita, Deicy Milena Huertas, José Manuel Garzón Rocha, Leonardo Rebolledo Ruiz, María Rebolledo, Margarita Pineda, Ana María Orozco Silva, Nenfy Esther Jiménez Marzal, Carmen Libia Veloza Torres, Luz M Torres Sabogal, Diana Montealegre, Gloria Gómez, Mónica Amaya, Andrés Núñez, Andrés García Herrera, Sonia Teresa Castrillón Giraldo, Lida María Santos Mejía, Edgar Daniel Alfonso Vargas, Sandra Pereira, Cielo Bastidas, Oscar Soto Peña, Yina Soto Escalante, Jasmín Manrique, Bolívar Melo Bastidas, Gilberto Cardona Arango, Carlos Eduardo Morales Torres, Martha Luz Alvarado Donado, Lucy Gallego, Martha Lucia Gómez Rojas, Liliana			

	Gaviria, Martha Sarmiento De Giraldo, Michael Steven Sánchez Caro, Blanca Inés Beltrán, Maribel Caycedo Linares, María Amaya, Inés Macías, María Elena Camacho, Ana María Garzón Ramos, Natalia Peláez, Marco Salcedo, Ruby Johanna Cruz Ledesma, Isabel Judith Rivera De Jiménez, María Clara Núñez, Jenifer Ramírez Anaya, Gersain Téllez, Gallego, Luz Stella Plaza Manzano, Enrique Gordo, Rosangela Vitola Almario, Román Valenzuela, Rosa Duarte, Henry Blain, Paula Espinosa, Claudia María López Echavarría, Cristina Garcés, Diana Riveros, Lorena Delgado Gómez, Nicolás Sierra, Diana María Plaza Manzano, Daniel Vanegas Zapata, María Álvarez, Clara Inés Ortiz Cabal, María Delfina Ortiz Cabal, Ana Lopera, Flor Edith Aguilar Romero, Shirley Rivera Cano, Osvaldo Ramírez Trujillo, Pilar Rozo Salamanca, Juan Gabriel Durango, Dilsa Lucía Bermúdez Betancourt, William René Rivera, María Teresa López Montoya, Mauricio Espinosa, Martha Cecilia Zuluaga De Álvarez, Magdinayibe Santofimio, Hilda Beatriz Moreno Agudelo, Luz Stella Osorio Salazar, Augusto Zuleta, Humberto Gómez Morales, Andrea Mesa, María Magdalena Durango David, Mariana Durango David, Paula Catalina Díaz, Ángela Patricia Espinosa, Luz María Estrada Estrada, Marlén Tovar Puentes, Susana Riaño, María Hericinda			

	Barreto Niño, Catalina Zuluaga, Sandra Reyes, Tatiana López, Sonia Dalila Ríos López, Claudia Peñuela, Martha Campos, Rosalba Giraldo Gómez, Claudia Mercedes Granados Rojas, Alexander Robledo, María Durán, Viviana Cuartas, María Hermosa, Gabriela Henao Henao, Sofía Henao Salazar, Jorge Orlando García García, Amalia Podada De Bernal, Amalia Bernal Posada, María Augusta Marenco Núñez, André Robert, Ana María Echavarría, Pedro Abelardo Ospina Hernández, Edison Giraldo Lozano, Luisa María Hincapié Pino, Natalia Salazar Gómez, Subaida Gallego Marulanda, Aydee Hurtado, Marisol Diaz Torres, Dora María Campuzano Palacio, Néstor González, Clara Gómez, Sonia Patricia Rivas Bastidas, Sandra Monsalve, Luz Helena Palacio Diaz, Vidalia Osorio Daza, Carolina Manrique Ortiz, Margarita Gómez, Marta Mesa, María Boscán, Marta Cecilia Echeverri García, Gabriela Escobar C., Samanta Sánchez, José Restrepo, Teresa Gómez, Navier Alonso Restrepo Cuervo, María De Los Ángeles Gómez Giraldo, Luz Marina López Upegui, Gloria Nancy Castaño Gómez, Edna Faisully Macías Calderón, Pablo Solano Isaacs, Adriana Jimena Montes Álzate, Clara María Zorro, Luz Andrea Sepúlveda, Francisco Antonio Hincapié Valencia, Nohora Luzmith Ortiz Salas, Hugo Niño, Martha Patricia Garcés Villalobos, Luz Andrea Díaz Valencia, Juan			

	Vigoya, Daneris Tascón Cortes, María Fernanda de Los Ríos, Myriam Judith Moreno De Samudio, Yarledy Cardona Acevedo, María Luisa Ramírez, María López, Belén Andrea Omaña Rodríguez, Dilia Del Roció Ballén, María Luisa Correa Ardila, Nelly Amparo Bello Remolina, Leidy Constanza Clavijo Giraldo, Lina Clemencia Rivera Ocampo, Libia López Rojas, Olga Lucía Olga Lucía Mejía Riveros, Jenniffer Quintero, María Cristina García Diaz, Julio Pérez Cura, Claudia Londoño, Andrea Naranjo Quintero, Laura Andrea Córdoba Parrado, Beatriz Elena Mesa, Sandra Suarez Moncada, Estefanía Mogollón, Sara Bermúdez Alvarado, Laura Valentina Gómez Cely, Luis Eduardo Suza López, Martha Cecilia Orozco Ospina, Luz Marina Pedraza Reyes, Hugo Salcedo, María Fernanda Correales Olarte, Carolina Gómez Suarez, Diana Paola Pedraza, Patricia Ramírez, Maribel Carmona Hernández, Sonia Rocío Vanegas, Francisco Pedraza Reyes, María del Carmen Ramírez Meneses, Cristian David Guzmán Cardozo, Luis Carlos Ocampo Villamizar, Marta Lucía Jiménez Ramírez, Yajaira Becerra, Marinella Ruiz Villalba.			
	Jeannethe Martínez / legal Representative of Creo Foundation	1,9		11/12/2020
	Mayra Figueredo Prada / member of the Scientific Team of United for Life		Protection of sentient beings; delves into the problem of demographic winter.	11/12/2020

	Marco Acosta Rico, Emel Rojas Castillo, Diana Marcela Diago Guaquetá, Gloria Elsy Díaz Martínez, Luz Marina Gordillo Salinas, Sara Jimena Castellanos Guerra, Adriana Carolina Arbeláez, Humberto Rafael Amín Martelo, Oscar Ramírez Vahos, Andrés Eduardo Forero Molina, Jorge Luis Colmenares, Nelson Cubides Salazar, Yefer Yesid Vega Bobadilla y Rolando González García / Councilors of Bogotá	1,4	Adverse physical and psychological consequences; absence of public prevention policy.	11/12/2020

ANNEX 8

Interventions and opinions of citizens, private organizations, and amicus curiae requesting the unenforceability of the challenged provision.

Grounds: (1) non-existence of constitutional *res judicata*; (2) evolution of the regulatory context; (3) violation of the *ultima ratio* principle of criminal law; (4) constitutional limits for the freedom of legislative configuration; (5) women's sexual and reproductive rights; (6) fundamental right to VIP; (7) discriminatory nature of abortion; (8) structural barriers to access to the VIP; (9) disproportionate impacts of unwanted pregnancies on women's physical and mental health; (10) stigmatization of abortion and the women who practice it; (11) excluding wording of the rule against those who do not identify as women; (12) principle of progressivity in fundamental rights guarantees and (13) international rights law (IHRL, WHO, UN and CEDAW).

NUMBER	INTERVENERS AND GUEST PARTIES	BASIS	OTHER	FILING DATE
1	Ángela María Robledo	5, 10	The restriction of sexual and reproductive rights affects other human rights of women; stigma that induces clandestine practice of abortion; affectation of women in a greater condition of vulnerability.	10/28/2020
2	Alejandro Arantegui/ Doctors without Borders	9	The criminalization of abortion constitutes a barrier for vulnerable women.	10/30/2020
3	Carolina Vergel Tovar	5,6,7	The protection and warrant of the sexuality of women.	11/27/2020
4	Iván Cepeda Castro		There is a deficit in the protection of women's rights, especially those in the most vulnerable conditions.	11/27/2020
5	Joanna N. Erdman y Rebecca Cook	3,10	International consensus on the decriminalization of abortion. Trend in Latin America on human rights standards regarding abortion. Human rights violations caused by the criminalization of	11/11/2020

			abortion (insecurity, stigma, social inequality, inherent damage). Arbitrariness and disproportionality of the criminalization of abortion from the IHRL standards.	
6	Macarena Sáez Torres	5, 7, 13	Conventional obligations of Colombia in terms of human rights in terms of equality, non-discrimination,personal autonomy, privacy and health. The prohibition of the VIP constitutes a discriminatory act that violates the exercise and enjoyment of human rights and fundamental freedoms of women on equal terms with men, in light of the Universal System for the Protection of Human Rights–SUDH– and the IAHRS –Inter-American Human Rights System–. Right of each woman to reproductive self-determination and to choose the number of children, including her interval. State interference with said right. The woman who practices the VIP has the right to privacy and the right to free decision in accordance with the IHRL. The right to the highest enjoyment of physical and mental health also encompasses the sexual and reproductive health.	11/09/2020
7	Juan Ernesto Méndez	5,10	The obligation to prevent torture obliges States to protect the most vulnerable women from denial of abortion services in health	11/12/2020

		institutions. It also requires preventing humiliation, stigma and ill-treatment that women face when they go to the voluntary interruption of abortion. The elimination of the criminal type would be an effective measure for the protection of the most vulnerable and prevent mistreatment and institutional torture towards those who come to the voluntary interruption of abortion.	
8	Line Bareiro	The SUDH (except for the Human Rights Committee) have declared themselves in favor of the decriminalization of abortion and have not objected to the establishment of rules on the term to carry out the abortion. There are no recommendations from the SUDH on criminalization. General Comment 22 of the ESCR Committee includes accessibility to abortion as an obligation of prevention. General Comment 36 of the Human Rights Committee states that the regulation of the VIP must not violate the right to life of women or pregnant girls. General Recommendation 35 of the CEDAW committee qualifies the criminalization of the VIP as violence of genre.	11/26/2020
9	Lina Malagón Penen y Sergio Alejandro Fernández Parra	The criminalization of abortion affects the Secular State. The illegitimate use of conscientious	11/25/2020

			objection is a form of civil disobedience of conservative Christianity to render ineffective the fundamental right to the VIP in decriminalized grounds. At the international level, there is a correlation between the decriminalization of abortion, the level of religiosity and state secularism.	
10	Alejandro Gaviria Uribe	9	Identifies as barriers to access to the VIP those that have to do with ignorance of the legal framework (C-355/06, regulations on women's rights and obligations regarding the VIP), restrictive interpretations of the legal framework (requirement of new requirements, limitation of the benefit according to gestational age, objection of institutional awareness, restrictive interpretation of the cause) and failures in the provision of the service. The elimination of the crime of abortion would help overcome these barriers. Decriminalization could reduce abortions and improve the conditions in which they are practiced.	11/04/2020
11	Óscar A. Cabrera Silvia Serrano Guzmán	3, 9	The absolute criminalization of abortion and the lack of access to the VIP in extreme cases is a source of international responsibility of the State. The barriers to access legal abortion in	11/12/2020

			Colombia violate the right to health and other related rights. It is necessary to carry out a proportionality analysis on the criminalization of abortion in other cases that considers the freedom of legislative configuration, the legitimacy of the purpose of protecting life in gestation, the relationship of suitability and necessity between protection and criminal law.	
12	Yesid Reyes Alvarado	4	Guided by his claim to safeguard the life of the unborn child by penalizing abortion, the legislator has not only failed to achieve his purpose, but is also putting another life in serious danger: that of each of the mothers who try to abort in the precarious conditions that can be found available to most of them in the middle of the ban. The Commission for Monitoring the Conditions of Imprisonment of the Penitentiary and Prison System recommended progress in the decriminalization of abortion, but there has been no progress, not even based on the requests of the Constitutional Court. The appropriate way to resolve the tension between the life of the unborn child and the freedom and dignity of the mother requires two actions by the State: the guarantee of the free exercise of fundamental rights and the offer of all the	11/11/2020

			necessary help to face the burdens of maternity.	
13	María Camila Correa Flórez	3, 4, 7, 10	This criminal policy of the Colombian State in terms of abortion exceeds the limits of the freedom of configuration of the legislator in criminal matters, since it generates an evident lack of protection of women's rights. Through the partial criminalization of abortion, discriminatory gender stereotypes are reproduced that reinforce the social stigma faced by women who decide to abort. The legal right "life in gestation or life expectancy" can be protected in other, less intrusive ways that respect the principle of minimum intervention of criminal law. The penal type of abortion is a discriminatory norm for reasons of gender. The criminal type does not obey the purposes of the sentence established in article 4 of the Criminal Code, which openly contradicts the principle of *ultima ratio* or criminal law minimum.	11/12/2020
14	Isabel Cristina Jaramillo Sierra		The debate on criminalization cannot focus solely on the existence of a criminal type. Secondary and tertiary criminalization must also be considered. The crime of abortion is not symbolic; it has an important intimidating effect that becomes material in the persecution of mothers who presented	11/05/2020

			complications. Doctors end up becoming informants of the criminal system.	
15	Ana Labandera Monteblanco	9	After decriminalization, the results of the implementation of the model show that women seek early consultation, receive counselling, use misoprostol (“medical abortion”) safely, and adopt a modern contraceptive method after the abortion. Similarly, women self-manage their process in an informed manner. The criminalization of abortion leads women to incur high risks of morbidity and mortality in hiding and in insecure processes that determine that the decision taken violates their basic human rights: life and health, leading to her disability or death.	11/12/2020
16	Diana Green Foster, Antonia Biggs, Lori Freedman y Rosalyn Schroeder	9,10	The scientific community has refuted and shown that abortion does not cause psychological damage. Is greater the physical risk of completing an unwanted pregnancy than having an abortion. The practice of abortion does carry a stigma that can lead to mental health problems. The criminalization of abortion compromises patient care. Abortion stigma has impacts not only in the woman, but also in the personal, family and professional life of the woman.	10/29/2020

17	Diana Rodríguez Franco/ District Secretariat for Women (Bogotá)	1, 2, 5, 6, 8, 9, 10, 12, 13		11/06/2020
18	María Paula Houghton	8, 9,10	There is no legislation that protects health providers from the stigma associated with abortion, while there is legislation that protects conscientious objectors. Disproportionate burden for doctors who practice VIP. Barriers to access are severe and increase with raising gestational age. The medical certificate is an authorization from a third party that exercises over the woman, becoming an element of luck for those interested in having an abortion. Poor women are at higher risk. Forced maternity is a proven risk factor for the short, medium and long-term affectation of the health of those who suffer from it. Abortion performed under optimal medical conditions is a safe and effective procedure.	11/06/2020
19	Pío Iván Gómez	8,9	There are no major mental health risks from the VIP. There is no Postabortion Syndrome. The risks derived from the lack of abortion practice are greater to the extent that they lead to a higher level of poverty and increase the risks and mortality. There are different barriers to access such as the convening of medical meetings and conscientious objection.	10/22/2020

			Health professionals face problems when practicing VIP due to lack of knowledge of current regulations. There is a social stigma towards professionals who practice VIP.	
20	Johana Cepeda Saavedra	9, 10	The criminalization of abortion affects the practice of health professionals, and specifically the nursing area, by violating the practices that constitute it; it imposes a dichotomy between reporting and professional secrecy and favors the improper use of conscientious objection (which, moreover, is not recognized for nurses). The criminalization of abortion generates negative physical and psychological effects on the health of women and also on the professionals who provide the service from VIP.	11/18/2020
21	Moisés Wasserman	5, 13	Women have the right to decide about their bodies. It is a budget for the exercise of full citizenship and is an element of the rights to free development of personality and autonomy of will. The question about the beginning of life has no simple answer and the life of the mother must be included in the equation. There are different philosophical approaches to when life should be protected. Individual rights are a limit to parliamentary majorities. The State has the duty	10/27/2020

			to ensure the best possible health care.	
22	Isabel Fanlo Cortés	4, 5	Regulatory intervention by state institutions should not be a pretext for introducing regulatory limits to access to the VIP and activating control mechanisms over the decision-making sphere of women who want to abort, thus violating their fundamental rights. Given the inactivity of the Legislator, the Constitutional Court has full legitimacy to act in its role as guarantor of the violated fundamental rights. The right of each individual to decide about their own body, which assumes such relevance in the sexual and reproductive sphere, constitutes a key element of the broader right to personal autonomy.	11/12/2020
23	Susana Pozzolo	4, 7, 13		11/12/2020
24	Universidad de los Andes / Luis Jorge Hernández F. / associate professor of the School of Medicine of the university.	7, 8, 9		11/03/2020
25	Universidad Nacional / Violence and Health Research Group Grupo from the Public Health Departament of the Scool of Medicine/ Zulma Consuelo Urrego Mendoza, Gladys Rocío	9	There is no real guarantee to the VIP (C-355/06): there is a denial of service due to conscientious objection. The current classification negatively affects the mental and physical health of women forced to continue with an unwanted pregnancy. There is a	11/11/2020

	Ariza Sosa, Alejandra del Rocío Bello Urrego		greater risk of experiencing adverse mental health outcomes if women were forcibly forced to continue the unwanted pregnancy than if they were allowed to terminate it voluntarily. The forced continuation of an unwanted pregnancy, due to the denial of access to an VIP service desired by the woman, generates deterioration in her enjoyment of the right to health and a dignified life. The denial of the autonomy of the pregnant person to decide on a biological process that occurs on her body and that will have physical, psychological, social and economic consequences that will affect her life project corresponds to a historical moment already overcome in which it was considered that women had a lower legal status, due to the fact that they were women. The effective recognition of women as subjects of law in conditions of equality in front of men deserves a prompt update of the legal order of the State.	
26	Universidad Externado de Colombia, through the Center for Studies on Genetics and Law and the International Migration Observatory of the Department of Constitutional Law of the	1, 4, 5	The criminal type prevents the warrant of the principles of equality, freedom, autonomy and reproductive self-determination, that materialize in the right to freely and responsibly decide the number of children. To keep the constraints regarding access to	11/12/2020

	School of Law / Orlando Enrique Santamaría Echeverría, Jorge Alberto Ramírez Gómez, Natalia Rueda Vallejo y Simón Rodríguez Serna.	the VIP, based on the protection of the human life of the fetus, unjustifiably ignores the fundamental rights to privacy and freedom of women. The criminalization of the conduct exceeds the constitutional limits for the design of the criminal policy of the State and is not effective, proportional or reasonable. The criminal prohibition of the VIP is a violation of the fundamental rights to health, equality and freedom. There is no constitutional *res judicata*.	
27	Roberto Gargarella	The courts have a central role in the collective conversation about rights, their interpretation, and the ways to protect them, against the violations they may suffer, based on the actions and omissions of political bodies. The Constitution does not impose a specific and substantive resolution on the matter, for the limits of basic rights, but rather establishes a procedure to generate said resolution. The consideration of abortion as a crime and, at the same time, as an object of criminal punishment is part of the problem under discussion. Such controversial statements cannot be taken as assumptions or starting points for a discussion involving such controversies. There is a tension between life and	11/03/2020

			the freedom and dignity of women. We must distinguish between person and life. Life has incremental value and is therefore not an absolute right. It is worth using for the analysis other medical practices that are broadly accepted as the in vitro procedures or assisted reproduction.	
28	Sara Giraldo Posada y Andrea Zapata Serna	3, 5, 7, 8, 9, 10, 11, 12, 13	The claimed standard does not protect life; punishes the woman for her ability to expect.	11/10/2020
29	Verónica Siman, representative of the United Nations Population Fund – UNFPA (in Spanish) in Colombia	5, 6, 8, 9, 13		11/10/2020
30	José Fernando Perdomo Torres	1, 3, 4, 5, 7, 8, 9, 10,13	The crime of abortion does not satisfy the purposes of the penalty (retributive, preventive, protective and resocializing); rather, it promotes other types of behavior that are criminal or undesirable. There is no true proportionality between the protected asset – which in this case is barely a life expectancy of the unborn– and the limitation of the fundamental rights of the women. It is true that the decriminalization of abortion is the responsibility of the legislator; However, the Constitutional Court, under the democratic architecture of the exercise of citizen rights that inspires it, has full powers to expel	11/10/2020

			the demanded norm from the legal world, for contravening the higher legal order. In fact, part of the essence of the control it exercises is to be "counter-majority", within the framework of the principle of harmonious collaboration, which prevents you from remaining impassive in this type of discussion.	
31	Ángela María Buitrago Ruíz	1, 2, 7, 8 9, 13	Criminal law must be examined without the constraints of moral, ethical or religious influences of yesteryear, to be brought to the level of human dignity and Human Rights. Women's freedoms cannot be eliminated under a mistaken idea of absolute protection of the life of the unborn. There must be a fair consideration, which takes criminalization to its fair proportion as a tool for the purposes of the State. There are forms of violence against women (economic, cultural, social) that impose, at least, expanding the spectrum of cases in which the VIP is allowed. Abortion cannot be equated to homicide because it lacks a passive subject.	11/11/2020
32	Corporación Mujer Denuncia y Muévete	3, 5, 7, 8, 10	The criminalization of abortion constitutes gender violence.	11/11/2020
33	Néstor Iván Javier Osuna Patiño	3, 5, 7	The criminal type severely, disproportionately and unnecessarily restricts the freedom of pregnant people, who end up being instrumentalized by	11/11/2020

			the State. The *nasciturus* is not a "subject" but an "object" of law. The criminalization of abortion does not comply with a preventive factor, last ratio, and does not have solid foundations and sound forecast of economic and legal costs. The legislative measure also does not reflect the purposes of the penalty (preventive, retributive, protective and resocializing).	
34	Martha Liliana Cuéllar Aldana	3, 4, 6	Disproportionate sacrifice to the freedoms of the woman under the pretext of preserving the legal value associated with the life of the unborn child.	11/11/2020
35	Juan Camilo Boada Acosta	3, 4, 7, 8, 9, 10	Drastic limitation of women's freedoms, their submission to intolerable risks in the face of clandestine procedures.	11/12/2020
36	Gabriela Cala Porras, Isabella Lébolo Bula, Sofía Machado Parra, Isabel Gaviria Ormaza y María Valencia Ibáñez	1, 5, 6, 7, 8, 9, 10, 13	The claim meets the requirements for its substantive study. The recognition that abortion, under the three grounds defined by the Constitutional Court is a right, is not always the first approach of women when they decide to abort.	11/12/2020
37	Laura Soranny Paredes y César Augusto Sánchez Avella	5, 7, 8, 9	Women have been victims of the capitalist model. The norm favors the clandestinity of abortion, which severely punishes the most vulnerable populations. The law must be used to achieve positive changes in society.	11/12/2020

38	Jerly Lorena López López	3	Sexual, reproductive and gender education as a solution to avoid unwanted pregnancies and reduce the probability of practicing abortions.	11/12/2020
39	Mónica Arango Olaya, Viviana Bohórquez Monsalve y María Paula Saffon Sanín	1, 2 , 5 y 6		11/12/2020
40	Alejandra Coll Agudelo	9	Criminal law does not fulfill its mission of protecting legal rights	11/12/2020
41	Felipe Chica Duque, Miguel Ángel Díaz Ochoa, María Acelas Celis, Sofía Ramos López y Andrés Rodríguez Morales	1, 2, 5		11/12/2020
42	Catalina Valencia García/legal representative for Fundación Mujer y Futuro; Tilcia Johanna Durán/director of Fundación Mujer y Futuro; Yulexy Paola Peralta Díaz/coordinator of Proyecto Ruta de Protección a Mujeres Migrantes Fundación Mujer y Futuro; Yinny Paola Valencia Atuesta/ gender equality and justice lawyer for Fundación Mujer y Futuro; Tatiana Cordero/ coordinator of Proyecto	5, 8	The criminalization of abortion violates the right to life in conditions of human dignity of migrant women.	11/14 and 19/20

	Sex Truck Fundación Mujer y Futuro			
43	María José Pizarro Rodríguez/ representative to the House of Representatives	5, 7, 9, 13	Free development of personality and education.	10/30/2020
44	Juanita María Goebertus Estrada, Angélica Lozano Correa, Ángela María Robledo Gómez, Katherine Miranda Peña, María José Pizarro Rodríguez, Catalina Ortiz Lalinde, Juan Carlos Lozada Vargas, Juan Fernando Reyes Kuri, Gustavo Bolívar Moreno, Abel David Jaramillo Largo, Wilson Neber Arias Castillo, León Fredy Muñoz Lopera, Antonio Sanguino Páez, Carlos Germán Navas Talero, Mauricio Toro Orjuela, Luis Alberto Albán Urbano, David Racero Mayorca, Wilmer Leal Pérez, Julián Gallo Cubillos y Jorge Gómez Gallego / representantes y senadores de la República	1, 2, 3, 6		11/12/2020

45	Carolina Moreno / Clínica Jurídica para Migrantes, Centro de Estudios en Migración y Grupo de Investigación Derecho, Migración y Acción Social (DMAS) - Universidad de los Andes	8	Disproportionate burdens on women, migrant girls and refugees to access the VIP.	11/10/2020
46	Julián Camilo Solórzano Sánchez/ Coordinator Clínica de Movilidad HumanaTransfronteriza, Ingrid Liliana Palacios Ríos y Andrea Galvis Malagón, members of the Clinic at Universidad del Rosario	8	Disproportionate burdens on women, migrant girls and refugees to access the VIP.	11/11/2020
47	Lina Céspedes-Báez, Vanessa Suelt Cock, y Karol Martínez Muñoz / professors of the School of Law at Universidad del Rosario	5, 6, 7, 13	Prenatal life is compatible with the decriminalization of abortion within a reasonable time; free development of personality, education.	11/11/2020
48	Programa de Protección Internacional –PPI-, Semillero en Movilidad Humana Desarrollismo y Nuevas Violencias of the School of Law and Political Sciences of the Universidad de Antioquia / Astrid Osorio Álvarez coordinator of PPI, Alejandro Gómez Restrepo, Ángela María Mesa y Juliana Betancur	3, 5, 6, 7, 8, 9,13	Education; violence against women; disproportionate burdens on women, migrant girls and refugees to access the VIP.	11/11/2020

	lawyers at the PPI y Laura María Arias Restrepo volunteer at the PPI; Sara Méndez Niebles co-director of the feminist collective Bolívar en Falda; Valentina Ortiz Aguirre, Manuel Darío Cardona, member of the Semillero de Litigio ante Sistemas Internacionales de Protección de Derechos Humanos –SELIDH– at the Universidad de Antioquia and lawyers María Elena Hernández y Federico Londoño.			
49	Adriana Constanza Muñoz Muñoz y Yurley Karine Valderrama Cardona/ students of the Clínica Jurídica de Interés Social “Grupo Investigativo de Intervención Social -GIIS-”, from the School of Law and Political Sciences of the Universidad Surcolombiana	3, 5, 6, 7, 10, 13	Free development of personality	11/12/2020
50	Angie Daniela Yepes García, coordinator of the Grupo de Acciones Públicas (GAP) of the Universidad del Rosario,	1, 3		11/12/2020

	Lorena Pardo Rojas y Viviana Basto Vergara members of the GAP			
51	Luz Ángela Gómez Jutinico/ director del Semillero Género y Equidad from the Universidad Libre and some of its members: Aleyda Yaneth Caro Castañeda, Daniela Paola Lugo Guevara, Laura Yislet Gaitán Castro, Sthefanía Meneses Gómez and Kimberly Guzmán Gómez	1, 4, 5, 6, 8, 10, 13		11/12/2020
52	José Alejandro Ramírez Chacón/ member and academic coordinador of Grupo de Investigación “Menos Delitos, Mejor Justicia”, from the School of Law, Political Sciences and Social Sciences of the Universidad Nacional de Colombia	1, 9		11/12/2020
53	Susana Pachón Echeverri y María Angélica Pombo/ students of the Universidad del Norte	5, 8, 10, 11, 12, 13	Free development of personality; criminalization disproportionately affects the LGBT community.	11/12/2020
54	John Jairo Córdoba Urresty, John Jairo Rojas Pajoy, Diego Andrés Mompotes	6, 10	Freedom of conscience.	11/12/2020

	Cepeda, Érica Lorena Anacona Galindez, Manuel Alejandro Mera López y Ana María Trujillo Cuéllar / students of the Universidad del Cauca and members of the Clínica Jurídica en Derechos Constitucionales			
55	Juliana Bustamante Reyes / director - María Alejandra Díaz Salgar, Daniela Gómez Fernández, Valentina Niño Campos/ members of the Programa de Acción por la Igualdad y la Inclusión Social PAIIS of the School of Law of the Universidad de los Andes	5, 6, 7, 8, 9, 10, 13	Disproportionate burden for pregnant people with disabilities.	11/12/2020
56	Lorena Sánchez Ferrer e Iván Darío Hernández Rodríguez	1, 2, 6, 7, 9		11/12/2020
57	Viviana Rodríguez Peña/ legal coordinator and María Fernanda Herrera Burgos, Karen Esmeralda Mora Chaparro y Marcia Rojas Moreno / lawyers of the Corporación Humanas – Centro Regional de Derechos Humanos y Justicia de Género	1, 3, 5, 7, 8, 9		11/12/2020

58	Wilson de Jesús Castañeda Castro/ legal representative and director of Caribe Afirmativo	1, 5, 6,7, 8, 10, 13		11/12/2020
59	Emilia Márquez Pizano, Carolina González García, Alicia Suaza Parada y Cam López Duarte/ representing Temblores non-profit	5, 10, 12		11/12/2020
60	Marcela Sánchez Buitrago/CEO, María Susana Peralta, Beldys Hernández, Juan Felipe Rivera Osorio and Alejandro Barreiro/ member of the legal divsion of Colombia Diversa and Laura Frida Weinstein, Director and Tomás Anzola, Camila Becerra, Laura Flórez y Daniel González, members of Fundación Grupo de Acción y Apoyo a Personas Trans (GAAT)	1, 5, 7, 8, 11		11/12/2020
61	Escuela de Estudios de Género School of Human Sciences of the Universidad Nacional de Colombia	5,9	Abortion discriminates based on economic status; the right of the couple to form a family cannot be above the fundamental rights of women; gender violence.	11/12/2020
62	Álvaro Bermejo/ general director International Planned Parenthood Federation – IPPF	1, 2, 6	No correlation between decriminalization of the VIP and increase in abortions.	10/29/2020

63	Rebeca Ramos Duarte / director of the Grupo de Información en Reproducción Elegida - GIRE-		It refers to the experience of the decriminalization of abortion in Mexico City, Oxaca, and the importance of having a legal and safe abortion policy to guarantee women's reproductive health rights. They highlight the stereotyped idea that motherhood is the mandatory role of women; access to a legal interruption of pregnancy is fully compatible with the protection of prenatal life and the regulation of voluntary abortion, in no case should it be the subject of Criminal Law, but rather be considered primarily a matter of public health and guarantee of rights. human rights.	10/29/2020
64	Érika Guevara Rosas/ director of the Oficina Regional para las Américas de Amnistía Internacional Secretariado Internacional	1, 2, 5, 6	States have an obligation to take effective measures to prevent pregnant people from undergoing abortions carried out in unsafe conditions. The obligations of States to take measures to eliminate stigma, as well as to respect and protect the right of people to receive and seek evidence-based health information, have been established by different human rights treaty bodies.	10/30/2020
65	Verónica Undurraga V. / School of Law of the Universidad Adolfo Ibáñez (Chile)	2, 4, 6	Regimes criminalizing abortion that provide for some exceptions to legal abortion cannot meet the requirements of the rule of law; Criminalization is not a variable that influences abortion rates in a	11/01/2020

			country, but it does have an effect on women aborting in conditions that are more dangerous to their lives.	
66	Octavio Luiz Motta Ferraz/ co-director Transnational Law Institute, School of Law, King's College London	2, 6	The international instruments ratified by Colombia call for the decriminalization of abortion.	11/03/2020
67	Alicia Ely Yamin	2	Measures must be taken to eradicate practical obstacles and guarantee sexual, reproductive rights. The stigma and fear of the criminalization of abortion cause health professionals in many cases to evade the provision of the VIP service and unjustified delays in its practice. The partial criminalization of abortion does not prevent unsafe abortions, but instead pushes women to terminate their pregnancies outside the health system in dangerous and precarious situations.	11/06/2020
68	Diana Cristina Caicedo Naranjo/ executive director of the Corporación Gea Jurisgeneristas and Carolina Espitia Becerra member of the strengthening and management divisions	1, 2, 6	Reproductive rights integrate human rights. Exists a right to procreate as well as a right not to procreate. An absolute and unconditional duty to protect life in gestation does not emerge from the international framework of human rights.	11/08/2020
69	Susheela Singh/ VP of Integración Global de Ciencia y Política del		Abortion is less safe where the laws are more restrictive.	11/09/2020

	Instituto Guttmacher and Mariana Romero, Director for Latin Amarica of the Federación Nacional del Aborto			
70	Nicolás Alejandro Dotta/ general coordinator of the Organización Médicos del Mundo - Francia en Colombia	2, 3, 4	Partial decriminalization maintains different access barriers to the VIP. There is a stigma around abortion.	11/09/2020
71	Diana López, Deirde Duffy y Megan Daigle	4	Women face a variety of social and structural barriers to access legal abortion in Colombia, namely: stigma, economic resources, geographic distribution of services, institutional conscientious objection, among others.	11/10/2020
72	Equipo de la Cátedra Extraordinaria Benito Juárez de la Universidad Nacional Autónoma de México	5	The reproductive rights of women are fully recognized human rights, which translates into the obligation of States to deploy all necessary measures and mechanisms to warrant them within their territories.	11/10/2020
73	José Miguel Vivanco y Ximena Casas / representatives of Human Rights Watch	2	The criminalization of abortion is incompatible with Colombia's international obligations in the area of human rights. The different committees of international instruments ratified by Colombia recommend decriminalization. Bodies that oversee the application of the system's human rights provisions	11/10/2020

			Inter-American have interpreted that there is no absolute right to life before birth.	
74	Jasmín Romero Epiayu / Representante Legal del Movimiento Feminista Mujeres, niñas Wayüü	7, 8, 9, 10	The taboo and stigmatization towards abortion cause accusations against knowledgeable and medical/or traditional people who know about plants for the interruption of pregnancy. It also promotes the weakening of this ancestral knowledge. And the revictimization of girls and women by medical personnel. The criminalization of abortion prevents comprehensive care for victims of sexual violence.	11/10/2020
75	Andrea Tuana Nageli / directora Asociación Civil El Paso de Uruguay	2	The severe restriction of abortion is a serious public health problem.	11/11/2020
76	Edwin Herazo Acevedo / director del Instituto de Investigación del Comportamiento Humano y Adalberto Campo Arias / director de investigaciones y publicaciones del mencionado instituto		Stigma, barriers to access to the VIP.	11/11/2020
77	Pauline Capdevielle / investigadora de tiempo completo del Instituto de Investigaciones Jurídicas de la Universidad Nacional Autónoma de México	5, 6, 7, 8, 13		11/11/2020

78	Jorge Contesse Singh / profesor de Derecho Internacional y director del Centro por el Derecho Transnacional en la Universidad de Rutgers en Nueva Jersey (Estados Unidos) y profesor visitante permanente en la Universidad Diego Portales (Chile)	13		11/11/2020
79	Marta Lamas / doctora en Antropología e investigadora titular del Centro de Investigaciones y Estudios de Género de la Universidad Nacional Autónoma de México	7	Voluntary motherhood, not an unchosen consequence. Claim of personal autonomy.	11/11/2020
80	Vernor Muñoz Villalobos / director de políticas, incidencia y campañas de la Campaña Mundial de Educación		Progressive autonomy implies respect for autonomy in the field of sexual health of adolescent girls and the possibility of deciding on their reproductive health.	11/11/2020
81	Anand Grover / ex relator especial de las Naciones Unidas	7, 8, 9,10		11/12/2020
82	Dee Redwine / vicepresidente y director regional Planned Parenthood Global	5, 6, 7, 8, 9, 10		11/12/2020
83	María Celeste Leonardi / abogada y maestranda en derechos humanos de la	5, 8, 9, 10, 13		11/12/2020

	Universidad Nacional de La Plata y asesora legal en la Dirección Nacional de Salud Sexual y Reproductiva del Ministerio de Salud de la Nación de Argentina y Sonia Ariza Navarrete / abogada titulada, máster en derecho comparado por el Instituto Universitario Europeo y doctoranda de la Universidad de Palermo			
84	Albert Louis Sachs	7, 8, 9	Doctrine of intersectionality	11/12/2020
85	Maria Antonieta Alcalde Castro	5, 6, 7, 8, 9, 13		11/12/2020
86	Juliana Martínez Londoño / secretaria de despacho / Secretaría de las Mujeres de la Alcaldía de Medellín	3, 7, 8, 10	Criminalization of abortion is a form of violence against women	11/12/2020
87	Laura Castro/coordinadora, María Isabel Niño Contreras/asesora jurídica y de incidencia, y Carolina Triviño Maldonado/apoyo legal de la Mesa por la Vida y la Salud de las Mujeres	5, 8, 9, 10	The protection of the unborn child is carried out essentially through the protection of the life and decision of the woman. Abortion is a public health problem that the State must urgently address. Disproportionate impact on rural and low-income women and girls.	11/12/2020
88	Olga Amparo Sánchez Gómez / representante	3, 7		11/12/2020

	legal de la Casa de la Mujer			
89	Diana Esther Guzmán, Mauricio Albarracín Caballero, Rodrigo Uprimny Yepes, Maryluz Barragán González, Nina Chaparro González, Isabel Cristina Annear Camero, María Ximena Dávila Contreras, y Sindy Castro Herrera / subdirectores e investigadores del Centro de Estudios de Derecho, Justicia y Sociedad -Dejusticia	5, 6, 7, 8, 9, 10, 12, 13	The protection of the nasciturus is not to the same extent and intensity as a human person	11/12/2020
90	Diana Esther Guzmán, Mauricio Albarracín Caballero, Rodrigo Uprimny Yepes, Maryluz Barragán González, Nina Chaparro González, Isabel Cristina Annear Camero, María Ximena Dávila Contreras, y Sindy Castro Herrera / subdirectores e investigadores del Centro de Estudios de Derecho, Justicia y Sociedad -Dejusticia	5, 7, 8, 9, 12, 13	The criminalization of abortion violates human dignity, personal privacy, dignified life, equality, the free development of personality, freedom of conscience, education and constitutes violence against women.	11/12/2020
91	María del Pilar Sanguino Reyes, Karla	1, 3, 5, 9, 12		11/12/2020

	Roxana Pérez García, Luisa María Romero Montes, María Camila Martínez Galvis y Johanna Alejandra Garzón Cortés / integrantes de la Corporación Sisma Mujer			
92	Dayana Blanco Acendra y Eliana Alcalá de Ávila, directora general e investigadora de Ilex Acción Jurídica, Luz Marina Becerra, coordinadora mujeres afrocolombianas desplazadas en resistencia La Comadre de AFRODES, Ángela Solange Ramírez, coordinadora de género, La Comadre-Cali, María Fernanda Escobar Rodríguez representante Corporación Instituto Internacional de Raza, Igualdad y Derechos Humanos (Raza e Igualdad) y Ana María Valencia, presidenta de la Asociación de Economistas Negras “Mano Cambiada”	5, 6, 7, 8, 9, 10, 13	Disproportionate burdens for Afro-descendant women and girls to be able to access the safe IVE. The criminalization of abortion disproportionately affects the transmasculine population	11/12/2020
93	Erika Lisseth Saldarriaga González,	8, 9, 10		11/12/2020

	Sol Angy Cortés Pérez, Dana Alejandra Barrera Yate, Claudia Marcela Álvarez y Marinela Romero Tovio /Red Huilense de Defensa y Acompañamiento en DSR -RHDA			
94	Marta Royo/directora ejecutiva de Profamilia	5, 7, 8, 9, 12	Criminalization of abortion affects most vulnerable women	11/12/2020
95	Ana Cristina Vera Sánchez / directora ejecutiva Centro de Apoyo y Protección de los Derechos Humanos SURKUNA	3, 7, 9, 13	Human dignity of the pregnant woman; the embryo or fetus is not a person or holder of all rights.	11/12/2020
96	Lisa Davis/profesora asociada de Derecho y Coodirectora de la Clínica de Derechos Humanos y Justicia de Género de la Facultad de Derecho de la Universidad de Nueva York (CUNY)	5, 7, 9, 10, 13		11/12/2020
97	Leticia Zenevich abogada de Derechos Humanos de Women on Web	7, 9, 10, 13		11/12/2020
98	Camila Alejandra Rozo Ladino/lawyer and member of the Observatory of Constitutional Citizen Intervention of the Law School from Universidad Libre y Leydy Jazmín	1, 6, 11, 13	Gender-based violence; freedom of development of the personality	11/12/2020

	Ruíz Herrera/ student and member of the Observatory			
99	Mauricio Toro Orjuela/ Representante a la Cámara	5, 6, 9, 12	Freedom of conscience	11/12/2020
100	Beatriz Galli / relatora nacional Plataforma Derechos Humanos Dhesca Brasil	5, 9, 10	Abortion is a public health issue; gradual protection of the rights of the unborn	11/12/2020
101	Arianne van Andel / coordinadora de capacitación y Nicolás Panotto / director del Grupo de Estudios Multidisciplinarios sobre Religión e Incidencia Pública	7	The decriminalization of abortion does not violate the principle of religious freedom, since it does not force anyone to abort; the unborn is not a legal subject independent of the surrogate; gender violence; abortion is a public health issue.	11/12/2020
102	Natalia Gherardi / directora ejecutiva del Equipo Latinoamericano de Justicia y Género (ELA) y Mariana Romero / directora ejecutiva del Centro de Estudios de Estado y Sociedad (CEDES)	5, 9, 13	The classification of abortion is institutional violence; gender-based violence	11/12/2020
103	Roberto Pablo Sabas /profesor de las Universidades de Buenos Aires y Palermo	3	The gradual protection of the rights of the unborn; the protection of rights does not inevitably require the application of criminal sanctions; personal autonomy.	11/12/2020

WRITINGS FROM PRIVATE PERSONS AND ORGANIZATIONS REQUESTING THE UNENFORCEABILITY OF THE DEMANDED STANDARD [646]

Grounds: (1) non-existence of constitutional *res judicata*; (2) evolution of the regulatory context; (3) violation of the ultima ratio principle of criminal law; (4) constitutional limits for the freedom of legislative configuration; (5) women's sexual and reproductive rights; (6) fundamental right to VIP; (7) discriminatory nature of abortion; (8) structural barriers to access to the VIP; (9) disproportionate impacts of unwanted pregnancies on women's physical and mental health; (10) stigmatization of abortion and the women who practice it; (11) excluding wording of the rule against those who do not identify as women; (12) principle of progressivity in fundamental rights guarantees and (13) international law of human rights (IHRL, WHO, UN and CEDAW).

NUM.	INTERVENER	FUND.	OTHERS	FILING DATE
1	Daniel Samper Ospina, Ricardo Silva Romero, Martín Santos, Héctor Abad Faciolince, Moisés Wasserman, Pascual Gaviria Uribe, Juan Sebastián Aragón, Vladdo, Fernando Quiroz, Santiago Rivas Camargo, Omar Rincón, Gabriel Cifuentes, Carlos Cortés, Mauricio Silva Guzmán, Mauricio Arroyave del Río, Eduardo Arias Villa, Héctor Fabio Cardona Gutiérrez, Luis Fernando Afanador, Antonio Morales Riveira, Jorge Iván Cuervo Restrepo, Giuseppe Caputo	5,9		11/12/2020
2	Inti Raúl Asprilla Reyes	1, 2, 3, 6		11/12/2020

[646] This list corresponds to people who do not identify themselves as Colombian citizens.

3	Laura Cristina Dib Ayesta, Gracy Pelacani y Adriana Carolina Torres Bastidas / Clínica Jurídica para Migrantes, Centro de Estudios en Migración y Grupo de Investigación Derecho, Migración y Acción Social (DMAS) de la Universidad de los Andes	8	Disproportionate burdens on women, migrant girls and refugees to access the VIP.	11/10/2020
4	Alma Luz Beltrán y Puga Murai, y Natalia Soledad Aprile/ profesoras de la Facultad de Jurisprudencia de la Universidad del Rosario	5, 6, 7, 13	Prenatal life is compatible with the decriminalization of abortion within a reasonable time; free development of personality and education.	11/11/2020
5	Mario José D'Andrea Cañas y Alfredo Félix, abogado y asistente jurídico/ organización Defiende Venezuela; Cynthia Ortiz Monroy/ miembro del Semillero de Litigio ante Sistemas Internacionales de Protección de Derechos Humanos –SELIDH– de la Universidad de Antioquia y Marina Ditieri/ coordinadora general de la Revista argentina Género y Derecho Actual / Tsai Ordoñez.	3, 5, 6, 7, 8, 9, 13	Education; violence against women; disproportionate burdens on women, girls, migrants and refugees to access the VIP.	11/11/2020

6	María José Motta / integrante del GAP	1, 3		11/12/2020
7	María Alejandra Ramírez Arias, Lina Ríos Ortiz, Natalia Andrea González Barreto / estudiantes del Grupo de Incidencia y Acción Social del Consultorio Jurídico de la Universidad de los Andes y Carlos Julián Mantilla Copete / asesor del Grupo de Incidencia y Acción Social	1, 3, 8, 10	Unsafe abortion as a public health problem; gender-based violence.	11/12/2020
8	Diana Valentina Amado Vega y Jorge Hernando Galeano Arias; Miembros y Coordinador Académico, respectivamente, del Grupo de Investigación “Menos Delitos, Mejor Justicia”, adscrito a la Facultad de Derecho, Ciencias Políticas y Sociales de la Universidad Nacional de Colombia	1, 9		11/12/2020
9	Jorge Kenneth Burbano Villamarín / director del Observatorio de Intervención Ciudadana Constitucional de la Facultad de Derecho de la Universidad Libre y	1, 6, 11, 13	Gender violence; free development of the personality.	11/12/2020

	David Andrés Murillo Cruz / docente de la Facultad de Derecho de la Universidad Libre y miembro del Observatorio			
10	Jennifer Londoño Jurado / jefe de la Unidad de Género de la Secretaría de las Mujeres y Equidad de Género de la Alcaldía de Manizales	1, 7, 8	Abortion discriminates based on economic status.	11/12/2020
11	Angie Lucía Solórzano Aldana, Camila Alejandra Salguero Alfonso, Cristina Rodríguez de la Torre, Carolina Vizcaíno Parrado, Karen Viviana Díaz Murillo, María Camila Jaramillo Zapata, Mariana Botero Ruge, Natalia Suárez González, Nicolle Vanessa Contreras Naranjo, Sara Paula Mosquera López, Sofía Elisa Sierra Arteaga / Red Jurídica Feminista	5, 7, 10, 13		11/12/2020

ANNEX 9

NUMBER OF INTERVENTIONS AND CONCEPTS, ACCORDING TO THEIR ORIGIN

ORIGIN	QUANTITY
Citizen Interventions	249
Social Organizations	21

Amicus curiae	37
Expert Opinions	77
Total	**384**

ANNEX 10 OTHER ANNEXES

ANNEX 10.1
GENERAL STATEMENTS AGAINST ABORTION AND IN FAVOR OF MAINTAINING ITS CRIMINALIZATION

In these, reflections on the following aspects are proposed: abortion as a crime; the existence of limits to freedom; absence of grounds to end the life of defenseless beings; the right to life as an absolute value; the defense of the innocent; the manipulation of statistics on the deaths of women as a result of failed abortions; the obligation of judges to defend life; the affectation to the institution of the family; traumatic personal experiences after performing abortions; responsibility in sexuality; role of parents in defense of life; sexual education and religious reasons about the preservation of life from the womb.

NUM	APPLICANT	FILING DATE
1	Jhon Fredy Guzmán Morales, Liliana Carvajal Gil, Olga Cecilia Corredor Corredor y Gloria Elena Vélez Zapata	10/29/2020
2	Maricela Rojas Herrera	10/30/2020
3	Stella Arango de Valencia	10/31/2020
4	Simón Roa Espinosa	11/02/2020
5	Consuelo Restrepo Sepúlveda	11/02/2020
6	Jhon Fredy Guzmán Morales	11/03/2020
7	Beatriz Elena Sánchez	11/03/2020
8	Ayda Borbón	11/03/2020
9	Ángela María Rodríguez	11/08/2020
10	Gloria Patricia Gómez Noreña	11/08/2020
11	Fanny Acevedo	11/09/2020
12	Luis Fernando Díaz, María Ángela Soto, María Cristina Bermúdez Fernández, Reinaldo Iriarte Ríos	11/09/2020
13	Yuliana Andrea Martínez Gutiérrez	11/10/2020
14	Claire Stella de Castro Burhkardt	11/10/2020
15	Carlos Vega	11/10/2020

16	Dilia López, Francisco Cartagena Mutis, Laura Milena Cáceres Pulido, María Consuelo Acevedo Moreno y María Teresa Villaveces	11/11/2020
17	Martha María García de Arévalo, Martha Sarmiento de Giraldo, Nasly Caraballo,	11/11/2020
18	Jackmy Sánchez Delgado	11/11/2020
19	José Manuel Castro Martínez	11/12/2020
20	Francedy Archila Mosquera	11/12/2020
21	Clemencia Robayo Zubieta	11/12/2020
22	Magda Yamile Ramos López	11/12/2020
23	Yaqueline Carrera	11/12/2020
24	Angélica Hernández Osorio, Hirminia del Carmen Sanjuán Atencio, Luz Amelia Beltrán Herrera, María Ofelia Briceño Garzón, Martha Liz Cuello Pallares, Melany Rodríguez, Pedro José Dorado Varela, Yara Jennyfer Ospino Ospino	11/12/2020
25	Lilliana Mora León	11/12/2020
26	Ernelda Isabel Tapias Castro, Margarita Maldonado, Ramón Barrandica, Wilson Jesús Aponte y Yara Jennyfer Ospino Ospino	11/12/2020
27	Ana María Sánchez Musella	11/01/2020
28	Elizabeth Ortiz	11/04/2020
29	Amanda Rosas Camero, María Elsa Rosas Camero, Adriana María Lozano Rosas, Eleanor Rosas Camero, Guillermo Rosas Camero, Diana Carolina León Rosas y Jorge Alejandro León Rosas	11/10/2020

GENERAL MANIFESTATIONS AGAINST ABORTION AND IN FAVOR OF MAINTAINING ITS CRIMINALIZATION[647]		
NUM	**APPLICANT**	**FILING DATE**
1	Alix Marín, Clara Garavito Triana, Isidro Vargas, Johan Camilo Arandia Rodríguez, Luis Carlos Quintero Álvarez, María Elcy Montaña	10/29/2020
2	Yenni Patricia Benavides Erazo	11/01/2020

[647] This list corresponds to people who do not identify themselves as Colombian citizens.

3	María Cristina Correa de Arboleda	11/02/2020
4	Dora Lilia	11/03/2020
5	Orlando López Díaz	11/03/2020
6	Padre Eduardo Achata	11/03/2020
7	Diana Rocío Barato	11/06/2020
8	Usuario Pet antojos	11/06/2020
9	Usuario Erika M	11/08/2020
10	Rafael Eduardo Navarro Sánchez	11/09/2020
11	Constanza Riveira, Irma Cecilia Mora Medina, Lucía Vergara Aguirre, Maritza Manrique, Martha Cecilia Rondón Ordóñez, Martha Tawa, Rosa Helena Sáenz	11/09/2020
12	Elba Inés González	11/10/2020
13	Álvaro Enrique Riveros, Antonio Bohórquez, Antonio Hernández, Consuelo Hidalgo, Elsy Turriago, Eugenia del Pilar Siabatto Rincón, Guillermo Riveros, Leonor Figueroa, María Clara Osuna, María Mercedes Gehr, Marleny Barajas Morales, Patricia Jaimes, Sonia Levy y Usuario Soporte Técnico	11/11/2020
14	Eudpominia Mera Villa	11/11/2020
15	Leida Guerrero	11/12/2020
16	fifisito gamer User	11/12/2020
17	Esteban Morales Másmelas	11/12/2020
18	Aida Luz Doria Vega, Luis Flórez, Rocío Uribe	11/12/2020
19	Dalgi Amaris Palomino, Usuario Lore, Usuario lucialagosc, Usuario María Liberatore	11/12/2020
20	Adriana Marcela Orozco Silva	11/04/2020
21	Taxcafe Barranquilla User	11/10/2020

BLANK EMAILS IN WHICH ITS SUBJETS ENCOMPASSES MANIFESTATIONS AGAINST ABORTION AND IN FAVOR OF MAINTAINING ITS CRIMINALIZATION		
NUM.	**APPLICANT**	**FILING DATE**
1	William Ricardo Castillo Cortés, Luz Amparo y María Victoria Montoya	10/29/2020
2	Usuario Carmina458	10/31/2020
3	Usuario Anaheliacastano	11/01/2020

4	Clara Higuera, Jackeline Vanegas Soto, Luz Marlene Sánchez Guzmán, María Estupiñán y William Ricardo Castillo Cortés	11/02/2020
5	Deisy Serna, Ana Victoria Fuentes, Landy Narváez Vargas, Maida Casado, María EBC, María Fernanda Córdoba Fonseca, María Margarita Ramírez Melo, Mary B.R., Silviasofia447, Viviana Valencia Grajales, Ricardo Jiménez Delgado y Esneda Grajales	11/11/2020
6	Aura Leonor Nivia Mendoza	11/11/2020
7	Nohema López	11/12/2020
8	Mauro Carvajal Sossa	10/29/2020
9	Esperanza Ortiz, Margarita María Bonilla Medina, María Cristina Correa de Arboleda, Rosa González Amazo y William Ricardo Castillo Cortés	11/03/2020
10	Zenaida Ariza de Centeno	11/09/2020
11	Emma Ligia Suárez López	11/09/2020
12	Tertuliano Antidio Bastidas Portillo	11/11/2020
13	Nazzer Galindo Estrada	11/12/2020
14	Esneda Grajales	11/12/2020

ANNEX 10.2

MOTIONS REQUESTING TO DISMISS THE CLAIM BEFORE ITS ADMISSION

NUM	APPLICANT	FILING DATE
1	Yudy Giraldo, Tairis Carolina Gutiérrez Jiménez, Lizette Carvajal, Amparo Yáñez, Kathia Molina de la Hoz, Liliana Cabrera Carvajal, Delfy López, Fermín Ramírez, Luz Rozo, Gladys Bastidas, Rodrigo Bernal Reina, Maritza Méndez, Cruz Alberto Urrea Carvajal, Beatriz Elena Cardona de Velasquez, Luis Fernando Escobar Quijano, María Edilma Aristizábal Giraldo, Fanny Gómez Gómez, Andrea Martínez, Reinaldo Polanco, Lizzeth Florián, Álvaro Navia Perdomo, Luz Dary Páez, Melissa Morantes, Alejandra Castillo, Edgar Alberto Franco Santos, Julieth Raba, Elizabeth Garcés, Andrea Rodríguez Velasquez, Juan Ochoa, María Dulfary Castaño, Andrea Urrea Jiménez, Juan Ernesto Molina, Patricia García, María Angélica Pineda Luna, Alba Rodríguez, Mirian Jaramillo Cardona, Luz Marina Arcila Tamayo, Socorro Cáceres,	From 09/25/2020 to 09/28/2020

Camila López, Elsa Patricia Guerra Pulido, Efraín Enrique Otero Arciniegas, Pili Emilce Pinzón Caicedo, Victoria Eugenia Gómez Ramírez, Andrés Gómez, Laura Ossa Sánchez, María Eugenia Agudelo Duque, María Margarita Ramírez Melo, Luis Norberto Hernández Marín, dgarcía@citizengo.net, Rosa María Herrera Cortés, Astrid Valentina Obando Carvajal, Hilda María Hernández de López, Olga Lucía Franco Lizarazo, Carolina Garzón, Orfa Restrepo, Alejandra Gómez, Danny Castillo, Juan Fernando Jiménez Gómez, Melissa Montes, Mariana Hernández Niño, Lina Rincón, Jairo Castro, Santiago Acebedo, María Paula Vargas, Lucía Camacho, Marcela Ricaurte, Miguel Ángel Pira Vargas, Alicia Posada, Carmen Jeanet Acevedo Parada, Martín Alonso Blanco Sanabria, Melissa Gómez Aristizábal, María Victoria Castillo, Jhon Henry Gómez Osorio, Javier Vargas, Luz Adriana Zuluaga Martínez, Luis Miguel Cardona Gómez, Martha Ibarra, Olga Onoria Burbano Montero, Horacio Hoyos Zapata, Fernando Santos Morales, Gloria Inés Delgado Giraldo, María Teresa Castro, Lesly Parada, Eliana Ángela Velandia Valderrama, Mary Zuluaga, María Benítez, Jhon González, Nancy Amparo Giraldo García, Stella Barrera, Milena Mora Herrera, Juan Carlos Gallego Lozano, Mónica Ferro, Adriana Ochoa Horo, Astrid Yesenia Granados Zorro, Osvaldo Guerra, Luzmila Hernández Muñoz, Rodrigo Vela Cerquera, Zamira Ramírez Gómez, Cindy Johanna Vacca salgado, Lina González, Temilda Gonzalez Diaz, Claudia Marcela Núñez Mosos, Julio Andrés López Buitrago, Rosalía Aristizábal Serna, Andres Forero Medina, Mónica Sequera, Fernando Jaramillo, Silvia de La Rotta, Danilo de Jesús Porras Aguirre, Mauricio Morales, Esmeralda Calvo, Bibiana Ariza, Carlos Wilches, Alberto Villa, Sonia Hernández, Sarah Bastidas, Gina Patricia Osman Olaya, Jaquelin Vargas, Ximena Lopez, Manuel Guiracocha, Lucia Martínez, María Carolina Ochoa Reales, Gloria Amparo Aristizábal Salazar, Nubia Sanchez, Esteban Cardona Londoño, Augusta Duran, Sandra Anduquia, Gladys Elena Vélez de Baena, Nelly Argenis Restrepo, Maria Liliana Reina Olaya, Mónica Suarez Duque, Rosa Ardila Sánchez, María Edy Ocampo Quintero, Maria Elvira Matheus Samper, María Elena Garcés Vieira, Fanny lucia Hernandez Quiroga, María Lucero Arboleda R, Cecilia Leiva, Gonzalo Mosquera, Cesar Marulanda, Luz Amparo Henao Jaramillo, Clara De Duran, William Mauricio Quintero Perdomo, Camilo Garnica González, María Yolanda Becerra Restrepo, Jairo

Enrique Guzmán Cortés, Jessica Museux, Dora González, Ana Devis, Luz Hoyos, Myriam Gladys López Torres, Nelsy Manzano, Maria de Carmen Pezonaga, Bertha Amelia Aristizábal Serna, Irma Romero Morales, Myriam Oliver, Erika Mendoza, Olga lucia Otálvaro de Arboleda, María Victoria Palacio Urrea, María Stella Rodriguez, Yolima Lopez, Martha Galindo Hoyos, Marco Francisco Gaviria Rueda, Gloria Ordúz, Catalina Camelo, Elsie Clavijo, Claudia Garcia, Laura Sanchez, Maria Hernandez, Angie Diaz, Teresita Tabares Martínez, Ana María Araujo, Doris Pino Flórez, Sonia Martínez, Ana Cecilia Quintero Silva, Yolanda Pérez Cardona, Abraham Aparicio, Rocío Pérez, Nancy Parra, Claudia Janneth Arenas Montoya, Mireya Obando Pineda, Doris Herrera, Carmen Sánchez, Julián Gavilán, Luz América Chavarriaga Caicedo, Olga Rosa Flórez Benavides, Olga Nancy Fuertes Delgado, Diana Carolina Guerra Plazas, Iván Ramiro Ibarra Imbachi, Liliana Zapata, María Elena Giraldo González, Marcia González, Karina Álvarez García, Ana María Vergara Zuluaga, María Smith Suárez Sandoval, Magda Patricia Reyes Parada, María Teresa Holguín Sánchez, Verónica Vargas, Cecilia Urrea Giraldo, Caren Millán, Luz Mary Rodríguez, Gustavo Castro, María Camacho, Esperanza Ballesteros Lasso, Alejandro Quiñones, Luz Gladys Acero Gómez, Héctor Cano Ladino, Beatriz López López, Ángela María Jaramillo, Stefanny Palacios, Nicolás Velásquez Mesa, Yubiseth Valencia, Paola Vanegas, Patricia Calvache Villota, Gilberto Rodríguez Ovalle, Cecilia Chacón, Néstor Hernando Sánchez Ordóñez, Alicia Posada, Marina del Carmen Fernández Guzmán, Alejandro González Pulido, Sol Cuello, Pilar Garzón, Martha Teresa Pirazan Bonilla, Sandra Marciales, Blanca Inés Aristizábal Gómez, Susana Rueda, Ademir Guzmán, Beatriz Mejía, María Helena Orozco, Jhon Henry Gómez Osorio, Mirian Sua Durán, Sonia Morales, Miguel Ángel Amaya Cruz, Álvaro Antonio Tamara Angarita, Sonia del Carmen Mosquera Caicedo, Ángela Victoria Jiménez Leal, Dora González, Lucía Adela Carracedo Castaño, Blanca Yaneth Fandiño Sánchez, Alexandra Franco, Michel Sánchez, Fabio Sánchez, Amparo Corrales, Karen Ríos, Juan Carlos
Anguiano, Dora Alzate, Gladys Ramos Carreño, Lucy Esperanza Niño Blanco, Karen Vásquez Rogel, Daniel Fabián Mendoza Medina, María Victoria Saldarriaga de Fernández, Jorge Mogollón, María Eugenia Fernández, Magda Pinilla, Henry Hernández, Ana Porras, Álvaro

Jiménez, Lucía Castellanos, Claudia Mercedes Calvache Villota, Hilda Marlén Diaz Rojas, Maribel Giraldo, José Antonio Claros Labrador, Gladys Castro, Julia Lucía García Quintero, Lina María Gil, Alejandra Charry Torres, Maritza Guzmán Velasco, Linda Rosas, Jorge Castro, Rosa Guerrero, Lida Castro, Alejandra Vanegas Castro, Zoraida Aristizábal, Mario Alejandro Lugo Amaya, Héctor Alonso Ortega Hernández, Luz Adriana Tovar López, Adriana Yarce, Ángela Vélez, Silvia Juliana Calvete, Rogelio Bedoya, Cecilia Pulido, Luz Mery Martínez, Pedro Castellanos, Miguel Andrés Castañeda Nieto, Jorge Pineda, Nancy Gutiérrez Ricaurte, Avelina Luque Luque, María Escobar, Mac Eliuth Álvarez Bohórquez, María Botero Ospina, Cecilia Barliza Macías, María Cristina Martínez Ruíz, Alba Luz Motato Martínez, Deisy Serna Giraldo, Adriana Calderón, Luz Amanda Gordillo Daza, Juan José Castro Márquez, Óscar Orlando Céspedes Hernández, Catalina Ossa, Marcela Otálvaro, Daniel Ibarra, Bibiana Ariza, Gladys Buitrago, Jenny Belilla, Nelly Argenis Restrepo, Juan Pablo Linares, Laura León Villalobos, Olga Onoria Burbano Montero, Clemencia Eugenia La Rotta Spinel, Rodrigo Bernal Reina, Margarita Ordúz, Olga Lucía Franco Lizarazo, Olga Mogollón, Chantal Reinoso, María Ligia Zuluaga López, Alexis Lozano González, Jorge Enrique Olano, Carolina Garaviz, Colombia Flórez Quezada, Jasmín Quintero Duque, Aida Vergara, Edgar Castillo, Maritza Méndez, Yohan Romero, Paola Giraldo, Norman Polanco, Jose Mendivelso Cruz, Helida Aleyda Aguilar, Andrés Alvarado Losada, dgarcia@citizengo.net, Javier Porras, Katerine Rodríguez, Claudia Magali Correa Delgado, Jorge Pulido, Ninfa Acuña Murillo, Cecilia Quiroga Cabrera, Jaime Humberto Acosta Garzón, Aura Silva, Irma Rojas Buitrago, Ángela Ramírez, Sandra Milena Morales Dimarco, Sandra Lucy Tobar Criollo, Alberto Villa, Adriana Martínez, Darío García Botero, Gloria Ofelia Galvis Valencia, Irene Migranas Ortiz, Carolina Lopera, Javier Offnung, Rodolfo Londoño, Hugo Ramírez Isaza, Angélica Álvarez, Carmenza Reina Chávarro, Myriam Trujillo, Dora Vega Valencia, Rafael Rodríguez de León, Victoria Pareja, Jineth Acevedo, María Buendía, Clara Inés Franco Jaramillo, Ramón de Jesús Mesa Cardona, Ángela María Correa, Mónica Am, María Esther de la Torre Sánchez, Andrea Morales, Jaime Hernán Ospina Sánchez, Juanita Gaviria Bazzani, Deyssi Ramírez, Laura Natalia Cifuentes Sierra, María Etelvina Prieto Rincón, Rocío Pretelt, Frank Jair Granados

Naranjo, Martha Aguilar Piedrahita, Daniel Marino Patiño, Viviana Vargas Cardona, Ana Milena Lopera Sepúlveda, Alicia Henao Uribe, Martha Teresa López Silva, Ana María Cabanzo Huertas, Maritza Roldan, Marilyn Naranjo Rincón, Luz Helena Martínez Pérez, M Zarate, Teresita Hoyos Arango, Héctor Roldán, Martha Mayuly Arévalo Rodríguez, Jorge Enrique Valencia Rodríguez, Carmen Lucía Roldán Hoyos, Martha Elena Guerrero Ramírez, Domingo Eduardo Ortegón Ortegón, José Danilo Bueno Bueno, María Elena Roldán Hoyos, Gustavo Adolfo Duque Ocampo, María Consuelo Gómez, Nora Jaramillo, Jenifer Reyes, Verónica Camacho, Scobar Heans, Ismaelina Moreno Baracaldo, Beatriz Angélica Martínez, Álvaro Antonio Hernández Soto, María Lucía Martínez Sierra, Laura Salazar García, Myriam Ramírez, María Llaña, Pilar Ospina, Fanely del Carmen Giraldo González, Luis Alberto Gil Saballeth, Yuly Andrea Vargas Barragán, Yudy Giraldo, Jasmín Astrid Agudelo Arboleda, Francisco Puglisi, Giselle Peña, Olga Estefan, Martha Aurora Cuervo Fonseca, Maygrett Caicedo, Diana Mejía, Alba Nubia Cortés Arévalo, María Paula Vargas, Bryan Baldion, Carlos Holguín, María Victoria Hincapié Ochoa, Lina Arango, Nubia Mejía de Echeverry, Mercedes Rojas, Catalina Orozco, Freddy Vera, Gloria Fuentes Castellar, Beatriz Cassan, Beatriz Mendoza, Angelita Rosito, Olga Carrero, Juan Carlos Gallego Lozano, Carolina Cuenca, Andrés Mauricio, Elizabeth Rodríguez Monsalve, María Fernanda Bermúdez Salazar, Luz Marina Robledo Botero, Alicia Lara, Ana Esther Cordero Vargas, Luz Stella Zuluaga Zuluaga, Alba Rodríguez, Julián Esteban Alvarado Losada, Yolanda Pérez Cardona, Diana Patricia Arango Cardona, Carlos Poveda, Lauritza Beatriz González Rodríguez, Armín Rodríguez Martínez, Evelyn Barrera García, Carolina Bermúdez Figueroa, Lizzeth Florián, Ángela Díaz, Mariela Martínez Reyes, Gonzalo Mosquera, Javier Gómez Graterol, Paula Andrea Vergara Cuervo, Elpidio Pulido Cifuentes, Laura Caicedo, Bladimir Arboleda, Aura López, Elsie Clavijo, Laura Isabel Tobón Gallego, Maryuri Mejía, Erika Ducon Medrano, Ángela Escobar, Piedad Díaz Granados Escobar, Julián Villamizar, Giovanni Ariza, Magola Peñaranda, Adriana Reina Chávarro, Concepción González, Karen Blesgraeft, Orlando Alvis, Maritza Jasbón, Juan Jeréz, Wilinton Rodolfo Espitia Alfonso, Gloria Sepúlveda, Alberto Gómez Medina, Luis Felipe Patiño Serrano, Claudia Leal, Mónica Quiceno Bohórquez, Carlos

Alzate, Gloria Lucía Vélez Montes, Jesús Manuel Medina, Amparo Orozco, Juan Ricardo Yangua Lapouble, José Jairo Vergara Rivera, César Augusto Valencia, Rosa Hernández, Sandra Vásquez, Gloria Ilse Moncaleano Rodríguez, Yeni Gómez Álvarez, Alcides de los Ángeles, María Astrid Maya de Caro, Patricia Idrobo, Beatriz Helena Villegas de Brigard, Fernando López Valero, Anny Castillo, Beatriz Riascos, Over Hernán Garzón Garzón, Jaime Alcides Zuluaga Quintero, Adriana Castrillón, Ana Carolina Rojas Figueroa, Carmen Elena Díaz del Castillo, Vivian Andrea Laverde Pulido, Eleonora Ana Milena Cerón de Valencia, Efraín Enrique Otero Arciniegas, Teresita Tabares Martínez, Francy Juliet Álvarez Yotagri, Ingrid Constanza Erazo Torres, Natalia Henao, Sofía Salazar, Norma Ortiz, Cecilia Capacho Vanegas, Juan Duque, Gloria Inés Martínez, Rafael Eduardo Santana Ramos, Martha Rosa Ortiz Calderón, Marcela Serna, Martha Inés García Sanín, Elena Pita Torres, Mónica Sánchez Cerón, María Isabel López de Jesús, Carlos Enrique Pérez, Sarah Bastidas, César Chavarriaga, Luz Gutiérrez, Luis Morales, Estela Cañón, Sonia Silva, Francia Paredes, Vilma Castillo Tenjo, Ligia Ramírez, Luis Fernando Escobar Quijano, Luz Dary Páez, Stella Barrera, María Patricia Arévalo, Jesús Ramírez Chamat, Alejandra Galvis, Mónica Oblea Guerrero, Ángelo Cordero, José Julián Flórez Solís, Francisco Calvo, Myriam Pérez, Adriana Henao Agudelo, Elizabeth Sandoval Pinzón, Adriana Reina, Amparo Buitrago, Marily Silgado García, Sindy Miranda, Sandra Pinilla, María Teresa Rozo de Mendoza, Ricardo Castañeda, Rosa Beltrán, Manuel Mojica Gómez, Luisa Gallego Lozano, Eugenia Orozco, María Teresa Guerrero Ramírez, Ana Isabel Múnera Múnera, Claudia Gómez Gómez, Leonardo Gallego, Olga Molina, Alejandro Romaña, Sandra Patricia de la Concepción Flórez, Magdalena Santamaría, Adriana Porras, Fermín Ramírez, Dary Isabel Alfonso Coy, Marco Francisco Gaviria Rueda, Lourdes Zapata, Rodrigo Bernal, Catalina Camelo, Héctor Ramírez, Juan Ochoa, Blanca Idalia Gómez Villarreal, Jaime Anaya, Sandra Carmenza Rojas Ospina, Victoria Martínez Martínez Mojica, Andrés Sagra, Paola Moreno, Paula Zuluaga, Luis Avella, Fanny Vargas de Arévalo, Yesika Ruiz, Ángela María Rosillo Lascarro, Nubia Doris Sánchez Rodríguez, Soledad Pulido Barrera, Rosa María Herrera Cortés, Mirella Borrero Chávarro, Carolina McAllister Arias, Isabella Ruíz Pulido, Pablo Mazabuel, Lara Rodríguez, Claudia Alexandra Rojas

Buitrago, Fallonbrigitte Bello Camargo, Claudia Liliana Hoyos Londoño, Claudia Marcela Núñez Mosos, Ana María Santiago, José Diego Roldán Hoyos, Carlos Mateo Najera Romero, María Edilma Meneses Meneses, Luz Stella Lozano Gaitán, Orfa Restrepo, Hernando Varón Cuartas, Segundo Rincón Fernández, Isabel Saltaren, Balmer Maestre Molina, Diana Durán Villalba, Nidia Flórez, Alberto Rosario, Luis Vega, María Sánchez, Clemencia Cotamo, Álvaro de Arco Amador, Alfonso López Roca, Nathalia Garcés Villalba, Clara Eufemia Pérez Barreta, José Alejandro Martínez Sepúlveda, David Bermúdez Sagre, Gabriel Ibarra, Álvaro Alvarado, Alexandra Losada, Claudia Isabel López, Aura Libia Coral Rosero, Luisa Novoa Estrada, Guillermo Martínez, José de Jesús Benavides Cornejo, Valentina Marín González, Raúl Forigua, Jesús Alberto Niño Yepes, Martha Cardona, María Oviedo, Adriana Alfaro, Eugenia Zuluaga, Bolívar Hidalgo, Henry Erazo Moreno, Héctor Darío García Trujillo, Elizabeth Velasco, Ángela Cantillo, Laura Arandia, Francia Esmeralda Ávila Marín, Jazmín Vanessa López Rodríguez, Humberto de Jesús Santa Valencia, Eduardo Zelaya, María Mercedes Guerrero Erazo, Humberto Luna Gómez, María Alejandra Iregui Serna, Lucía Castaño, Héctor Quiñonez Modesto, Ana María Alzate, Lina María Gil Gómez, Auda Barboza, Gustavo Quiroga, Catalina Sosa, Jairo Duarte, Clemencia Bautista Méndez, Pilar Vega Ordóñez, Carolina Castillo Gaitán, Amelia Sepúlveda, María de las Nieves Cifuentes Riveros, Margarita Carrasco, Fabio Molina, Silvia Mejía, Mercy Gómez, Isabel Cristina Salazar Cardona, María Victoria Ramírez Díaz, Beatriz Helena Padilla Narváez, María Paula Torres Salcedo, La Laureano Restrepo Ruíz, María Mercedes Rozo, Sebastián Suau Salva, Rubi Salcedo Cruz Rubi, Benildo Amado Zárate, William César Morales Rincón, Mónica Salcedo, A bueno, Diana Marcela Quintero, Paola María Torres, Paola Andrea Alzate Castro, Rosa Anaya, María Torres, Flor Alba Carreño Sánchez, Mary Santos, Alison Nieto, Emilio Batlles Campos, Isabel Cristina Garavito García, Elías Manuel Márquez Felia, John Díaz, Liliana Amado Zárate, Rosa Angélica Gómez Neira, Cecilia Jiménez, William René Amado Zárate, Felisa de Celis, Nelly Jasmín Tolosa Hernández, Luz Amparo Contreras Jaimes, Maritza Almanza, Gonzalo Maximiliano Ferreiro, Patricia Castillo Alfonso, Sandra Patricia Alarcón Villar, María Virginia Becerra Castro, Andrés Gaviria, Mónica Pacheco Santana, Miguel Carrillo, María Isabel Cabrera, Danny Castillo,

Javier Pascual Jiménez, Leonor Tamayo Medina, Ángela González, Sandra Martínez, Daniel Fernando Jaimes Escalante, Ligia Cuervo, Mabel del Carmen Pérez Villa, Mónica Orrego Ceballos, Oswaldo Ospino Pacheco, Sonia Cala, Jorge Aguilera, Jorge Mauricio López Camacho, Julio Cesar Suárez Sandoval, Gilde Aurora Gaviria Quiñones, Héctor Mantilla, Irina Bossa Vergara, Ana Graciela González, Carolina Díaz Calderón, José Jairo Vergara Rivera, Nancy Salazar, Diana Ximena García Castro, Marco Antonio Cupa Arcos, Augusto Romero, Alberto Restrepo, Adriana Carolina Henao Rangel, Hugo Fernando Londoño Cardona, Mariela Eugenia Rodríguez Jaramillo, Lupita Serrano, Gonzalo Gerardo Díaz Campaña, Gilbert Madrigal Campos, Sofía Valencia Ramírez, Viviana Rodríguez Carmen Offir Pérez Palacio, Rocío Niño, Laura Camila Bonilla Ramírez, Luz Elena Flórez Cortés, Juan José Cortés Álvarez, Fanny Trejos, Lucía Gavilán, Fabiola Díaz, Nancy Rodríguez, María Concepción de la Hoz Martínez, Eliana García Arias, Germán Murcia, Diana Rincón, Susan Camargo, Isabel Rozo, Martha Lizarazo, Yolime Pinedo, Ximena Ninahualpa, Luz Marina Arcila Tamayo, Carlos Berrio, Álvaro Viloria Romero, Hernando Vanegas, Alberto Mogollón, Shirley Natalie Lazt, María Antonia Guerrero Beltrán, Anabelle Mora Vargas, Gustavo Cáceres Castellanos, Jaime Alberto Hernández, Carlos Mauricio Mantilla, María Duldary Castaño, Sindy Paola Corredor Arévalo, Tulio Castillo Hernández, Shirley María Ramos Sánchez, Alba Guzmán Quevedo, William Donado García, Augusta Durán, Elena Córdoba, José Iborra Valero, Darío Carrasco, Beatriz Betancur, Jorge Zabala, Gilma Zambrano, María Juliana López, Martha Lucía López, Ingrid Santacruz, Alejandra Gómez, Edwin Iván Berrio Jiménez, Diego López, Alma Patricia Pérez Ortega, Elizabeth Mejía, Alejandra Forero, Nury Rojas, Omar Velandia, Julio Martínez Sánchez, Juanita Rivas Vega, Sergio Arturo Mejía Vélez, Luz Edith Montaña Moreno, Ángela Monroy Andrade, Juan Martínez, Néstor Fabián Torres Martínez, Aída Luz Vásquez, Gustavo López Bustamante, Gloria Plata, Lucía Camacho, Juan Cardona, Marian Gómez Martínez, Gerardo Carvajal Dorado, Andrea Montes, Ana María Araujo, Diana María Arbeláez Ramírez, Brea, Astrid Gutiérrez, Fernando Corredor Gómez, Be Ruíz, Ana Lya Ruíz Vallejo, Aida Amaya Miranda, María López, Cindy Carolina Loaiza Moncada, Mireya Galindo, José Luis Flórez Murcia, Yuli Urrego, Cecilia Torres Vargas, Carlos

Castillo, Alexandra Melo, Iván Nivia, Beatriz Londoño de Posada, Rosabel Zambrano, Mario Cardona, Nancy Montañez, Juana Cortes, Lucia Iregui, Mauricio Morales, Gloria María Cardozo Sánchez, Jessica Lucía de la Hoz Durán, Raúl Gertel Moreno, Clara Yadira Suarez Hernández, Patricia Rico, Laura María Velásquez Cañas, Gloria Patricia Ospina Escobar, José García-Muñoz, Ovier Enrique Castro Higuita, Ovier Enrique Castro Higuita, Eliana Carolina Mendoza, Mónica Ferro, Daniel Sánchez, Miguel Ángel Pira Vargas, Claudia García, Yomaira Monsalvo, Carlos Restrepo, Ximena Lorena Arias, Carlos Cardona Restrepo, Lidia Gómez, Edgardo Granados, César Chaves, Diana Bejarano, Aisned Hernández Flórez, Ana R, Valentina Pérez, Carmelita Medina de Posada, Camila López, Martha Isabel Jiménez de Parra, Marcela Zuluaga, Nidia Caicedo Herrera, Gherson Grajales, María Ruíz, Luz Stella Marín López, Rosa Duarte, Lucía Conti, Yamile Bustos Torres, Raúl Canal Cárdenas, Gloria Betancur, Daniela Ramírez Pérez, Cristian Camilo Benítez Restrepo, Mónica Echavarría, Claudia Cifuentes, Melissa Morantes, Hugo Hurtado, Carlos Andrés Montañez Zuluaga, Karla Villegas, María del Pilar Londoño Machado, Nathaly Pérez, Jorge Enrique Muñoz Ayala, Marina Gómez González, María Natalia Pineda Ortiz, Leidy Johana Vargas Ramírez, Celmira Díaz Arévalo, rosalbasantas@gmail.com Santa, Ana Milena Escobar Corredor, Gloria Guerrero, Sandra Leguizamón Salamanca, Alfredy Pimiento Ruíz, Laura Sánchez, Fabiola Sarmiento, Hernán Quintero, Carol Parra, Jorge Forero Rincón, Sandra Huertas, Jesús Germán Olivares Marcelino, Flor Marina Galindo Mendoza, Cristina Gil Pinzón, Sandra Lugo Otálora, Nicolás Fergunson, Jhon Mesa, Catalina de Santamaría, Angie Díaz, Manuel Ospina Zuluaga, Nury López García, Jorge Arias, Paulo García, Martha Isabel Medina Castillo, Adriana María Diaz Mejía, Jennifer Castrillón, Edilma Rosa Muñoz Correa, Camila Botero, Gilberto Hoyos, Reinaldo Polanco, Lucía Vélez, Melania Gil Aponte, Vladimir Fernando Villamil Contreras, Angélica Yulieth Rodríguez Rojas, José Guanipa, Mauricio Herrán, Héctor Gaviria Cardona, Alfonso Rene Caicedo, Nelci Silva, David Marín, Berenisze Moreno Delgado, María Adelaida Gómez Lopera, Adalberto Franco Torres, Lauta Vanessa Celeita Peña, Diana Patricia Marín Rodríguez, Liliana Quintero, Juan Esteban Gaviria Muñoz, Anderson Ocampo, Mariela Castiblanco, Enrique Betances, María Yolanda Becerra Restrepo, Eduardo Cárdenas Guaracao, Sandra

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Rodríguez Rodríguez, Jasmín Padilla Rodríguez, Lina Barreto, Cristian Guillermo Cruz Ávila, Erika Juliana Fernández, Luis Miguel Cardona Gómez, Edgar Mejía, Alba Sepúlveda, John Mario Hurtado Botero, Sandra Carrera, Claribel Restrepo Suárez, Laura Valentina Gómez Cely Gregorio Osorio, Mónica Ospina Osorio, Jennifer Cañón. María González Rodríguez, José Darley Castrillón Castaño, Mónica Cristina Castro, Cristina López Hoyos, Viviana Rodríguez, Carlos Quiñones, Diana Arias, Sebastián Bedpya Aldana, Aura Vanessa López Barón, Luis Adrián Bravo, Lucrecia Victoria Gaviria Diez, Susana del Carmen Medina Gómez, luz Helena Montes, Ángela Ramos, Clara Patricia Espinal Gil, Carmen Alicia Hurtado Díaz, Nubia Sánchez, Horacio Hoyos Zapata, Juan Carlos Arias Acevedo, Natalia Andrea Cardona Gaviria, William Mauricio Quintero Perdomo, Jorge Laverde, Juan Camilo Gallego Cano, Herminda Moreno Sereno, Dolly Vélez Hurtado, Martha Janneth Pulido Parada, Amelia Sofía Martínez Zambrano, Katerine Bermúdez, Luz Ángela Gutiérrez Rivera, Ligia Valderrama Durango, Isabel Rodríguez, Mary Janneth Padilla Sánchez, Camilo Forero, Hugo Vera, Martha Elizabeth del Socorro León Vieda, Numa Vargas Vargas, Fredy Espitia, Angie Lorena Cabrera Osorio, Diana Vanegas, Sindy Aricapa, Gloria Fabiola Navarrete Rodríguez, Edgar Alberto Franco Santos, Marco Páez, Cristian Romero Bautista, Elizabeth Luna, Margarita Matías Muñoz Hincapié, Luz Ángela Urrego López, María Valentina Guzmán Sarmiento, Beatriz Elena Arrieta Wiedmann, Fernando Jaramillo, Hernán González Sánchez, Jesús Orlando Paredes Cabeza, Libia López, Vidal Maldonado Granados, Norely Ríos, Fernando Giraldo Suárez, Darío Noguera, Cielo Quevedo, Marta Cecilia Heredia Soto, Sandra Anduquia, Leila Patricia Murillo Aragón, María Josefa Uribe Vélez, Oscar Bastos, Laura Hernández Gil, Lilian Hurtado, Jackeline Salazar, Leider Alberto Martínez Martínez, Valentina Londoño Velásquez, Francelina Medina Hernández, Meisel Montaña, Magda Liliana Escalante, César Marulanda, Claudia Chávez, Alina Martínez García, Mauricio Araque González, Barbarita del Carmen Gómez González, Gloria Delgado, Rocío Reyes, María Liliana Ayala Cardona, Doris Pino Flórez, Claudia Liliana Zamudio Vaca, Karen Liliana Santamaría Castellanos, Xiomara Querales, Aura Milena Bedoya Monroy, María del Carmen Rico Martínez, Juan Henao, Luz Mery Molano Guzmán, Guillermo Vacca, Isaac Betancourt, Lina María

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Mendoza Neira, Gisede Lorena Sánchez Sánchez, Luis María Rivera, Jahuyer Jaramillo, Nancy Rocío
Espinosa Mendoza, Mónica Suárez Duque, Laura Ramírez, Nuri Patricia Enciso, Luis Clemente Parra Palacio, Nelsy Belisa Apraez Legarda, Evelyn Marcela Villegas Giraldo, Ángela Inés Marín Garcés, María José Hernández Fuente, José Wilson Córdoba Cuesta, Juan de Jesús Quintero Trujillo, Manuel Vargas, Gloria Ariza, Carmenza Patricia Guerrero Macualo, Alba Viviescas, Myriam Rondón, Giovanna Reyes, Carlos Alfonso Velásquez, Diego Rojas Pareja, Imelda Alfonso Fuentes, Gabriel Torres Buitrago, Paula Restrepo Llano, Barbarita del Carmen Gómez González, Gloria Delgado, Rocío Reyes, María Liliana Ayala Cardona, Doris Pino Flórez, Claudia Liliana Zamudio Vaca, Karen Liliana Santamaría Castellanos, Xiomara Querales, Aura Milena Bedoya Monroy, María del Carmen Rico Martínez, Juan Henao, Luz Mery Molano Guzmán, Guillermo Vacca, Isaac Betancourt, Lina María Olmos, Martha Yanet Morato Ayala, Yeiny Yulieth Hernández Pardo,

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2	Adriana Henao Agudelo, Adriana Ochoa Horo, Alba Elizabeth Herrera Carrillo, Alejandra Castillo, Alexandra Uribe Muñoz, Álvaro Navia Perdomo, Amparo Yánez, Ana Milena Escobar Corredor, Ana Viloria, Andrea Rodríguez Velásquez, Ángel Chaparro, Ángela Ramos, Angie Prieto, Astrid Valentina Obando Carvajal, Clara De Duran, Claudia Bedoya, Cruz Alberto Urrea Carvajal, Daniel Arcila, Delfy López, Deyanira Carvajal, Diana Patricia Marín Rodríguez, Edilma Giraldo Ramirez, Edith Yaneth Zuluaga Zuluaga, Elizabeth Garcés, Elizabeth	09/29/2021

	Montoya, Elsa Patricia Guerra Pulido, Ester Ramírez, Evelyn Marcela Villegas Giraldo, Francisca Galán, Fredy Jara Gutiérrez, Gloria Montoya Ortiz, Gloria Sepúlveda, Henry Hernandez, Irma Romero Morales, Isabel Ruedas Pérez, Isabella Ruiz Olpulido, Jair Restrepo, Jairo Enrique Guzmán Cortés, Jelen Marín, Jesús Evelio Tobón Gomez, Jhon Gonzalez, Jorge Arias, Lasly Parada, Leidy Johana Vargas Ramírez, Lilian Hurtado, Liliana Cabrera Carvajal, Lizette Carvajal, Lorena Castro, Lorena Gutiérrez, Lucia Iregui, Luis Alberto Alean Castillo, Luz Ortiz Becerra, Marcela Ibarra, María Astrid Maya De Caro, María De Carmen Pezonaga, María De Los Dolores Guevara Segura, María Edilma Aristizábal Giraldo, María Eugenia Fernández, Maria Fernanda Bermudez, Maria Helena Barrera Delgadillo, María José Hernández Fuente, María Margarita Ramírez Melo, María Mercedes Salazar Pachón, Mario Arias Maya, Martha Solanye Maldonado Jiménez, Martín Arias Triana, Melissa Gómez Aristizabal, Mirian Almonacid, Natalia Pérez, Neyla Flórez, Nury López Garcia, Oscar Alonso, Oscar Bastos, Paula Restrepo Llano, Piedad Cecilia Granados Velasco, Sandra Leguizamón Salamanca, Sandra Lucía Becerra Camargo, Sandra Martínez, Sandra Velásquez, Sebastián Morales, Tulio Castillo Hernández, Wilinton Mejía, Yenis Carrillo.	
3	Adriana Reina, Alba Camargo, Alba Valencia, Alejandro Velásquez, Álvaro Javier Forero Villamizar, Amalia Mejía, Ana Cristina Castrillón, Ana Graciela González, Ana Lya Ruiz Vallejo, Anabelle Mora Vargas, Angelica Álvarez, Angie Viviana Moreno Lizarazo, Aslly Shirley Quintero Jiménez, Beatriz Mendoza, Benedicto Vaca, Benhur Hiler Muñoz Uribe, Camila Botero, Carlos Alberto González Díaz, Carlos Alberto Parra Mesa, Carlos Alberto Rueda Carvajal, Carlos Antonio Cadavid Sánchez, Carlos Enrique Oróstegui González, Carlos Rangel, Carmen Alicia Hurtado Diaz, Carmen Trujillo, Carmenza Patricia Guerrero Macualo, Carolina Mcallister Arias, Celmira Díaz Arévalo, Claudia Patricia Álvarez Larrañaga, Claudia Reyes, Cristian Guillermo Cruz Ávila, Daniel Bernal, Daniel Fernando Jaimes Escalante, Danilo De Jesús Porras Aguirre, Derlly Patricia Benítez González, Dolly Vélez Hurtado, Edilma Rosa Muñoz Correa, Édison Castillo, Elena Córdoba, Elizabeth Fierro, Emma Ligia Suárez López, Erika Angulo Ararat, Erika Juliana Fernández Ramos, Esperanza Guevara Hortúa, Estela Guadalupe Rodríguez Pérez, Fabio Sánchez, Flor Cárdenas Quintana, Fredy Duque, Fredy	10/01/2020

Espitia, Gabriela Forero Duarte, Gerardo Carvajal Dorado, German Enrique Ramírez Jurado, Gerónimo Calvette Oviedo, Gilde Aurora Gaviria Quiñones, Gisede Lorena Sánchez Sánchez, Gyna Murcia, Héctor Gaviria Cardona, Herminda Moreno Sereno, Hernán Quintero, Irina Bossa Vergara, Iván Nivia, Jhon Henry Gomez Osorio, Jhon Isaza García, Jhon Mesa, Jorge Álvarez Salazar, Jorge Vásquez, José Guanipa, José Jairo Vergara Rivera, Juan Carlos Arias Acevedo, Juan Francisco Mantilla Gómez, Juan Gabriel Gutiérrez, Juan Guillermo Serrano Lobos, Juan José Castro Márquez, Julieta Galeano Serna, Julio Cesar Suárez Sandoval, Kathia Molina De La Hoz, Laura Aya, Laura Bohórquez, Laura Pérez, Leonado Gallego, Liliana Quintero, Lina Arango, Lina Mercedes Sánchez Moreno, Loren Bustos, Lucia Camacho, Lucia Gavilán, Lucila Arias Cano, Luz Adriana Saray, Luz Amanda Gordillo Daza, Luz Dary Moreno González, Luz Esther Rodríguez Contreras, Luz María Rangel, Luz Stella Gómez Hoyos, María Elena Ramos Q, Manuel Guiracocha, Marcela Otálvaro, María Adelaida Gomez Lopera, María De Lourdes Pérez Terán, María Del Pilar Londoño Machado, María Elizabeth Pabón Mora, María Helena Triviño Pinzón, María Hernández, María Josefa Uribe Vélez, María Patricia Correa Palacio, Mariana Hernández Niño, Maria Rosadelia Campos, Mariella Borrero Chávarro, Mario Bernal Varas, Martha Claudia Guevara Ariza, Martha Janneth Pulido Parada, Martha Lizarazo, Martha Martínez, Mary Janneth Padilla Sánchez, Meisel Montaña, Melania Gil Aponte, Mira Alejandra Granados Suárez, Mireya Galindo, Mónica Cristina Castro, Mónica Suarez Duque, Myriam Trujillo, Nelson Lombo, Noela Taborda, Nora Mejía, Norma Ortiz, Nubia Alvarado Bejarano, Nubia Lucia Chaparro Benavides, Olga Ramírez, Orlando Alvis, Paula Parra Osorio, Piedad Rocío Martínez, Rigo Aristizábal, Rita Inés Garcia Muñoz, Rocío Reyes, Rodrigo Borda, Sandra Vega, Shirley María Ramos Sánchez, Shirley Natalie Lazt, Sofía Salazar, Sonia Ambard De Massi, Sonia Murra, Tairis Carolina Gutiérrez Jiménez, Ubiely Aidé Ruiz Gómez, Vera Echenique, Viviana Zuluaga Jiménez.

4	Javier Vargas, Lina Marcela Arboleda Jaramillo, Cielo Quevedo, Leidy Arenas, Mariana Gómez Martínez, Claudia Luc'a CortŽs, Ana Francisca García Loaiza, Patricia Espinosa Montaña, Uriel Salazar, Martha Yanet Morato Ayala, Jorge Mogollón, Néstor Fabián Torres Martínez, Sylvia Estrada, Andrea Castiblanco Ortiz, Santiago Rodríguez, Jenny Patricia Veloza Rodríguez, Magda Liliana Escalante, María Rojas, Germán Salgar, Elvira Jiménez de Cardozo, Claudia Carrillo, Marcela Zuluaga, Laura Salazar, Carmen Mejía, Sandra Patricia Rodríguez Rodríguez, José Wilson Córdoba Cuesta, Margarita Fuchs García, Alexander Gallego, Patricia Pulido Barrera, Rosabel Zambrano, Elver Alonso Callejas Quintero, Diana Bejarano, María Valentina Guzmán Sarmiento, José Lizarazo, Camilo Forero, Aisned Hernández Flórez, Luz Andrea García Rueda, María Ruiz, Elena Martínez Pineda, Fernando Giraldo Suárez, Jeniffer Vélez Bedoya, Juana Cortes, Mónica Suárez Osorio, Martha León, Ángela Monroy Andrade, Francelina Medina Hernández, Viviana Rodríguez, Carlos Sarmiento, Jorge Zabala, Naomi Barquero, Elizabeth Luna, Karla Correa, José Guillermo Arévalo Pelayo, Bernardo Durango Garro, Carinna Patiño, Catalina de Santamaría, Luz María Rocha Bello, Esperanza Pérez Hernández, María Garzón, Cindy Johanna Vacca Salgado, Alexandra Garay Caro, Jesús Orlando Paredes Cabeza, Concepción Ardila, Gloria Inés Delgado Giraldo, Rosa Ardila Sánchez, Adriana Porras, Alejandra Aristizábal, Zoraida Ospina, Alexandra Viloria Cárdenas, María Patricia Arévalo, Andrea Montes, Angie Lorena Cabrera Osorio, Augusto Romero, Irene Gil Aponte, Olga Estefan, Mauricio Araque González, Camilo Monroy, Rolando Forero, Darío Noguera, Carlos Poveda, Carlos Andrés Ruíz Flórez, Lourdes Zapata, Luz Elena Durán Tello, Lina María Olmos, Rocío Bernal, Alma Patricia Pérez Ortega, Piedad Díaz Granados Escobar, Daniel Antonio Valdés, Edilia Sánchez Corredor, Gustavo Jiménez, Edgar Mejía, Carlos Alberto Mejía Lalinde, Jaime León Blanco Baldión, Ximena Lorena Arias, Helida Aleyda Gutiérrez Aguilar, Dainer Álvarez Castillo, Adriana Sánchez, María Juliana Ramírez Parada, Victoria Eugenia Gómez Ramírez, Mauricio Morales, David Marín, Yubely Valenzuela, Nancy Montañez, María Natalia Pineda Ortiz, María de los Ángeles Mora de Mejía, Luz María Rocha Bello, Elizabeth Cudris Urueta, Jorge Armando Zuloaga Martínez, Carlos Andrés Montañez Zuluaga, Claudia Gómez Gómez, María Sonia Ocampo López, Carlos Andrés Rueda	10/02/2020

Calle, Marlen Ibeth Rhenals de Andreis, Norman Polanco, Erika Mendoza, María Cristina Bohórquez, Vladimir Fernando Villamil Contreras, María Benítez, Daniella Marthe, Camilo Andrés Fajardo Pedroza, Martín Perea, Guillermo Alfonso Mora Carreño, Rodrigo de Jesús Giraldo, Jorge Enrique Muñoz Ayala, Karen Liliana Santamaría Castellanos, Luis Felipe Mendez Durán, Nelsy Belisa Apraez Legarda, Alexandra Milena Gutiérrez Arrubla, Salma Gabriela Calderón Tamayo, Robinson Caraballo, Einer Teresa Becerra, Álvaro Viloria Romero, Gladys Elena Martínez Agudelo, Adelaida Henao, Eliana Carolina Mendoza, Yolima López, Martha Elizabeth del Socorro León Vieda, Ana María Cabanzo Huertas, Jineth Acevedo, Gloria Fuentes Castellar, Alba Nora Giraldo Giraldo, Luz Edith Montaña Moreno, Claudia Piñeros, Martha Eugenia Ramírez Cardona, Vivian Andrea Laverde Pulido, Leonardo Rincón, Liana Naranjo, Andrés David Chaparro Guaitero, Luz Mery Posada Rodríguez, Nancy Rocío Espinosa Mendoza, Brithney Daniela Silva Peñuela, Alejandra Gómez, Heliana Quijano, Ana Angélica Montoya Quiroz, Paola Giraldo, María Mercedes Soto Jiménez, Marta Cecilia Heredia Soto, Martha Suarez Mojica, Jenny Malagón, Daniela Ramírez Pérez, Alberto Restrepo, Luz Gutiérrez, Hugo Vera, William Donado García, Katerine Bermudez, José Fernando García Gómez, Laura García Bonilla Ramírez, Lida Helda Jiménez Jiménez, Betty Sánchez Londoño, Alejandro Romaña, Martha Isabel García, Javier Porras, Sandra Susana Ruíz Pérez, Galaxiux Castañeda, Margarita Ordúz, William Eduardo Delgadillo Parra, Sandra Lugo Otálora, Beatriz Helena Villegas de Brigard, Martha Rojas, María Yolanda Becerra Restrepo, Alicia Henao Uribe, Elizabeth Mejía, Ingrid Carolina Roa Devia, Laura Valentina Gómez Cely, Jorge Forero Rincón, Gloria Fabiola Navarrete Rodríguez, Leider Alberto Martínez Martínez, Javier Vargas, Evelyn Barrera García, Tulio Enrique Sánchez García, Jesús Urrea Giraldo, Mónica Suárez, María Mercedes Toledo Arenas, Angelina Rosito, Darío Agudelo, Fanny Trejos, Viviana Rodríguez, Alejandra Jaramillo, Emmanuel Baena Vanegas, Carolina Bermúdez Figueroa, Miguel Ángel Pira Vargas, Gina Castañeda, Manuel Osuna Zuluaga, María Marroquín, Ángela Aguirre, Darío Carrasco, María del Carmen Rico Martínez, Edgar Alfredo Garzón García, Guillermo Mariño Forero, Jairo Castro, Claudia Cifuentes, Nubia Morales de González, Pablo Mazabuel, María Rufina Cárdenas de González, Ligia Valderrama

Durango, Mirian Almonacid, Luis Enrique Muñoz Pérez, Ernesto Armando Zuloaga Niño, Andrés Herrera González, Miguel Melgarejo, José Luis Flórez Murcia, Freddy Vera, Luz Dary Pérez, Martha Isabel Medina Castillo, Norberto Alcibíades Brea, Michel Sánchez, Julio Gregorio Blanco Beltrán, Angélica María Cobos Hernández, Junelys Martínez, Mauricio Becerra, Nelci Silva, Ana Lucía Jaramillo, Ana Milena Bedoya Carvajal, Yomaira Monsalvo, Marcela Londoño Tobón, Nubia Mejía Echeverry, Gloria Salamanca, Gonzalo Gerardo Díaz Campaña, Hernán González Sánchez, Roberto Castro Rodríguez, Margarita María Muñoz Hincapié, Isabel Rodríguez, Sigifredo Serrate Rivera, Juan Guillermo Gallego Giraldo, Beatriz Riascos, María Elena Garcés Vieira, Leonardo Antonio Bastidas Mahecha, Alba Luz Motato Martínez, Paola Vanegas Ortiz, Francisco Calvo, Genith Rosero, César Chaves, Lorena González, Manuel Ortega Rosillo, Diana Patricia Arango Cardona, Fermín Ramírez, Beatriz Londoño de Posada, Jennifer Cañón, Abraham Aparicio, Mabel del Carmen Pérez Villa, Claudia Herreño, Zamira Ramírez Gómez, Gherson Grajales, Gilberto Elías Becerra Reyea, Victoria Pareja, Claudia María Álvarez Vargas, Nora Luz Sánchez Marín, Yolanda Pineda, Paola Pumarejo, Lilia Rojas Martínez, Nubia Rodríguez Yanquen, Nubia López, Patricia Angulo, José Vicente Franco, Elvira del Portillo, María del Carmen Romero, Pilar Casallas, Lina Rincón, Dilia Stella Salazar Fuentes, Irma Suárez, Adriana Carolina Henao Rangel, Efraín Enrique Otero Arciniegas, Johnny Guerra, Jesús Germán Olivares Marcelino, Carlos Rodríguez Ramírez, Milena Patricia Moreno Parejo, Jackeline Salazar, Héctor Mantilla, Carmen Offir Pérez Palacio, María Antonia Guerrero Beltrán, Alberto Gómez Medina, Esperanza Vargas, Fredy Vasco, Fabiola Diaz, Mónica Orrego Ceballos, Luz Stella Marín López, Oscar Riaño, Miriam Carvajal Parra, Patricia Moreno Bautista, Nelson Horacio Correa Gómez, Adiela Vargas, Victoria Mejía Gil, Martha Inés García Sanín, Jorge González Pérez, Adriana Morales, Olga Molina, Anderson Peña, Juan Hernández, Jahuyer Jaramillo, Diana Vargas, Santiago Acebedo, Juan Henao, Luz Dari Sierra, Alexandra Melo, Armando Iregui, María González Rodríguez, Sonia María Jurado, Lidia Gómez, Luis Fernando Escobar Quijano, Ana María Araujo, José Gabriel Erazo, Clara Patricia Espinal Gil, Isaac Betancourt, León Saldarriaga, Henry Plutarco Abaúnza Galvis, Mirian Sua Durán, Nelson Humberto Ramos Bravo, Gabirle

Zulbaran Bossio, León Velásquez, Giselle Peña, Beatriz Betancur, Alfredy Pimiento Ruíz, Catalina Ossa, María Elvira Matheus Samper, Maribel Betancur, Jair Alexander Anaya Alsina, Juan Martínez, María Stella Rodríguez, Clara Yadira Suárez Hernández, María Victoria Palacio Urrea, María Victoria Castillo, Jonathan García, Diana María, Claudia Chaves, Nora Dilia Zuluaga Pérez, Heidy Porras, Carlos Holguín, Diana Lorena Gómez Hincapié, Mirian Jaramillo Cardona, Luz Marina Arcilla Tamayo, Susana del Carmen Medina Gómez, Olga Onoria Burbano Montero, Tatiana Villamizar Cabeza, Marta Lucía Calderón, María López, Marco Camargo, Jovanny Trujillo, Lupita Serrano, Nury Patricia Enciso, Chantal Reinoso, Mariela Castiblanco, Patricia Martínez, Carmen Cecilia Andrade Mantilla, Camila López, Martha Rodríguez, Horacio Hoyos Zapata, María Liliana Reina Olaya, Juan Cardona, Magola Peñaranda, Rosa Duarte, Leonor Ávila, Hugo Jaramillo Isaza, Sandra Huertas, Fabio Perea, Ángela Mejía, Ivonne Ramírez, María Franco Chuaire, Jimmy Quiroga, Eduardo Cárdenas Guaracao, Ana Bertha Forero Vargas, Carlos Mauricio Mantilla, Carolina Benavides Guzmán, Alexandra Fonseca Cárdenas, Alfonso Chaves, Hercilia Cárdenas León, Melissa Montes, Gloria Plata, José Aguilera, María Cristina Bermúez Fernández, Susan Camargo, Diana Ximena García Castro, Gloria Delgado, Carlos Castillo, Liliana Otálora Silva, José Ivorra Valero, María Leonor Velásquez Arango, Edgardo Granados, Doris Pino Flórez, Patricia Restrepo Herrera, Luz Mery Molano, Omar Guarín, Mauricio Loaiza Araque, Gelam Catalina González Morales, Mary Zuluaga, Isabella Benítez Cerpa, Gonzalo Alberto Rodríguez Hernández, Diana Milena Díaz Cardona, Ubiely de Jesús Ramírez Ramírez, Bibiana Sánchez, Claudia Niño, Rodrigo Bernal Reina Dolly Lora, Laura Malaver, Nury Rojas, Luz Ángela Urrego López, Diana Arias, Astrid Yesenia Granados Zorro, Luis Avella, Aura Luisa Camargo, Abdón Giovanny López Hernández, Olga Ante de Talero, Nathaly Pérez, Luis Miguel Cardona Gómez, Juan Gabriel Pedroza Bustos, Lucía Vélez, Karla Villegas, Haroldo Antonio Linero Pérez, Beatríz Estrada, Alfredo Derviso, rosalbasantas@gmail, Isabel Cristina Garcia de D, Nohelia Álvarez, Berenisze Moreno Delgado, Adriana Yarce, Leidy Lozano, Ximena Ninahualpa, Angie Díaz, Juan Esteban Gaviria Muñoz, Jessica Lucía de la Hoz Durán, Aminta Cárdenas, Adriana Jiménez, Wilson Herrera, William Mauricio Quintero

	Perdomo, Claudia Marcela Núñez Mosos, Anderson Ocampo, Sandra Milena Bastos Molina, Sofía Valencia Ramírez, Gilberto Hoyos, Gloria Patricia Ospina Escobar, Diana Mejía, Elizabeth Montañez, Carolina Garzón, Myriam Gladys López Torres, Martha Lucía de Sanín, Temilda González Díaz, Álvaro González Martínez, Carmenza Reina Chávarro, Pilar Delgado Moreno, Alba Viviescas, Aida Amaya Miranda, Sandra Aguiar, Laura Ossa Sánchez, Luz Elena Flórez Cortes, Marlen Cáceres, Laura Ramírez, Maygrett Caicedo, Mónica Paredes, Zamir García Rodríguez, Nuno Aguiar, Emili Tovar, Yeniser Castro, Liliana Castro Aya, Mauricio Herrán, Erika Arias González, Patricia Rico, Liliana Gallego, Sonia Cala, Olga Carrero, Germán Osorio Zuluaga, Marco Páez, Dora Elena Torres, Yolanda Acosta, Vanessa Almonacid Guzmán, Gloria Inés Ochoa Arango, Imelda Alfonso Fuentes, Nancy Uribe Estrada, María Yenny Yáñez Yosa, Adriana Reina Chávarro, Juan José Cortes Álvarez, Luzmila Hernández Muñoz, Claudia García, Cristian Camilo Benítez Restrepo, Franklin Yesid Marín González.	
5	Edith Rivas, Sandra Barrero Rey, Dalila Mendoza Neira, Barbarita Del Carmen Gómez González, Fanny Lucía Hernández Quiroga, Olga Lucía Muñoz Rengifo, Ana R, Jorge Laverde S, Carlos Cardona Restrepo, Regina Giraldo, Edwin Iván Berrio Jiménez, Rodrigo Vela Cerquera, María Mercedes Otálora, Rosa Hernández, Alberto Villa, María Eugenia Agudelo Duque, Aura López, Ana María Gímez, Nubia Esther Royero Núñez, Clara Inés Franco Jaramillo, Eliana Ángela Velandia Valderrama, Jasmín Astrid Agudelo Arboleda, Martha Ibarra, Concepción González, María Teresa Castro, Hernando Varón Cuartas, Milena Mora Herrera, Laura Hernández Gil, Pili Emilce Pinzón Caicedo, Neliana Medina Castro, Laura León Villalobos, Clara Inés Rey Rivera, Martín Alonso Blanco Sanabria, Carmen Jeanet Acevedo Parada, Luz Hoyos, Olga Lucia Otálvaro De Arboleds, Camilo Garnica González, Martha Galindo Hoyos, Luz Mary Valderrama Pereira, María Victoria Hincapié Ochoa, Catalina Camelo, María Carolina Ochoa Reales, Ana Cecilia Quintero Silva, María Barba, Olga Lucia Hernandez Cardenas, Julia Lucia Garcia Quintero, Carmen Sanchez, Manuel Mojica Gómez, Sonia Hernández, Paola González García, Yudy Giraldo, María José Rodríguez Moreno, Rosalía Aristizabal Serna, Stella Marín, Jorge Lozano, Gladys Elena Vélez De Baena, Fernando Franco Rueda, Esmeralda Calvo, Alexandra Juan Guardela, Jaquelin Vargas, Ignacio	10/03/2020

Turbay, Jessica Museux, Andres Forero Medina, Leticia Castillo Luque, Bertha Amelia Aristizabal Serna, Edgar Alberto Franco Santos, Miguel Ángel Amaya Cruz, Rosalba Suárez De Caso, Mónica Bernal, Andrea Martinez, Julián Esteban Alvarado Losada, Andrea Urrea Jiménez, Ana Devis, Marcela Ricaurte, Aida Vergara, Gina Milena Guerrero Basabe, Alicia Posada, Amparo Buitrago, Loida Gricelia Chacón Anaya, Jonatan Ayala, Fernando Santos Morales, Magdinayibe Santofimio, Ángela Beltrán, Carlos David Bolaños Escobar, Gloria Amparo Aristizabal Salazar, Gina Patricia Osman Olaya, Gerardo Díaz Niño, Helga Jiménez Jerez, Diana Patricia Hincapié Quintero, Leonor Arias Ortiz, Carlos Wilches, Hilda María Hernández De Lopez, Laura Ordoñez, Myriam Oliver, Martha E Naivia Navia Perdomo, Carolina Cuervo Leal, Sylvia Carrizosa, Jane Echenique, Juan Ricardo Yangua Lapouble, Kimberly Yesenia Lara Camargo, María Edy Ocampo Quintero, Claribel Restrepo Suárez, Marcela Zubieta, Osvaldo Guerra, Patricia Pantano Poloche, Oscar Alba Cruz, Adriana Rivas Cedeño, Diana Eugenia Navarro Baena, Jacob Mendoza Reyes, Eduardo Restrepo Grajales, Imelda García Suárez, Vidal Maldonado Granados, Luz Amparo Henao Jaramillo, Lina Gonzalez, David Velásquez, Esteban Cardona Londoño, Beatriz Elena Arrieta Wiedman, Nubia Hanson, Monica Sequera, Claudia Janneth Arenas Montoya, Dora Vega Valencia, Margarita Amín, Emilia García Rocha, Monica Muñoz Zea, Vanessa Herrera, Blamir Arboleda, Jenny Luque, Bibiana Conde, Ingrid Santacruz, Fanny Patricia Gomez Jurado, Alexandra Castelblanco, Astrid Gutiérrez, Maria Eugenia Fernández Mejia, Gloria Suaza Cuartas, Ingrid Constanza Erazo Torres, Carlos Andres Giraldo Molina, Mayra Montaña, Julio Andres Garcia, Deisy Serna Giraldo, José Darley Castrillón Castaño, Camilo Bastidas Bernal, Rocío Niño, Julyeth Yamile Cuervo Yanquen, Gloria Ariza, Ivón Reyes, Rodrigo Bernal, Catalina Roncancio, Mireya Obando Pineda, Gloria Pinzon Gutierrez, Eleonora Ana Milena Cerón de Valencia, Gabriel Barrera, Over Hernán Garzón Garzón, Gloria Guerrero, Nancy V Salazar, Diego Rojas Pareja, Luz Rozo, Jorge Luis Walteros Soto, Pilar Sarmiento, Viviana Lizeth Mack-Wen Gómez, León Alberto Chavarria, María Irma Cancino Galvis, Enrique De Moya, Oswaldo Ospino Pacheco, Frael Peña Granada, Nancy Rueda, Adela Vidal, Luzdari Guerrero Gustin, Clara Castillo, Elba Gonzalez, Carol Parra, Alba Sepúlveda, Alexandra Franco, Reinaldo Polanco, Mercedes

Lopez Sanz, Aura Vanesa Lopez Barón, Myriam Barón, Ramiro Quintero, Myriam Rondón, Gloria Inés Suárez Loaiza, Nancy Suárez, Diana Maria Arbeláez Ramírez, Augusta Duran, Adriana Duque, Luis Norberto Hernandez Marín, Héctor Ramírez, María Elena Arcila Acosta, Leidy Johanna Chávarro Vergara, Ramón De Jesús Mesa Cardona, Sandra Patricia De La Concepción Flórez, Freddy Navarrete, Marco Francisco Gaviria Rueda, Gilma Zambrano, Betty Largo, Elizabeth Sandoval Pinzón, Patricia Ortiz Cortés, Carolina Díaz Calderón, Valentina Pérez, María Dulfary Castaño, Gloria Maria Cardozo Sanchez, Manuel Amórtegui Amórtegui, Luz Marina Robledo Botero, Patricia Garcia, John Mario Hurtado Botero, Anny Castillo, Merly Roa, Maria Fernanda Lagos Salazar, Isabel Rozo, Leila Patricia Murillo Aragón, Francisco Duran, Maritza Yamhure Kattah, Maria Amanda Osorio Sanchez, Erika Arias, Ana Milena Panesso, Alberto Del Niño Jesús Botero Y Martínez De Sonsón, Bibiana Ariza, Enith Del Carmen Navas Verbel, Norena Bustos, Beatriz Parra, Luisa María Rivera, Paula Carvajal Jiménez, Carlos Quiñones, Gustavo Lopez Bustamante, Aura Edilma Hernández Echeverri, María Cristina Reina Rondón, Jenny Angélica Guerrero Rodríguez, Álvaro Céspedes Jaime, Gustavo Caceres Castellanos, Marcela Moreno, Martha Isabel Jiménez De Parra, Gloria Eugenia Aristizabal Hoyos, Juan Vigoya, Olga Beatriz Quintero Almeida, Gregorio Osorio, Juan Ernesto Molina M, Melissa Morantes, Katherine Figueredo, Luz Mila Rodriguez Gil, Enrique Betances, Natalia Andrea Cardona Gaviria, Aída Luz Vásquez B, Fanny Gomez Gómez, Gladys Bastidas, Gloria Ortiz, René Roa, Érica Álvarez daza, Julián Vicente Gómez Arango, Aura Stella Murcia Cuesta, Gladys Ramos Carreño, Julio Andrés López Buitrago, Juan Fernando Jiménez Gomez, Ángela Trujillo Yara, Martha Rodriguez, Luz Ángela Gutierrez Rivera, Gabriel Torres Buitrago, Lucy Reyes Ortega, Guillermo Vacca, Nicolás Fergunson, Martha aurora Lopez Hernández, Hortensia Cruz Melo, Teresita Montoya, Cecilia Torres Vargas, Karin Silva Riaño, Alba Másmela, Claudia Villamil, Hugo Hurtado, Diana Gil, Nancy Galvis, Olga Milena Remolina, Juan Jerez, Cesar Marulanda, Fernando Jaramillo, Lourdes López, Sandra Sánchez Ruiz, Cindy Carolina Loaiza Moncada, Glt Panesso, María Eugenia Tobón Valderrama, Sandra Anduquia, Rosaura Villarreal, Erika Cano, Jose Joaquín Landines Torres, Fabiola Sarmiento, Nancy Rodriguez, Pedro Rodríguez, Marina Gomez

	Gonzalez, Maribel Ospina Arias, Nancy Cardenas, Faber Armeyi Agudelo Ochoa, Carmelita Medina de Posada, Elpidio Pulido Cifuentes, Beatriz Amín, Bibiana Rendón, Adriana María Díaz Mejía, Sara Inés Parra de Guarín, Alejandra Galvis, César Andrés Aranza Diaz, Francia Paredes, Diego León, Nicolás Giraldo, Luis Adrián Bravo, Ingrid Celis Castañeda, Manuel Vargas, Irma Rojas Buitrago, Jesús Ramirez Chamat, Karen Blesgraeft, Maria Helena Merchán Basto, Nancy Mejia, Ruth Gamboa Domínguez, Beatriz Elena Cardona de Velásquez, Jorge Mauricio Lopez Camacho, Diana Marcela Cañon Hernandez, Xiomara Querales, Camila Castillo, Rafael Gomez correa, Amparo Uribe Poveda, Ligia Ramírez, Lucrecia Victoria Gaviria Diez, Alba Guzmán Quevedo, Josué Reyes Ramírez, Monica Ferro, Sonia Martinez, Julián Acosta, Cristian Romero Bautista, Adriana Castrillón, Diana Cano Gil, Guillermina Sepúlveda, Adriana Merlano, María José Jauregui Duarte, Alba Peña, Martha Aurora Cuervo Fonseca, Gloria Garcia de Ruiz, Julián Villamizar, Rodrigo Durango Escobar, Gloria Ordúz, Luz Adriana Zuloaga Martinez, Mariela Eugenia Rodríguez Jaramillo, Guillermo Antonio Piñeros, Sindy Paola Corredor Arévalo, María Irene Figueroa Vargas, Luz Helena Montes, María Teresa Rodríguez Rodríguez, Óscar Mauricio Lavao Ortiz, Cecilia Leiva, Juan Gil.	
6	Deysa Vargas Vivas	10/05/2020
7	Gladys Buitrago B.	10/05/2020
8	Alejandro Llanos González, María Ibeth Orozco Duque, Esperanza Zamora González, María Camacho, Sergio Arturo Mejía Vélez, Francisco José Cortés Mateus, Juan Carlos Ochoa Rueda, Beatriz Elena Arango Cadavid, Gloria Veloza, Martha Beatriz Barandica, Susana Díaz Mercado, María Smith Suárez Sandoval, Magda Patricia Reyes Parada, Aneira Estupiñán, Marcia González, María Elena Giraldo González, Omaira Garcés Garcés, Iván Ramiro Ibarra Imbachi, Diana Carolina Guerra Plazas, Catalina Orozco, Paula Andrea Vergara Cuervo, Olga Rosa Flórez Benavides, Ana Carolina Rojas Figueroa, Julián Gavilán, Sugey María López Hurtado, Cecilia Pulido, Rocío Lacera, Ingrid Liliana Palacios Correa, Nancy Parra, Rocío Pérez, Hilda Marlen Díaz Rojas, Juan Pablo Linares, Ximena García, Jenny Belilla, Juan Camilo Gallego Cano, Rafael Rodríguez De León, Daniel Ibarra, Ligia Hernández, Rosa María Gallego Lozano, Marta Irene Pinzón	10/07/2020

	Caicedo, Martha Cuevas, Adriana Calderón, Ángela González, Hugo Ramírez Isaza, María Cristina Martínez Ruíz.	
9	Cecilia Barliza Macías, Mac Eliuth Álvarez Bohórquez, María Escobar, Avelina Luque Luque, Jorge Pineda, Diana Barato, Danny Castillo, Miguel Andrés Castañeda Nieto, Maritza Jasbón, Pedro Castellanos, Luz Mery Martínez, Magdalena Santamaría, Rogelio Bedoya, Silvia Juliana Calvete, Julián Esteban Alvarado Losada, Luz Adriana Tovar López, Sandra Lozano, Lida Castro, Rosa Guerrero, Maria Botero Ospina, Jorge Castro, Karen Julieth Valero Quintero, Linda Rosas, Yubiseth Valencia, Nicolás Velasquez Mesa, Paola Vanegas, Patricia Calvache Villota, Cecilia Chacón, Néstor Hernando Sánchez Ordoñez, Alicia Posada, Roberto Palavecino, María Teresa Tello, Jose Blanco, Luis Torres, Sol Cuello, Pilar Garzón, Martha Teresa Pirazan Bonilla, Sandra Marciales, Blanca Inés Aristizábal Gómez., Luis Morales, Jennifer Castrillón, Carmen Helena Hernández Silva, Magda Pinilla, Ana Porras, Maritza Guzmán Velasco, Gilberto Rodríguez Ovalle, Leidy Giraldo, Gelber Stiven Rengifo, Juan Antonio Arbeláez Buraglia, Maria Valero, Etel Cruz, Alessandro Bianchi, Jireth Angélica Segura Vargas, Yeiny Yuliett Hernandez Pardo, Elizabeth Rojas Ortiz, Maricela Gonzalez Muñoz, Natalia Zambrano Barnes, Olga Silva, Claudia Hurtado, Alejandro Correa, Beatriz Mejia, María Helena Orozco, Sonia Morales, Jorge Jaime Vásquez Gutiérrez, Álvaro Antonio Tamara Angarita, Sonia Del Carmen Mosquera Caicedo, Ángela Victoria Jiménez Leal, José García-Muñoz, Lucia Martínez, Leonidas Zambrano Sepúlveda, Mafe Valencia Franco, Giovanni Rosania, Lucia Adela Carracedo Castaño, Numa Vargas Vargas, Luz Fabiola Restrepo Arboleda, Noreli Acevedo Serna, Ademir Guzmán, Blanca Yaneth Fandiño Sánchez, Juanita Gaviria Bazzani, Alfonso Rene Caicedo, Alonso Saldarriaga, Amparo Corrales, Karen Ríos, Hugo Fernando Londoño Cardona, Cristina López Hoyos, Nubia Arroyave, Gregorio De Las López, Mary Alba, Rolando Córdoba, María De Jesús Maytorena Gastélum, Karla Sandoval, Juan Villatoro, Rosa María Bueno Ávalos, Laura Gallego Londoño, Inés Madrazo, Olga Escaff, Maria Venegas, María Crotto, Faby Castillo, Silvia Pamela Patiño Vásquez, Isabel Saltaren, Nubia Doris Sánchez Rodriguez, José Danilo Bueno Bueno, Maria Elena Roldan Hoyos, Gustavo Adolfo Duque Ocampo, Luis Fernando Torres, Nora Jaramillo, Jenifer Reyes, Verónica Camacho,	10/07/2020

	Scobar Heans, Ismaelina Moreno Baracaldo, Beatriz Angelica Martinez, Álvaro Antonio Hernández Soto, María Lucía Martínez Sierra, Laura Salazar García, Myriam Ramirez, Maria Llaña, Pilar Ospina, Fanely Del Carmen Giraldo Gonzalez, Luis Alberto Gil Saballeth, Ligia Cuervo, Claudia Vallejo, Fran Foronda, Fernando Isaacs, Laura María Velásquez Cañas, Julio Martínez Sánchez, Adriana Marcela Suárez Parra, Richard Prieto, Giovanny Andres Astros Guerrero, Caren Millán, Claudia Patricia Galindo Rodriguez, Juan David Jiménez Henao, Tatiana García, Marco Antonio Cupa Arcos, Rodolfo Londoño, Lina María Gil, Alejandra Charry Torres, Martha Pérez, Ángela María Correa, Claudia Mercedes Calvache Villota, Lucia Castellanos, María Victoria Saldarriaga de Fernández, Stella Barrera, Mónica Echavarría, Monica Am, Raúl Gertel Moreno, María Esther De La Torre Sanchez, Jimena Sierra, Ángela María De Rueda, Jaime Hernán Ospina Sánchez, Deyssi Ramírez, Laura Natalia Cifuentes Sierra, Maria Etelvina Prieto Rincón, Rosario Pretelt, Franky Jair Granados Naranjo, Martha Aguilar Piedrahita, Martha Aguilar Piedrahita, María Del Carmen Núñez, Ana Mabel Pizarro Morales, Ruby Fabiola Restrepo Lopez, Maria Ligia Zuluaga López, Claudia Alexandra Rojas Buitrago, Paula Zuluaga, Jaime Humberto Acosta Garzón, Lauritza Beatriz Gonzalez Rodriguez, Marta Ligia Ceballos Maya, María Paula Vargas, Giovanni Ariza, Horacio Gallego, Eduin Gómez, Sabine Viertel, Be Ruiz, Carmenza Reina, Maria Del Carmen Caicedo Acosta, Susana Rueda, Álvaro Jiménez, Marina Del Carmen Fernández Guzmán, Domingo Eduardo Ortegón Ortegón, Martha Elena Guerrero Ramírez, Carmen Lucia Roldan Hoyos, Jorge Enrique Valencia Rodríguez, Martha Mayuly Arévalo Rodríguez, Héctor Eroldán H, Olga Nancy Fuertes Delgado, Andrea Morales, M Zarate, Ángela María Londoño Jaramillo, Luz Helena Martínez Pérez, Marilyn Naranjo Rincón, Martha Teresa López Silva, Ana Milena Lopera Sepúlveda, Vivíana Vargas Cardona.	
10	Alcides de Los Ángeles, Adalberto Franco Torres, Adriana Martínez, Alina Martínez García, Amelia Sofía Martínez Zambrano, Ana Correa Nieto, Ana Esther Cordero Vargas, André Mauricio, Andrés Alvarado Losada, Ángela Díaz, Armín Rodríguez Martínez, Bibiana González, Bryan Baldion, Carlos Álzate, Carlos Berrío, Carlos Enrique Perez, Carolina Garaviz, Cecilia, Cecilia Quiroga Cabrera, César Augusto	10/09/2020

	Valencia, Claudia Leal, Claudia Liliana Hoyos Londoño, Claudia Magali Correa Delgado, Claudia Urbano, Darío García Botero, Dgarcia@Citizengo, Dora Beatriz Roa Vargas, Esperanza Aguirre Valderrama, Eugenia Ramírez, Fanny Vargas De Arévalo, Fernando Corredor Gomez, German Murcia, Gladys Castro, Gladys Helena Aristizábal Zuluaga, Gloria Ilse Moncaleano Rodríguez, Harold Polania Gómez, Irene Migranas Ortiz, Isabel Maria Buendía Hernandez, Jaime Alcides Zuluaga Quintero, Javier Offnung, Javier Suárez, Jessica Martínez, Jesús Manuel Medina, José Antonio Claros Labrador, José Jairo Vergara Rivera, José Julián Flórez Solís, José Ricardo Montañez Prieto, Juan Carlos Anguiano, Juan Carlos Gallego Lozano, Juan De Jesús Quintero Trujillo, Juan Ochoa, Juanita Rivas Vega, Katerine Rodríguez, Laura Caicedo, Laura Isabel Tobón Gallego, Leonor Tamayo Medina, Libia Lopez, Livia Marino, Lucy Esperanza Niño Blanco, Luis Felipe Patiño Serrano, Luz Stella Zuluaga Zuluaga, Luz Virginia Alfonso Coy, María Buendía, María Teresa Guerrero Ramírez, María Teresa Rozo De Mendoza, Mariela Martínez Reyes, Marily Silgado García, Martha Lucia López M, Maryuri Mejía, Myriam Pérez, Natalia Henao, Néstor Niño, Néstor Raúl Bernal, Nora Gómez Nubia Sánchez, Olga Lucia Franco Lizarazo, Oscar Orlando Céspedes Hernández, Ovier Enrique Castro Higuita, Patricia Idrobo, Rafael Eduardo Santana Ramos, Raúl Canal Cárdenas, Robert Florez Castaño, Rosa María Herrera Cortes, Sandra Carrera, Sandra Milena Morales Dimarco, Sandra Vázquez, Sarah Bastidas, Silvia De La Rotta, Sonia Silva, Sor María Espinosa Jaramillo, Tamara Saeteros, Teresita Hoyos Arango, Victoria Obando, Yamile Bustos Torres, Jasmín Padilla Rodríguez, Yeni Gómez Álvarez, Yuly Andrea Vargas Barragán.	
11	Carmen Elena Díaz Del Castillo, Elkin Montoya S, Alicia Lara, María Consuelo Gomez, Javier Gómez Graterol, Elizabeth Rodriguez Monsalve, Doris Herrera, Haime Anaya, Carolina Cuenca, Mario Alejandro Lugo Amaya, Paola Moreno, Ricardo Castañeda, Angélica Yulieth Rodríguez Rojas, Beatriz Cassan, María Antonia Gómez, Lucia V. Conti, Hernando Roa Moya, Alba Nubia Cortes Arévalo, Carlos Tascón, Jenny Garcés Rojas, Karen Vásquez Rogel, Jorge Pulido N., Kelly Arana, Francisco Puglisi, Sandra Carmenza Rojas Ospina, Gloria Ofelia Galvis Valencia, Sindy Miranda, Ángelo Cordero, Balmer Maestre Molina, Cecilia Capacho Vanegas, Ángela Escobar, Segundo Rincón	10/13/2020

	Fernández, Mónica Quiceno Bohórquez, Yudy Giraldo, Orfa Restrepo, Luz Stella Lozano Gaitán, Alejandro González Pulido, Marco Nava Villarreal, Maria Eugenia Giraldo Suarez, Carlos Mateo Najera Romero, Juan Duque, Sandra Lucy Tobar Criollo, Héctor Alonso Ortega Hernandez, Ninfa Acuña Murillo, Jose Diego Roldan Hoyos, Andres Gomez, Gonzalo Mosquera, Beatriz Loaiza, Jaime Alberto Hernández, Mercedes Rojas, Leydy Medina, Fallonbrigitte Bello Camargo, Ana Diaz, Marcela Serna, Iara Rodriguez, Pilar Chaparro, Norely Ríos, Marta Patricia Ramírez Mirque, Orlando Rodriguez, Ángela María Rosillo Lascarro, Yesika Ruiz, César Chavarriaga, Aura Silva, Erika Ducon Medrano, Ángela Inés Marín Garcés, Jose Mendivelso Cruz, Gloria Betancur, Andres Sagra, Gloria Lucia Vélez Montes, Julieth Raba, Blanca Idalia Gomez Villarreal, Amparo Orozco, Nury Gutiérrez Ricaurte, Ana Milena Riaño Galvis, Mónica Sánchez Cerón, Maria Isabel Lopez de Jesús, Ángela Vélez, Jazmin Quintero Duque, Soledad Pulido Barrera, Lauta Vanessa Celeita Peña, Félix Eduardo Carrera Leal, Ileana Arturo Soto, Laura Turriago, Mary Carmen Lopez, Ana Isabel Múnera Múnera, Elsie Clavijo, Eugenia Orozco, Maribel Giraldo, Mario Guarín Ramos, Teresita Tabares Martínez, Wilinton Rodolfo Espitia Alfonso.	
12	Alberto Mogollón, Camila Izquierdo Villaveces, Colombia Flórez Quezada, Dary Isabel Alfonso Coy, Dora Álzate, Estela Cañón, Gloria Inés Martínez P, Jonatan Coneo, Jorge Antonio, Katherine Von Armín, Lizzeth Florián, Luis Ángel, María Concepción De La Hoz Martínez, María Edilma Meneses Meneses, Mario Cardona, Maritza Roldan, Nelly Argenis Restrepo, Omar Velandia, Sebastián Bedoya Aldana, Sindy Aricapa, Victoria Martínez Mojica, Vilma Castillo Tenjo, Yohan Romero.	10/14/2020
13	Adriana Alfaro, Alexis Lozano Gonzalez, Alison Nieto, Amelia Sepúlveda, Ana María Álzate, Ana Maria Santiago, Andrés Gaviria, Ángela Cantillo, Ángela Ramírez, Auda Barboza, Beatriz Helena Padilla Narváez, Benildo Amado Zárate, Bolívar Hidalgo, Carolina Castillo Gaitán, Catalina Sosa, Cecilia Jiménez, Clemencia Bautista Méndez, Consuelo Arévalo, Diana Marcela Quintero, Edgar V. Castillo P., Eduardo Zelaya, Elías Manuel Márquez Felia, Elizabeth Velasco, Emilio Batlles Campos, Eugenia Zuluaga, Fabio Molina, Felisa De Celis, Flor Alba Carreño Sánchez, Francia Esmeralda Ávila Marín, Gonzalo	10/16/2020

Maximiliano Ferreiro, Gustavo Quiroga, Héctor Darío García Trujillo, Héctor Quiñones Modesto, Henry Erazo Moreno, Humberto De Jesús Santa Valencia, Humberto Luna Gómez, Isabel Cristina Garavito García, Isabel Cristina Salazar Cardona, Jaime Castro Arenas, Jairo Duarte, Javier Pascual Jiménez, Jazmín Vanessa López Rodríguez, Jesús Alberto Niño Yepes, John Díaz, José Laurencio Narváez Ordóñez, Laureano Restrepo Ruiz, Lady María Valdés García, Laura Arandia, Laura Estefanía Moscoso Moreno, Ligia Moreno, Liliana Amado Zárate, Lina María Gil Gómez, Lucia Castaño, Luz Amparo Contreras Jaimes, Margarita Carrasco, María Alejandra Iregui Serna, María De Las Nieves Cifuentes Riveros, María Isabel Cabrera, María Mercedes Guerrero Erazo, María Mercedes Rozo, María Oviedo, María Paula Torres Salcedo, María Torres, María Victoria Ramírez Diaz, María Virginia Becerra Castro, Maritza Almanza, Martha Cardona, Mary Santos, Mercy Gomez, Miguel Carrillo, Monica Pacheco Santana, Mónica Salcedo, Nelly Jazmín Tolosa Hernández, Nubia Stella Echavarría Gallego, Paola Andrea Álzate Castro, Paola María Torres, Patricia Castillo Alfonso, Paulo García, Pilar Vega Ordóñez, Rosa Anaya, Rosa Angélica Gómez Neira, Rubí Salcedo Cruz Rubí, Ruth López Puerta, Sandra Patricia Alarcón Villar, Sebastiana Suau Salva, Silvia Mejía, William César Morales Rincón, William René
Amado Zára

ANNEX 10.3

MOTIONS REQUESTING TO DISMISS THE CLAIM, AFTER THE ADMISION AND BEFORE LISTING

NUM	APPLICANT	FILING DATE
1	Cecilia Janeth Preciado Negrete, Cecilia Palma Figueroa, Cristina Rodríguez, Dimaichael Rodríguez, Elvira Arango Garcés, Gersson Bautista, Gloria Mariño, Griselda Bonilla, Héctor Rodríguez, Leonor Molina, Lupita Cevallos Pouseaudlup, Luz Danelly Córdoba Laverde, Macarena Sotillo Carrasco, María Victoria Rodríguez Ángel, Miguel Estrada Sencebé, Miriam Olaya, Nohora Quinche, Paola Soto, Patricia Quirarte Ponce, Patricio Cortes Arredondo, Ricardo Stuart, Salome Pistulka, Silvia Medina, Verónica Cano Monroy, Wanda Vargas, Zulma Acosta	10/20/2020
2	Ana Valdez, Guadalupe González Reyes, Francisco Villaneda, Pedro Arancibia Galaz, Rosalía Cerón Rodriguez, Pablo Torres Paredes, Luis	10/21/2020

	Saito, Elián Diaz Podversich, Lenin Alarcón, Arcelis Lozano, Manuel Facundo Grajea, Iván Álvarez, Silvia Hernández, Guillermina Duhalde, Claudia Milena Quevedo Rocha, Blasa Williams, Horacio Gilot Meléndez, Mary Ann, Daniel Alvarado, Luis Marroquín Serna, María Teresa De Jesús Montoya Tinajero, Karen Morales Cardona, Rocio Rivera, Claudia García, María Inés Neri, Carlos Andrés Parrado Reyes, Maria Teresa Iza Parres, Fabián Lopez Gomez, Consuelo Giraldo Osorio, Patricia Irene Nava López, Alejandra Romero Jiménez, Efraín Arellano López, Floricel Gerónimo, Maria Alicia Acuña Valle, Fercho Gonzalías, Adriana Rodriguez, Pilar Montoya, José Rubén Sánchez Mejía, William Rojas, Delfino Sánchez Gálvez, Marina Meza, Lis Bebo, Luz Londoño, Olga Londoño, Cecilia Sánchez, María Jesús Linde Mercado, Claudia Patricia Espitia Rubiano, José María Dávila Ponce De León Alfaro, Luz Mirian Cuentas Solano, Magnolia De Los Ángeles Ríos Calle, Iván De La Hoz, Martha Arbeláez, David López, Adoración Nocturna Colombiana, Susana García Quintero, Sofía Orozco, Cristian Iván Castillo González, Alejandra Romero, Fernando Antonio Quiroz Quiero, Olga Lucía Zapata De Triana, Elizabeth Ahmad, Soraya Álvarez Guzmán, María Belén Acosta, Fabiola Alba Arias, Victoria Larumbe, Said Goyeneche, Eddi Moretti, Doris Piedad Goyeneche De La Cruz, Deisy Vanessa Álvarez Erazo, Mily Ortiz, Luz Piedad Valencia Montoya, Orlando Nájera Montiel, Jairo Moreno, Angélica Adame, Maria Stella Toro De Morales, Cristina Aguedo, Emiliano Rodríguez M Rodriguez, Antonio Jesús Mariscal Bautista, Eduardo Fernández, Adrián Galarza, Pau López Navarro, Martha Bahamon, Marta Mauri, Octavio Solórzano Vera, Dylan Cortez, Gladys Rodríguez De Alba, Julia Castillo, Angelica Diaz, Luis Duran, Ángel Nazario Quiles, Clara Luz Pichardo Fernández, Juanny Cavazos, Elvia Plata Moreira, Hilda Preciado, Lourdes Colín Delgado, Laura Zeron, Tania Mendez Villa, Gonzalo Méndez Torres, Lorena Vaca Ayala, María Alejandra Gutiérrez, Myriam García Morales, Maribel Pulido Serrano, María del Mar Armengou López, Luz Dary García Morales, Manuel Hernandez, Dora Salazar Gallego, Talpa Villagrana Guitron, Ana María Martínez, Dora Tiuso, Óscar Quintairos Cid, Elsie Rebeca Rosas Jaime, Alejandro Fernández Roa, Jair Liñan, Carlos Pasadore, Andrés Sosa, Alejandra Sola, Emilio Alcalá Gelices, Javier Bogado, Alejandra Pizano, Raquel Alonso Andújar, Merlín Meléndez, Juan Bustamante, Pedro José Pérez González, William	

	Alzamora, Carlos Alberto Barrios Restrepo, Victoria Castiblanco, Monica Elizabeth Tacle Navarrete, Joel Pineda, Daniel Bejarano, Erick Samata Quispe, Patricia Cantón Tapia, Jorge Omar Panaciuk, Jorge Sánchez, Jhon Rosario, Rosa María Manzo Ayala, Alondra Olvera Zarraga, Amayrani Berenice González Flores, Miriam Márquez Vargas, Cruz Domínguez, Laura Feria, Blanca Liévano, Yudelka Hernández	
3	Gilda Roldan, Ezequiel Varini, Graciela Gomez, Ignacio Iriarte Torres, Nestury de Jesús Joya Quinayas, Rafael Dávila, Juan Valencia, Anabel Tedino, Yolanda Maza de Chacón, Miguel Ángel Rubio Benítez, José Ángel Vidal Herrera, Luxsora Sánchez, Alicia Gress, Hayder Espinoza, Sara Bonilla, Genaro Gordillo, Teresita Moreno Rivera, Camila Contador Hernandez, Oscar Vela Román, Eduardo Puente Sánchez, Guillermo Castro Ruiz, Esteban Navarro Valenzuela, Jorge Eduardo Lerma Fernández, Monica Alina Abuadili Contreras, Liz Verar Rolón, Aleida Romero de Carruyo, Miguel Ahumada Chea, Deisi Huine, Beatriz Copello, Pedro Abelló Solé, Mauricio kernion, Marco Tulio Melo Chávez, Cenobia Mendoza, Trinidad Carazzo, Mai Línea Bastiansen, Jorge Pérez Hoyos, Rose Moreno, Gerardo Garrido Curiel, José Antonio Palacios Pérez, Pedro Lobos, Antoni Meliá Fortuna, Jorge Alegre, Aldemar Sanchez, Lizbeth Gonzalez, Lina Gil, Scarlett Curamil Rojas, Gloria Pedd, Juan domingo Montanaro Talavera, Ángel de la Vega Diego, Jose Luis Álvarez Alario, Sofía Centanaro	10/21/2020
4	Agustina Rigoni, Alejandro Pesquera, Antonio Quijano, Areli Sánchez, Arnulfo Herrera Méndez, Arturo López López, Bismarck Schmidt, Daniel Felipe Zapata Berrío, Daniel López, Daniel Sánchez, Diana Herrán, Diana Sofía Melo Leyes, Elías Inostroza, Eliot Daviglus Candela, Erika Ponce, Evelyn Rodríguez Moura, Francisco 2.0, Francisco Javier Heredia Cegarra, Frederic López Martínez, Giovanna Reyes, Guillermo De Sanctis Suarez, Hernando Venegas, Hillary López Sánchez, Jorge Defensa, Julio César Acevedo Mendoza, Lorena Chávez, M Dolores González Olivares, Margarita Amelio, María Alejandra Giraldo Jaramillo, María Angélica Rivas Morales, María Angélica Zapatta Bergez, María Antonia Alonso De La Pera, María Liliana Ayala Cardona, Maribelly Bastardo Gómez, Martha Orozco, Mónica Ospina Osorio, Myriam Diaz, Nelly Contreras, Nora Betty Arboleda Villegas, Pastor Jurado, Pilar González López, Priscila Steele, Rosa Aguilar, Roxana Urdapilleta, Sandra Fernández Comellas, Sandra Martínez, Socorro De Anda,	10/22/2020

	Teresita Coronel, Víctor Manver, Víctor Raúl González Rincón, Vivian Rivera, Wolman Restrepo, Ximena Ruiz, Yomar Panteves Bautista, Yuliana Aristizábal	
5	María De La Luz Ríos Ramírez, Nadia Doktorovitch, Miriam Ruiz, Daniel Menazzi, Rubén Guerrero Porcel, María Luján Zarza Goitia, Ricardo Gabriel Panchana Farra, Liliana Patiño, Juan D L, Esperanza Sara Calvillo Uriarte, Luis Alberto Machado Sanz, Elia Rojas, Pedro Navarro Martínez, Margarita Piris Alonso, Adriana Grande, Felisa Rodríguez Pérez, Perla Yarit Gómez Cruz, Samuel Hof, Altagracia Guzmán, Jaime Álvarez, Ricardo Adolfo Campos Peña, José Cortés Heredia, Victoria Cortes Heredia, María Helena Pérez, Andrés Rafael Zafra Izquierdo, Gilberto Antonio Garzón, Consuelo Garzón, Paweł Głębocki, Diego Doncel, Roger Fernández, María Guadalupe Ramirez Luna, Hortensia Ramírez Soto, Ana Kite, Oscar Campi, Verónica Véliz, Raquel Duarte Romero, Maria Eugenia Plaza Lavezzar, Edward Fuentes, Isaac Alejandro Escobar Ramírez, Héctor Gomez, José Antonio García Moreno, Carlos Roberto Dionisio, Mario Salvador Coronado Negrete, Fátima Domínguez Cortes, Maria Eugenia Tapia Aravena, Adolfo Siller, Monica Osorno, Zahira Ysabel Abreu De Veloz, Rosa María Delgado Ortín, Alberto Enrique González Font, Inés Carranza, Yesenia Sanchez, Victor Alonso Moreno Granados, Sirley Vasco, Germán de Jesús Sarabia Puentes, Susana Median,G. D. G., Jaime Caicedo Vinasco, Lara Ortiz Rebori, Julio César Gómez López, Gabriel Jaime Lagoueyte Gómez, Fernando Sánchez, Julio Rodriguez Maurín, Lorena Rubio, Guadalupe Meza Mejía, Betty Galaviz, Rebeca Cardona, Willy Ernesto Perez Lavado, Luis Felipe Ochoa, Federico Subia, Laura Catalina Chaparro Cañola, Adela Medina, Edith Rodríguez, Connie Vasquez, Carolina Zazo Lopez, Rossana Vélez, Florencio Ramón Sostoa Cabello, Alejandra Molina, Guillermo Carrera Martinez, Mariela Ulloa, Jorge Rojas, Hugo Iturrieta, Adelina Vázquez, Majo Michel, Maria Balestrini, Luis Escobar, Diana Quintero, Juan Manuel Laverde, Angélica Ramírez, Fredy Álvarez, Luis Alberto Facio, Magggie Martinez Torres, Sandra Patricia Doncel Alfonso, Gustavo Satarain Valenzuela, Nadia Sampayo, Gabriel Hernandez, Magda De Luna, Vicente Redolat, Oscar Mauricio Lavao Ortiz, Yerko Olivares, Lidia Perez, Pedro Delgado, Liz Audrey Montañez, Andrés Restrepo R, Pablo Domeyko, Lili Lopez, Geraldo Rodríguez, Noé Rodríguez, Jesús Antonio Navarro Martínez, Carmen	10/23/2020

	Alicia Villarroel Almanza, Diana Garcia, Eliseo Alatorre Chávez, Rosangela Lozano Lezcano, Juan Fuce, Gemma López, Gonzalo Rodríguez Morales, Adrián Darío Accinelli Sirochman, David Darling Quispe Jara, Juan Peñaloza Ovalle, Marcela Infante, Maria Fernanda Blandón Fajardo, Mariana Salamanca.	
6	Hwenly Arias, Alberto Aldallon, Nancy Rubiano Hincapié, Anayibe Morales, Luz Dary Morales Cardozo 25/10/2020 Albeiro Gil Ruiz, Maria Carolina Vargas Higuera, Claudia Cahuana, Stephanie Bermúdez, Gladys Cerón, Jorge González, Ma. Eugenia Esparza Castañeda, Socorro Castro, Cesar Cruz Cabrera, Sofía Heredia, Josué Yovera González, Sonia González, María Cristina Tosne Rojas, Consuelo Correa Salazar, Ana Maria Muñoz Rodríguez, Lorena Cabrera, Vero Perexcel, Mónica Monroy, María Pesántez, Patricia Jalaf Díaz, Hugo Segura Lara, Nerida Duin Cordido, Sara Oñate, María Jiménez, Claudia Rodríguez, Ana A Pico Hernández, Jairo Humberto Cortés Cortés, Jorge Marti Santamaría, Mónica Ramírez, María Vergara Aibar, Benigno Garavito Penagos, Mayda Mosconi, Martha Lucía Escobar, Beatriz Molina de Forero, Rosalba Loaiza Cortez, Olga Santos de Montenegro, Ana Bertha Castellón, Olga Jaramillo muñoz, Sandra Londoño, Marisa Ortega, Gina Meyer, Diana Riveros Bernal, Ana Maria Mercado, Roberto Gordillo, Carmen Ortiz, Teresa Yesmin Monsalve Fuentes, Eliseo Quintero D., Jesús Humberto López Urrea, Silvia Elena Rueda Garcés, Elsa Rivera, Consuelo Serna Rendón, Rubiela Bolaños Rodríguez, Felipe Velandia, Aarón Triviño Salazar, Guadalupe Almanza Reyes, Harold García Muriel, Henry Guzmán, Edgar Octavio Ríos Sánchez, Stella Picón, Cynthia de Concha, Cristina Peñafort, Danilo Araque Soto, Juliana Rocha, Diana Marcela Guzmán Albán, Constanza Remolina, Isabel Jaimes, Elena Noriega de Isaacs, Clara Inés Rueda M, Beatriz Mendoza Dávila, Jorge Basualdo, María Marcela Lazara del Niño Jesús Perea, Olga Acosta, Camilo Urrea, María Teresa Peroni, María Alejandra Montaño Gutiérrez, Marina Ferreira, Margarita Sanclemente de Morales, Ilva Alfonso, María Beatriz Toro G, Alicia Verónica Martin Caroca, Campo, Martha Bahamón, Víctor Raúl Ruiz Álvarez, Valerie Diaz, Gina Paola Comba, José Francisco Suárez Vigil, Raúl Guillén, Ana Yanet Larada Vargas, Gladys Ivette León Hurtado, María Elena Valdivia Jiménez, Ana Milena Blanco García, Juan Carlos Ortiz corrales, José Armando Sosa Cardona, Nicoll Garrido, Juan Pablo	10/25/2020

	Mañalich Peralta – Palacios, Ariel Santin, Ignacio López del Pozo, Felipa Catalán, Mirna Vélez, Judith Campo Campo, Claudia Rativa, Patricia Stidham, Rodrigo Lima, Rolando Meneghetti, Luisa María Guzmán Bustamante, Yolanda Ivette Blas Zapata, Olvin González, Gloria Garcés, Marina Osorio, Ángel Matesanz Álvarez, Gabriela González Valenzuela, Vanessa Solís Tejada y María del Mar Martínez Martínez	

ANNEX 10.4

MOTIONS FILED BEFORE LISTING, REQUESTING THE CONSTITUTIONALITY OF THE PROVISION

Grounds: (1) fetus' or nasciturus' rights shall be protected; (2) abortion disregards human rights; (3) children's rights' prevalence; (4) inexistence of a fundamental right to VIP; (5) parents' (couple's) right to decide the number of children, and, (6) non-binding nature of the soft law rules on which the lawsuit is based.			
NUM.	**APPLICANT**	**GROUNDS**	**FILING DATE**
1	Isabel Cristina Gómez Duque	1,2 and 4	10-27-2020
2	Jenniffer Alexandra Ramírez Cañón	1,2 and 4	10-27-2020
3	María Angélica Cruz	1,2 and 4	10-27-2020
4	Odalmis Moreno Peñaloza	1,2 and 4	10-27-2020
5	Yuly Patricia Montealegre Cuellar	1,2 and 4	10-27-2020
6	Luis Agustin Pérez Moreno	1,2 and 4	10-27-2020
7	Jorge Armando Milian Moreno	1,2 and 4	10-27-2020
8	Marco Antonio Cortés	1,2 and 4	10-27-2020
9	Jenny Milena Bermúdez Castañeda	1,2 and 4	10-27-2020
10	Mónica Márquez Castañeda	1,2 and 4	10-27-2020
11	Johana Álvarez Botero	1,2,5	10-27-2020
12	José Luis Medina	1,2 and 4	10-27-2020
13	Jonnathan Ricardo Ramírez Espitia	1,2 and 4	10-27-2020
14	Stella Barbosa	1,2 and 4	10-27-2020
15	Angélica Rodríguez Munévar	1,2 and 4	10-27-2020
16	Claudia Posada Arévalo	1,2 and 4	10-27-2020
17	Natalia Bohórquez Alfonso	1,2 and 4	10-27-2020
18	Yuli Andrea Rodríguez	1,2 and 4	10-27-2020
19	Felipe Reyes Triana	1,2 and 4	10-27-2020

20	Yeny Paola Ocampo Toro	1,2 and 4	10-27-2020
21	María Angélica Cruz	1,2 and 4	10-27-2020
22	Diana María Ramírez Acevedo	1,2 and 4	10-27-2020
23	Daniela Echeverry Pérez	1,2 and 4	10-27-2020
24	Sergio Sánchez	1,2 and 4	10-27-2020
25	Ányela Yaya Murillo	1,2 and 4	10-27-2020
26	José Negrete Genes	1,2 and 4	10-27-2020
27	Rubén Rincón Landines	1,2 and 4	10-27-2020
28	Nayiver Alexandra Hincapié	1,2 and 4	10-27-2020
29	Mónica Barona	1,2 and 4	10-27-2020
30	Elizabeth Garcés	1,2 and 4	10-28-2020
31	Anneliesse Garrido Paz	1,2 and 4	10-28-2020
32	Gilberto Borbón	1,2 and 4	10-28-2020
33	Julieth Andrea hincapié Sánchez-Nayiver Alexandra hincapié	1,2 and 4	10-28-2020
34	Ruby Gómez	1,2 and 4	10-28-2020
35	Alicia Stella Amado Rojas	1,2 and 4	10-28-2020
36	Juan Diego Gamboa Puentes	1,2 and 4	10-28-2020
37	Camila Duque Aristizábal	1,2 and 4	10-28-2020
38	Fabio León Duque	1,2 and 4	10-28-2020
39	Arnolia Aristizábal Rodríguez	1,2 and 4	10-28-2020
40	Santiago Gómez Castaño	1,2 and 4	10-28-2020
41	Ana María Cadavid	1,2 and 4	10-28-2020
42	Gloria Elena restrepo Arango	1,2 and 4	10-28-2020
43	Viviana Andrea Hurtado	1,2 and 4	10-28-2020
44	Astrid Paola Pastrana Burbano	1,2 and 4	10-28-2020

ANNEX 10.5

MOTIONS FILED BEFORE LISTING, REFERRING LACK OF COMPETENCE OF THE CONSTITUTIONAL COURT TO RULE ON THE MATTER

NUM	APPLICANT	FILING DATE
1	Yolima Blanco	10-27-2020
2	María Patricia Guzmán Zárate	10-27-2020
3	Leidy Johana Romero Cardona	10-27-2020
4	María Dolly Cardona Espitia	10-27-2020

5	Leyder Campo Moreno	10-27-2020
6	Javier Alonso Prada Rangel	10-27-2020
7	Liliana Campo Moreno	10-27-2020
8	María Cristina García Díaz	10-27-2020
9	Beatriz Botero	10-27-2020
10	Livardo Edwin Bravo Sánchez	10-27-2020
11	Amanda Letty Bernal de Vergel	10-27-2020
12	Agustina Camargo Martínez	10-27-2020
13	Daniel Moreno Leal	10-27-2020
14	Diana Carolina Urrego Morera	10-27-2020
15	Bibiana Patricia Cardona Cuervo	10-28-2020
16	Laura Gallo Martínez	10-28-2020
17	Rocío Ospina	10-28-2020
18	María del Pilar Socorro Vergara	10-28-2020
19	Andrés Pardo Rodríguez	10-28-2020
20	Haydid Norfalia Salinas Echeverry	10-28-2020
21	Leyder Campo Moreno	10-28-2020
22	Stivalis Melo Albarracín	10-28-2020
23	Margarita Solano de Fino	10-28-2020
24	Carlos Alberto García Torres	10-28-2020
25	Esmeralda Gomez Ballesteros	10-28-2020
26	Maria Cristina Gómez Pabón	10-28-2020
27	Sonia Barrera Niño	10-28-2020
28	Zully Romero	10-28-2020
29	Orlando Casallas	10-28-2020
30	Fredy Emiro González Cortés	10-28-2020
31	Alexandra Moreno de Campo	10-28-2020
32	Densy Moreno de Campo	10-28-2020
33	Doris Roa Rodríguez	10-28-2020
34	Erick David Castrillón Campo	10-28-2020
35	Franki Rodrigo López Mera	10-28-2020
36	Juan Guillermo Vásquez Sánchez	10-28-2020
37	Leidy Johana Moreno Cardona	10-28-2020
38	Beatriz González de Uribe	10-28-2020
39	Lilia Campo	10-28-2020
40	María Aurora Ramírez	10-28-2020
41	Maria Dolly Cardona Espitia	10-28-2020

42	Milena Peña Rojas	10-28-2020
43	Martha Elena Londoño Cadavid	10-28-2020
44	Silvana María Malabet Juliao	10-28-2020
45	Lisandro López Munevar	10-28-2020
46	Diana Karina Ramírez	10-28-2020
47	Luz Stella Ramírez Barbety	10-28-2020
48	Diva Inés Serrano Ramírez	10-28-2020
49	Jenny Gavirira	10-28-2020

ANNEX 10.6

GENERAL INTERVENTIONS FILED BEFORE LISTING, IN FAVOR OF MAINTAINING ABORTION'S CRIMINALIZATION

In these, remarks on the following matters are proposed: abortion as a crime; the existence of limitations to freedom; inexistence of grounds to terminate life of defenseless beings; the right to life as an absolute value; the defense of the innocent; the manipulation of statistics concerning women's deaths as a result of botched abortion; the judges' obligation to uphold life; the negative impact on the institution of family; personal traumatic experiences after practicing abortion; responsible sexuality; parents' role concerning the defense of life; sexual education and religious grounds to preserve life from the wound.		
NUM.	**APPLICANT**	**FILING DATE**
1	Marisol Fernández Vera	10-27-2020
2	Amanda Rosas Camero	10-27-2020
3	Luis Humberto Barajas Pita	10-27-2020
4	Sylvia Molina	10-27-2020
5	Alba Nory Salazar	10-27-2020
6	Sandra Villafane	10-27-2020
7	Liliana Reyes	10-27-2020
8	Juan Darío González	10-27-2020
9	Olga María Arias	10-27-2020
10	Piedad Cardona	10-27-2020
11	Martha Charria	10-27-2020
12	Maria Eugenia Giraldo Suárez	10-27-2020
13	Ingrid Gutiérrez	10-28-2020
14	María Teresa Cortés Acosta	10-28-2020
15	Jackmy Sánchez Delgado	10-28-2020

16	Yina Marcela Heredia Borge	10-28-2020
17	Dennis Ostos Alvarez	10-28-2020

ANNEX 10.7

BLANK EMAILS FILED BEFORE LISTING WHERE THE SUBJECT REFERS TO GENERAL INTERVENTIONS AGAINST ABORTION

NUM.	APPLICANT	FILING DATE
1	Claudia Marcela Ramírez Pérez	10-27-2020
2	Diva Inés Serrano Ramírez	10-27-2020
3	luchosar3511	10-27-2020
4	Pedro Rodríguez Moreno	10-27-2020
5	Liliana Quintero	10-27-2020
6	Ofelia Parra	10-28-2020

ANNEX 10.8

MOTIONS REFERENCING THE EXISTENCE OF CONSTITUTIONAL *RES JUDICATA*, FILED AFTER THE LISTING PERIOD

NUM.	APPLICANT	FILING DATE
1	Eliana Mahecha	11-13-2020
2	Ángela Pinilla Serrano	11-13-2020
3	Martha Lucia Bonilla Torres	11-13-2020
4	Juan Fernando Barrios	11-13-2020
5	Carlos Alberto Barrios Restrepo	11-13-2020
6	Teresa Cubillos Estivariz	11-13-2020
7	Lina Montoya Pizarro	11-13-2020
8	Sonia Tatiana Rodríguez de Contreras	11-18-2020
9	Ángela mercedes Murcia	11-19-2020
10	Carlos Fernando Rojas López	11-22-2020
11	Esmeralda Gómez Ballesteros	11-23-2020
12	Otoniel Estrada Castrillón	11-23-2020
13	Blanca Elisa Acosta Suárez	11-24-2020
14	María Eugenia Fajardo	11-24-2020
15	Camilo Acosta Suárez	11-24-2020
16	Elsa Eugenia Hurtado Hurtado	11-24-2020

17	María Edilma Pérez de Giraldo, María Elena Upegui Vallejo, Isabel Cristina Upegui Vallejo, Vicencio Javier Upegui Latorre, Jhon Jairo Ceballos Ríos, Sonia Vallejo de Upegui, Adriana María Upegui Vallejo, Luz Amparo Álvarez Giraldo, Adriana Giraldo Álvarez, Blanca Inés Arias de Buitrago, Elsa Cristina Buitrago, Hermelina Arias Vélez, Rodrigo Valencia García, Martha Lucía Aristizábal Carmona, Inés Cano Molina, Beatriz Cardona Marín, Ruby Marín De Cardona, Paula Andrea Cardona Marín y Edith Marín Villegas	11-26-2020
18	Adriana Pabón Parra	11-27-2020
19	Germán Antonio Giraldo Pérez, María Clemencia Giraldo Pérez, Rubiela Pineda Henao, Nubia Ocampo Pineda, Cielo Giraldo Pérez, María Cenelia Lotero, Gilberto Pineda García, María Elisa Rubio, Gladys del Socorro Álvarez Cano, Rosalba García González, Ofelia Cardona, Luz Lorena Castro Ramírez, Edgar Uribe Piedrahita, Cielo Gómez Nieto, Luis Fernando Rivera Rodríguez, Dora Corrales Castañeda, Elena Echeverri de Uribe, Luz Amparo Pérez Sepúlveda, Gloria Matilde Rivas Serna, Ángela María Ocampo González, Luis Fernando Ocampo Pineda, Ecelmery Aristizábal y Ángela María Tobón Jaramillo	11-27-2020
20	Clara María González Zabala / secretaria jurídica del Departamento Administrativo de la Presidencia de la República	11-27-2020
21	Manuela Tobón Rodríguez	11-28-2020
22	Carlos Fradique Méndez	12-07-2020
23	Dennis Santiago Pinilla Cañas y Kyara Valeria Mejía Martínez	03-17-2021
24	Erwin Alez Estupiñán	03-26-2021
25	Dora Solano Rodríguez	05-26-2021

ANNEX 10.9

MOTIONS REFERENCING THE INEXISTENCE OF CONSTITUTIONAL *RES JUDICATA*, FILED AFTER THE LISTING PERIOD

NUM.	APPLICANT	FILING DATE
1	María Luisa Rodríguez Peñaranda / Full-time teacher of the Faculty of Law, Political and Social Sciences, Universidad Nacional de Colombia, Real Justice Research Group Director and Camilo Cueto / Researcher of the same group	11-13-2020
2	Andrés Abel Rodríguez Villabona / academic vicedean Faculty of Law, Political and Social Sciences, Universidad Nacional de Colombia	11-13-2020
3	Luis Manuel Castro Novoa y Laura Fernanda Abril Mejía / members of the Ius Digna Corporation	11-27-2020
4	Javier Alejandro Acevedo Guerrero/director de la Escuela de Derecho y Ciencia Política de la Universidad Industrial de Santander (UIS), Alicia Toloza Pabón, Carolina Isabel Montes Perea, Paula Alejandra Martínez Rodríguez, Doris Fernanda Cardona Gelvez, Julieth Vanessa Sanabria Almeyda, Ramiro Pinzón Asela, Brayan Andrés Vargas Benavides y José Jans Carretero Pardo.	03-26-2021

ANNEX 10.10

MOTIONS REQUESTING THE CONSTITUTIONALITY OF THE CHALLENGED PROVISION, FILED AFTER THE LISTING PERIOD

Grounds: (1) fetus' or nasciturus' rights shall be protected; (2) abortion disregards human rights; (3) children's rights' prevalence; (4) inexistence of a fundamental right to VIP; (5) parents' (couple's) right to decide the number of children, and (6) non-binding nature of the soft law rules on which the lawsuit is based.			
NUM.	**APPLICANT**	**GROUNDS**	**FILING DATE**
1	Gloria Alicia Rodríguez Cruz	1,2 and 4	11-13-2020
2	Mónica Andra Seguera	1,2 and 4	11-23-2020
3	Ernesto Armando Zuluaga	1,2 and 4	11-24-2020
4	Jorge Armando Zuluaga Martínez	1,2 and 4	01-24-1900

5	Leonardo Vicente Rivera Velandia	1,2 and 4	11-25-2020
6	Gloria Inés Lacouture González	1,2 and 4	11-27-2020
7	Maria Asceneth González Gil	1,2 and 4	11-28-2020
8	Ángela Rozo Gómez	2,7	11-22-2020
9	Elicio Pulido Camacho	2,7	11-22-2020
10	Carlos Fernando Rojas López	1,2	11-22-2020
11	Ana María Sánchez Musella	1	11-23-2020
12	Magda Celena Torres Álvarez	2,7	11-24-2020
13	Cristina Barbosa, Gloria Margarita González Cárdenas, Gloria Ulloa, Graciela Ramírez, Gustavo Rueda Arévalo, Germán Ramírez y Yolanda de Chaustre	2,7	11-24-2020
14	Gina Apraez Calderón	2,7	11-24-2020
15	Sandra Julieth Ibarra Ruíz	2,7	11-25-2020
16	Mariana Robayo	2,7	11-25-2020
17	Ana Cristina Pulido González	2,7	11-25-2020
18	Luisa Fernanda Jiménez Pulido	2,7	11-25-2020
19	Martha Teresa Flórez	1,4 y 6	11-26-2020
20	Andrés Felipe Roncancio Rodríguez	2 and 7	11-27-2020
21	Paola Gómez Riveros	2 and 7	11-27-2020
22	Efraín Izquierdo	2 and 7	11-27-2020
23	Juan José Betancourt Tafur	2 and 7	11-27-2020
24	Pedro Miguel Jaramillo	2 and 7	11-27-2020
25	Tatiana Rodríguez Jiménez	2 and 7	11-27-2020
26	Luis Gabriel Jaramillo Abonado	2 and 7	11-27-2020
27	Cecilia Figueredo Mejia	2 and 7	11/27/2020
28	Javier Alfonso Roncancio Rachid	2 and 7	11-27-2020
29	María del Socorro Bueno Mosquera	2 and 7	11-27-2020
30	Gloria Inés Lacouture	2 and 7	11-27-2020
31	Adriana Castillo Mariño	2 and 7	11-27-2020
32	Laura Isabel Gallo Martínez	2,3	11-27-2020
33	Sonia Zapata Herrera	1,2,4	11-27-2020
34	Guillermo Alberto Rosero Melo	1,2,3 and 7	11-27-2020
35	Hilba Judith Romero de Guarin	2 and 7	11-28-2020
36	Jairo Ernesto Guzmán Piperos	2 and 7	11-28-2020

37	Manuela Tobón Rodríguez	1	11-28-2020
38	Teresa Cubillos Estivariz	1,2,3 and 7	11-13-2020
39	Lina Montoya Pizarro	1,2,3 and 7	11-13-2020
40	Otoniel Estrada Castrillón	1,2,3 and 7	11-23-2020
41	María Consuelo Arenas Arias	5	02-01-2021
42	Leidy Yineth Guzmán acting on behalf Ana Catalina Manzano Guzmán	1	03-15-2021
43	Juan Carlos Rodríguez Arteaga y Alba Lucía Torres Quiroga acting on behalf Juan Daniel Rodríguez Torres, Diego Alejandro Garzón García, Juán José Pérez Bohórquez, Juan Camilo Cortés Murillo	3	03-16-2021
44	Karenth Bibiana Bello Pinto, Shraik Zarate Patiño, Johanna Yepes Rodríguez,	1,3,4	03-16-2021
45	Valentina Moreno Pinzón	6	03-17-2021
46	Mauricio Luna Visbal	1	05-06-2021
47	Líderes religiosos miembros de la Asamblea General del Cabildo Interreligioso de Colombia	1,2,3	02-14-2022

ANNEX 10.11

MOTIONS REQUESTING THE UNCONSTITUTIONALITY OF THE CHALLENGED PROVISION, FILED AFTER THE LISTING PERIOD

Grounds: (1) inexistence of constitutional *res judicata*; (2) evolution of the legal framework: (3) violation of criminal law's "*ultima ratio"* principle; (4) constitutional limits to the free configuration of law; (5) women's sexual and reproductive rights; (6) fundamental right to VIP; (7) abortion's discriminatory nature; (8) structural barriers to access VIP; (9) unwanted pregnancy's disproportionate effects in women's physical and mental health; (10) stigmatization of abortion and of women who practice it; (11) regulation's exclusionary wording towards who do not identify themselves as women; (12) principle of progressivity in the ius-fundamental guarantees and (13) international human rights' law (IDDH; WHS; UN; CEDAW)

NUM.	APPLICANT	GROUNDS	MOTION'S FILING DATE
1	Mónica Roa	6,7.8,10	11-13-2020
2	Ana Patricia Pabón Mantill	3,6,7	11-13-2020
3	Jaime Hernán Urrego	8,10	11-25-2020
4	María Paola Lugo Gómez	2,5,6,8	12-03-2020
5	Juan Felipe Terán Román	6,8	03-15-2021
6	David Santiago Galvis Prieto, Ana María Cortés Lizarazo, Sergio David Patiño Luján Edgar José Camargo Vásquez	13	03-15-2021
7	Juan David Escobar Diaz	2,5,7	03-16-2021
8	Juan Sebastián Guzmán Alvis	7,8,9	03-16-2021
9	Valentina Parra Vigoya y Juanita Alejandra Gómez Muñoz	6,7,8,10	03-17-2021
10	Mariana Jaramillo Castaño	2,5,6,7,8,13	03-17-2021
11	Paula Stefanía Córdoba Hernández	2,8,10	03-17-2021
12	Nilxon Calderón Díaz acting on behalf de María Alejandra Calderón Herrera, Valentina Arévalo Marín and Stefany Camila Moreno Latorre	7,8	03-17-2021
13	Michell Tatiana Vargas Berrio, Luz Ángela Sierra Barreto y Nicol Yurany Bustos Olarte	8,9	03-17-2021
14	Amanda Cleeve, Margit Endler y Kristina Gemzell Danielsson/Karolinska Institutet	9 Other reasons: international evidence indicates that safe abortion has positive effects: restrictive abortion laws do not decrease abortion rates.	11-23-2020
15	María Eugenia Monte/ Doctor in Law and Social Sciences on behalf Universidad de Córdoba (Argentina)	7,9 Other reasons: gradual protection of the unborn's rights.	11-27-2020

16	Vanezza Escobar Behar y Dorian Juliet Gómez Osorio /lawyer and Director of the Collective Corporation Justicia Mujer	1,3,5,6,7,8,9,10 Other Reasons: it does not pass the proportionality test; perpetuates gender-based violence; infringes conciousness freedom; women or men, not the fetus, are the titleholders of the protection of the value of life in the case of the unborn.	11-27-2020

ANNEX 10.12

GENERAL INTERVENTIONS AGAINST ABORTION AND IN FAVOR OF MAINTAINING ITS CRIMINALIZATION, FILED AFTER THE LISTING PERIOD

In these, remarks on the following matters are proposed: abortion as a crime; the existence of limitations to freedom; inexistence of grounds to terminate life of defenseless beings; the right to life as an absolute value; the defense of the innocent; the manipulation of statistics on women's deaths caused by botched abortions; judges' obligation to uphold life; the negative impact on the institution of family; personal traumatic experiences after practicing abortion; responsible sexuality; parents' role concerning the defense of life; sexual education and religious grounds to preserve life from the wound.		
NUM.	**APPLICANT**	**FILING DATE**
1	Ivarelaa	11/13/2020
2	María Victoria Mazenett Granados	11/13/2020
3	Nohora Hurtado Villalba	11/13/2020
4	Silvia María Duarte Álvarez	11/14/2020
5	Yuly Andrea Barragán	11/14/2020
6	Dora Elcy Quintero Urrea	11/23/2020
7	Eugenio Lara	11/23/2020
8	Jacqueline Silva García	11/27/2020

9	Jackmy Sánchez Delgado	11/23/2020
10	Ligia Jazmín Hernández López	11/23/2020
11	Nora Alba Buitrago Perilla	11/23/2020
12	Paola Granada	11/23/2020
13	Luis Guillermo Restrepo Álvarez	11/23/2020
14	María Gloria Rodríguez	11/23/2020
15	Gloria Elena Vélez Zapata, Elvia Margarita Zapata Agudelo y Ángela Margarita Vélez Zapata	11/23/2020
16	Beatriz Muriel	11/23/2020
17	Wilson Tafur	11/23/2020
18	Mariela Meneses de Morales	11/23/2020
19	Maribel Ramírez Peralta	11/24/2020
20	Iván Marcelo Guevara Valbuena	11/24/2020
21	Luz Adriana Zuluaga Martínez	11/24/2020
22	Martha Cecilia Moreno Toro	11/25/2020
23	Ismaelina Moreno Baracaldo	11/25/2020
24	Francisco Javier Higuera	11/25/2020
25	Olga Liliana Ruiz Martínez	11/25/2020
26	Luz Dary Sanabria Cely	11/26/2020
27	Mary Sanabria Cely	11/26/2020
28	Julio César Perilla Ruiz	11/26/2020
29	Emma Nelly Cely	11/26/2020
30	Delio José Morales Meneses	11/26/2020
31	Caridad del Socorro Herrera Echeverri	11/26/2020
32	Hilda Meneses	11/26/2020
33	Narie Ocampo Martínez	11/26/2020
34	Mary Luz Montaño Vásquez	11/26/2020
35	Ana Delia Jiménez	11/26/2020
36	María Elena Aristizábal	11/26/2020
37	Carlos Danilo Meneses	11/27/2020
38	Mónica Fernanda Morales Ruiz	11/27/2020
39	Teresa Cáceres Velásquez	11/27/2020
40	Alba Inés Restrepo Tejos	11/27/2020
41	Alberto Pretelt	11/27/2020
42	Carmen Alicia Mejía Velasco	11/27/2020
43	Jackeline Silva García	11/27/2020

44	Liliana Erazo López	11/27/2020
45	Merly Yamiles Méndez Rodríguez	11/27/2020
46	Paola Ferrer Salcedo	11/29/2020
47	Luis Fernando Garibello Peralta	02/18/2021
48	Sergio Moreno	07/21/2021
49	Sara Yaize Rojas Larrotta	07/21/2021
50	Carmen Alicia Martínez Rivera	07/21/2021
51	Johanna Hurtado	07/22/2021
52	Linda Kelly Sandoval	07/22/2021
53	María Tadea Morales de Devis	07/22/2021
54	Sonia Consuelo Ortiz Morales	07/22/2021
55	Patricia Ramos	07/22/2021
56	Rocío del Pilar García Moreno	07/22/2021
57	Amanda Rojas Masso	07/22/2021
58	Ángela María Rodríguez G	07/22/2021
59	Aquileo Alfonso Cristancho	07/22/2021
60	Aura Matilde Corredor Cuervo	07/22/2021
61	Blanca Victoria Prada Gil	07/22/2021
62	César Sierra	07/22/2021
63	Claudia Patricia Murillo y Luis David Jiménez	07/22/2021
64	Alba Buriticá	07/22/2021
65	Cristancho López	07/22/2021
66	David Lacouture Méndez	07/22/2021
67	Elsy González	07/22/2021
68	Fabio Uribe	07/22/2021
69	Francisco Javier Micolta Hernández	07/22/2021
70	Gabriela Castaño	07/22/2021
71	Henry Eduardo Patiño Bueno	07/22/2021
72	Javier Dimaté Ossa	07/22/2021
73	Esperanza González	07/22/2021
74	Flor León Orjuela	07/22/2021
75	Alba Lucía Peña Parra	07/22/2021
76	Alexandra Oñate	07/22/2021
77	Ana Ruiz	07/22/2021
78	Astrid Sofía Galindo Godoy	07/22/2021
79	Jenny Alexandra Ibáñez Burbano	07/22/2021

80	Alba Luz Zedán Marín	07/22/2021
81	Ana María Villa	07/22/2021
82	Alexandra Pinto Rubio	07/22/2021
83	Bertha Durango Zapata	07/22/2021
84	Catalina de Zubiría de Santamaría	07/22/2021
85	Daisy García Moreno	07/22/2021
86	Claudia Rodríguez Velásquez	07/22/2021
87	David Rafael Lacouture Mendez	07/22/2021
88	Carmen Elvira Rojas Garavito	07/22/2021
89	Diana Cubillos	07/22/2021
90	Diana Marcela Tautiva González	07/22/2021
91	Diana V. Baquero F.	07/22/2021
92	Diva Inés Serrano Ramírez	07/22/2021
93	Elsa Velandia Gracias	07/22/2021
94	Elvia Vargas	07/22/2021
95	Adriana Rueda Córdoba	07/22/2021
96	Carlos Bello	07/22/2021
97	Claudia Sisa Martinez	07/22/2021
98	Flor León Orjuela	07/22/2021
99	Gladys Esperanza Mateus Téllez	07/22/2021
100	Gloria Cristina Sierra Yepes	07/22/2021
101	Henry Hernán Cuida Vargas	07/22/2021
102	Inés Cecilia Estrada	07/22/2021
103	Isaías Márquez	07/22/2021
104	Isnardo Álvarez Mantilla	07/22/2021
105	Jackeline Salazar Castellanos	07/22/2021
106	Emilia García Rocha	07/22/2021
107	Jadir Moreno	07/22/2021
108	Jaime Antonio Urrego García	07/22/2021
109	Jaime Sanz de Santamaría	07/22/2021
110	José Antonio Bonilla	07/22/2021
111	José Antonio Daza Ochoa	07/22/2021
112	Ervin Leonardo Díaz Paez	07/22/2021
113	Flor Sánchez	07/22/2021
114	Humberto Reynales Londoño	07/22/2021
115	José Miguel Páez Ospina	07/22/2021

116	Juan Pablo Bernal	07/22/2021
117	Julián Valencia Delgado	07/22/2021
118	Karen Sofía Parra Granados	07/22/2021
119	Laura Isabel Gallo Martínez	07/22/2021
120	Lilia Muñoz	07/22/2021
121	Lizana Correa Molina	07/22/2021
122	Aminta Lozano Godoy	07/22/2021
123	Beatriz Ospitia	07/22/2021
124	Claudia Patricia Rodríguez Castillo	07/22/2021
125	Elba González de García	07/22/2021
126	Gloria Inés Pérez Villa	07/22/2021
127	Arminda Leal Leal	07/22/2021
128	Aura Rosa Carmona Villegas	07/22/2021
129	Daniel Rubiano Patiño	07/22/2021
130	Dilia Magali Toro Imbachí.	07/22/2021
131	Giovanna Gil Hernández	07/22/2021
132	Héctor Manolo Pinzón	07/22/2021
133	Laura Rojas	07/22/2021
134	Fanny Hernández	07/22/2021
135	Jenaro enrique de Jesús Quiñones Jiménez	07/22/2021
136	Gladys Bermúdez	07/22/2021
137	Graciela Galvis Guevara	07/22/2021
138	Itél Atencio	07/22/2021
139	Lida Johanna Barreto Otálora	07/22/2021
140	Daniel Peralta Mayorga	07/22/2021
141	Jorge Enrique Cadavid Mejía	07/22/2021
142	Luce Schott	07/22/2021
143	Lucre Lozada Ortiz	07/22/2021
144	Lud Mina Umaña	07/22/2021
145	Luis E. Cadena	07/22/2021
146	Luis Eduardo Villamarín	07/22/2021
147	Luisa Fernanda Cruz Rey	07/22/2021
148	Luz Elena Ramírez Cortés	07/22/2021
149	Magda López	07/22/2021
150	Marcela Bahamón	07/22/2021
151	Astolfo Eduardo Moreno	07/22/2021

152	Claudia Madriñán Rivera	07/22/2021
153	Elsa Paris	07/22/2021
154	Lilia Isabel Villa	07/22/2021
155	Marcos Castillo	07/22/2021
156	Maria del Carmen Vela Prieto	07/22/2021
157	María del Pilar Angarita Díaz	07/22/2021
158	María del Pilar Velásquez Baquero	07/22/2021
159	María Guadalupe Taborda Rojas	07/22/2021
160	María Inés García Garavito	07/22/2021
161	María Nancy López Zuluaga	07/22/2021
162	María Sierra	07/22/2021
163	Marianella Gómez Cadavid	07/22/2021
164	Mariano Ordóñez	07/22/2021
165	Adriana Prieto	07/22/2021
166	Claudia Patricia García González	07/22/2021
167	Janeth Baquero	07/22/2021
168	Martha Hernández	07/22/2021
169	Katherine Llanos	07/22/2021
170	Adriana González Guerrero	07/22/2021
171	Adriana María Quintero Ossa	07/22/2021
172	Amparo Bernal	07/22/2021
173	Blanca Nelly León	07/22/2021
174	Esperanza Jiménez Acuña	07/22/2021
175	Luz Marina Velásquez Castañeda	07/22/2021
176	Martha Cecilia Ceballos Marín	07/22/2021
177	Martha Inés Cifuentes Bedoya	07/22/2021
178	Clemencia Santos	07/22/2021
179	Cristina Valencia	07/22/2021
180	Ester Julia Ramírez González	07/22/2021
181	Gloria López	07/22/2021
182	Isabel Cristina Díaz	07/22/2021
183	Marcela Otero	07/22/2021
184	Martha Inés Morales Mora	07/22/2021
185	Martha Isabel Camacho Ortiz	07/22/2021
186	Alexandra González Pérez	07/22/2021
187	Amanda Murillo Murillo	07/22/2021

188	Belén Moreno	07/22/2021
189	Blanca Cecilia Díaz Rodriguez	07/22/2021
190	Blanca Cecilia Hurtado	07/22/2021
191	Catalina Bedout	07/22/2021
192	Georgina Marcela Meléndez Sánchez	07/22/2021
193	Gloria Esperanza Trujillo Tarazona	07/22/2021
194	Marlene Vega Gómez	07/22/2021
195	Martha Lesmes	07/22/2021
196	Martha Ligia Cardona	07/22/2021
197	Martha Lucía Barrera Garzón	07/22/2021
198	Martha Morales	07/22/2021
199	Martha Patricia Díaz Herrera	07/22/2021
200	Massiel Galindo	07/22/2021
201	Mime Lucy Cardona	07/22/2021
202	Mime Lucy Cardona	07/22/2021
203	Mónica Escobar Viveros	07/22/2021
204	Myriam Chávarro Guerrero	07/22/2021
205	Nancy Caicedo Vera	07/22/2021
206	Nancy Montañez	07/22/2021
207	Natalia Agudelo Cárdenas	07/22/2021
208	Nubia Rivera Pérez	07/22/2021
209	Olga Cecilia Martínez Henao	07/22/2021
210	Omar Cristancho	07/22/2021
211	Omar Salazar	07/22/2021
212	Oriana Ivone Martínez Ramírez	07/22/2021
213	Orlando Cardona	07/22/2021
214	Paloma Valencia	07/22/2021
215	Pilar Galvis	07/22/2021
216	Pilar Ramos Gasca	07/22/2021
217	Pilar Tasson	07/22/2021
218	Rafael Antonio	07/22/2021
219	Religiosas Siervas de María	07/22/2021
220	Robinson Rodríguez Torres	07/22/2021
221	Rocío Yanet Osorio Gil	07/22/2021
206	Nancy Montañez	07/22/2021
207	Natalia Agudelo Cárdenas	07/22/2021

208	Nubia Rivera Pérez	07/22/2021
209	Olga Cecilia Martínez Henao	07/22/2021
210	Omar Cristancho	07/22/2021
211	Omar Salazar	07/22/2021
212	Oriana Ivone Martínez Ramírez	07/22/2021
213	Orlando Cardona	07/22/2021
214	Paloma Valencia	07/22/2021
215	Pilar Galvis	07/22/2021
216	Pilar Ramos Gasca	07/22/2021
217	Pilar Tasson	07/22/2021
218	Rafael Antonio	07/22/2021
219	Religiosas Siervas de María	07/22/2021
220	Robinson Rodríguez Torres	07/22/2021
221	Rocío Yanet Osorio Gil	07/22/2021
222	Rodrigo Durango Escobar	07/22/2021
223	Rodrigo Marmolejo Hoyos	07/22/2021
224	Rosa María Gamarra Añazco	07/22/2021
225	Rosa Mora	07/22/2021
226	Rosario Tamayo Veccino	07/22/2021
227	Rubiela Pulido	07/22/2021
228	Sandra Mesa	07/22/2021
229	Sandra Milena Cristancho	07/22/2021
230	Sandra Troncoso Rojas	07/22/2021
231	Silvia Pinzón de Torres	07/22/2021
232	Sonia Giselle Rodríguez	07/22/2021
233	Sonia Moreno	07/22/2021
234	Sonia Victoria Galán Picón	07/22/2021
235	Stuwart Medina	07/22/2021
236	Teresa del Carmen Alzate	07/22/2021
237	Teresa Villamizar	07/22/2021
238	Vicenta Álvarez	07/22/2021
239	Víctor Perilla	07/22/2021
240	Viviana Villamil Rojas	07/22/2021
241	Yamile Gámez	07/22/2021
242	Yaneth González Cortes	07/22/2021
243	Yiliveth Mena Guzmán	07/22/2021

244	Yohani Quiroga	07/22/2021
245	Fernando del Catillo Ríos	07/22/2021
246	Yvonne Mercedes Pereira Perdomo	07/22/2021
247	Zoila Arévalo	07/22/2021
248	Ana María Gómez	07/22/2021
249	Elizabeth Ruiz Cadena	07/22/2021
250	Beatriz Eugenia Franco Hincapié	07/22/2021
251	Isabella Andrade Barragán	07/22/2021
252	Leonor Silva Duarte	07/22/2021
253	Miguel Omar Garavito	07/22/2021
254	Adriana Caldas	07/22/2021
255	Adriana del Pilar Luna Rueda	07/22/2021
256	Jairo Cabezas	07/22/2021
257	Lady Johanna Zuluaga	07/22/2021
258	María Cristina Echeverry Zuluaga	07/22/2021
259	María del Pilar Rueda Galvis	07/22/2021
260	Miguel Ernesto Serna Bonilla	07/22/2021
261	Vilma Graciela Martínez Rivera formato	07/22/2021
262	Carlos Andres Arias Martínez	07/22/2021
263	Carmen Ofelia Ramírez	07/22/2021
264	Claudia Zuluaga	07/22/2021
265	Daniel Preciado Montañez	07/22/2021
266	Dora Cely García	07/22/2021
267	Fernando del Catillo Ríos	07/22/2021
268	Gloria Elena Giraldo	07/22/2021
269	Hermes Arturo Hernández Cadena	07/22/2021
270	Jesús Castellanos	07/22/2021
271	Liborio Alberto García Aguilón	07/22/2021
272	Lorely Andrea Herrera Acosta	07/22/2021
273	María Teresa Rodríguez	07/22/2021
274	Olga Lucía Castaño Torres	07/22/2021
275	Rodrigo Guarnizo Gómez	07/22/2021
276	Yesenia Guerrero	07/22/2021
277	Yesid Cabrejo Ortiz	07/22/2021
278	Luz Mary 519	07/22/2021
279	Malú	07/22/2021

280	María Alegargu	07/22/2021
281	Mery Lez	07/22/2021
282	Miriam	07/22/2021
283	Yira 9062	07/22/2021
284	Luz Marina Algarra Garzón	07/23/2021
285	Oswaldo Marriaga	07/23/2021
286	Magdalena Inés Valencia Monsalve	07/23/2021
287	Martha Patricia Blanco Bautista	07/23/2021
288	María Beatriz Niño de Stand.	07/23/2021
289	Ximena Andrea Suárez Montañez	07/23/2021
290	Yenny Patricia Burbano	07/23/2021
291	Mary Hernández	07/23/2021
292	Enit Castán	07/23/2021
293	Luis Cárdenas	07/23/2021
294	Lila Pareja	07/23/2021
295	María Auxiliadora López Vergara	07/23/2021
296	Claudia Patricia López Vergara	07/23/2021
297	Arelis Sánchez Verlarde	07/23/2021
298	Julia Margarita Suárez Ramos	07/23/2021
299	Martha Campos	07/23/2021
222	Rodrigo Durango Escobar	07/22/2021
223	Rodrigo Marmolejo Hoyos	07/22/2021
224	Rosa María Gamarra Añazco	07/22/2021
225	Rosa Mora	07/22/2021
226	Rosario Tamayo Veccino	07/22/2021
227	Rubiela Pulido	07/22/2021
228	Sandra Mesa	07/22/2021
229	Sandra Milena Cristancho	07/22/2021
230	Sandra Troncoso Rojas	07/22/2021
231	Silvia Pinzón de Torres	07/22/2021
232	Sonia Giselle Rodríguez	07/22/2021
233	Sonia Moreno	07/22/2021
234	Sonia Victoria Galán Picón	07/22/2021
235	Stuwart Medina	07/22/2021
236	Teresa del Carmen Alzate	07/22/2021
237	Teresa Villamizar	07/22/2021

238	Vicenta Álvarez	07/22/2021
239	Víctor Perilla	07/22/2021
240	Viviana Villamil Rojas	07/22/2021
241	Yamile Gámez	07/22/2021
242	Yaneth González Cortes	07/22/2021
243	Yiliveth Mena Guzmán	07/22/2021
244	Yohani Quiroga	07/22/2021
245	Fernando del Catillo Ríos	07/22/2021
246	Yvonne Mercedes Pereira Perdomo	07/22/2021
247	Zoila Arévalo	07/22/2021
248	Ana María Gómez	07/22/2021
249	Elizabeth Ruiz Cadena	07/22/2021
250	Beatriz Eugenia Franco Hincapié	07/22/2021
251	Isabella Andrade Barragán	07/22/2021
252	Leonor Silva Duarte	07/22/2021
253	Miguel Omar Garavito	07/22/2021
254	Adriana Caldas	07/22/2021
255	Adriana del Pilar Luna Rueda	07/22/2021
256	Jairo Cabezas	07/22/2021
257	Lady Johanna Zuluaga	07/22/2021
258	María Cristina Echeverry Zuluaga	07/22/2021
259	María del Pilar Rueda Galvis	07/22/2021
260	Miguel Ernesto Serna Bonilla	07/22/2021
261	Vilma Graciela Martínez Rivera formato	07/22/2021
262	Carlos Andres Arias Martínez	07/22/2021
263	Carmen Ofelia Ramírez	07/22/2021
264	Claudia Zuluaga	07/22/2021
265	Daniel Preciado Montañez	07/22/2021
266	Dora Cely García	07/22/2021
267	Fernando del Catillo Ríos	07/22/2021
268	Gloria Elena Giraldo	07/22/2021
269	Hermes Arturo Hernández Cadena	07/22/2021
270	Jesús Castellanos	07/22/2021
271	Liborio Alberto García Aguilón	07/22/2021
272	Lorely Andrea Herrera Acosta	07/22/2021
273	María Teresa Rodríguez	07/22/2021

274	Olga Lucía Castaño Torres	07/22/2021
275	Rodrigo Guarnizo Gómez	07/22/2021
276	Yesenia Guerrero	07/22/2021
277	Yesid Cabrejo Ortiz	07/22/2021
278	Luz Mary 519	07/22/2021
279	Malú	07/22/2021
280	María Alegargu	07/22/2021
281	Mery Lez	07/22/2021
282	Miriam	07/22/2021
283	Yira 9062	07/22/2021
284	Luz Marina Algarra Garzón	07/23/2021
285	Oswaldo Marriaga	07/23/2021
286	Magdalena Inés Valencia Monsalve	07/23/2021
287	Martha Patricia Blanco Bautista	07/23/2021
288	María Beatriz Niño de Stand.	07/23/2021
289	Ximena Andrea Suárez Montañez	07/23/2021
290	Yenny Patricia Burbano	07/23/2021
291	Mary Hernández	07/23/2021
292	Enit Castán	07/23/2021
293	Luis Cárdenas	07/23/2021
294	Lila Pareja	07/23/2021
295	María Auxiliadora López Vergara	07/23/2021
296	Claudia Patricia López Vergara	07/23/2021
297	Arelis Sánchez Verlarde	07/23/2021
298	Julia Margarita Suárez Ramos	07/23/2021
299	Martha Campos	07/23/2021
300	Deyanira Jiménez Hernández	07/23/2021
301	Nohora Izquierdo de Cárdenas.	07/23/2021
302	Consuelo González Martínez.	07/23/2021
303	Stella Monroy	07/23/2021
304	Oliva Niño	07/23/2021
305	Pedro Niño	07/23/2021
306	María Cristina García y María Sylvia García	07/23/2021
307	Mónica Alexandra Buitrago Florián	07/23/2021
308	Adelaida Palencia	07/23/2021
309	Helmer Ezequiel Torres Vela	07/23/2021

310	Mireya Campos	07/23/2021
311	Julia Cristina Vásquez	07/23/2021
312	Margarita Perdomo	07/23/2021
313	Eva Cruz del Ángel	07/23/2021
314	Lilia Muñoz	07/23/2021
315	Rodolfo Andrés Silva Rodríguez	07/23/2021
316	Jessica Fernández	07/23/2021
317	Dolly Moreno	07/23/2021
318	Reynaldo Sánchez	07/23/2021
319	Marilin Giraldo Durango	07/23/2021
320	Ángela Patricia Espinosa Marín	07/23/2021
321	Jhon Jairo Calderón Arboleda	07/23/2021
322	Gilma Guette	07/23/2021
323	Carolina Vélez Ramírez	07/23/2021
324	Lila Louis	07/23/2021
325	Stivalis Melo Albarracín	07/23/2021
326	Lourdes Otálora Hurtado	07/23/2021
327	Olga Lucía Camelo	07/23/2021
328	Leonor Carlider	07/23/2021
329	Claudia Ruíz Rueda	07/23/2021
330	Amanda Pérez	07/23/2021
331	Nayibe Bechara	07/23/2021
332	Luz Stella Suárez	07/23/2021
333	Colombia Segura	07/23/2021
334	Saray	07/23/2021
335	Julia Galofre Cano	07/23/2021
336	Yamile Beltrán Ibarra	07/23/2021
337	Emilse Valenzuela	07/23/2021
338	Nohora del Pilar Cárdenas Izquierdo	07/23/2021
339	Daniel Preciado Montañez	07/23/2021
340	Héctor Cárdenas Dueñas	07/23/2021
341	María Esperanza García Garavito	07/23/2021
342	Sonia Janeth Coral Dulcey	07/23/2021
343	Janneth Munévar López	07/23/2021
344	Ángel Porfilio	07/23/2021
345	María de los Ángeles Muñoz Motta	07/23/2021

346	María Helena Restrepo de Suárez	07/23/2021
347	Silvia Elena Orozco Sepúlveda	07/23/2021
348	Cristina Cortes	07/23/2021
349	María Antonia Piracón	07/23/2021
350	Alexandra Díaz Vento	07/23/2021
351	Mayerly López	07/23/2021
352	Mónica Márquez Gutiérrez	07/23/2021
353	Martha López	07/23/2021
354	Santiago Laserna	07/23/2021
355	Juana María Matiz Vásquez	07/23/2021
356	María Girleza Giraldo González	07/23/2021
357	René Solano Macías	07/23/2021
358	Jorge Ruge Sánchez	07/23/2021
359	Constanza Noriega	07/23/2021
360	Jairo Ramírez	07/23/2021
361	Rosalba Rojas	07/23/2021
362	Diana Rocío Baratto	07/23/2021
363	Adriana Morales Valero	07/24/2021
364	Álvaro Mejía Uribe	07/24/2021
365	Beatriz Elena Arango Cadavid	07/24/2021
366	Carmen Elisa Balanta	07/24/2021
367	Elena Peroni Cadavid	07/24/2021
368	Gina Ángel	07/24/2021
369	Jairo Archila	07/24/2021
370	Janeth Urbano Cerón	07/24/2021
371	José Henry Cruz Bernal	07/24/2021
372	Luis Felipe Piñeros Ospina	07/24/2021
373	María Cristina Rodriguez Ardila	07/24/2021
374	Maria Teresa González de Uribe	07/24/2021
375	Mary Quiroga	07/24/2021
376	Nilsa María Guevara de Pinzón	07/24/2021
377	Rosa Imelda Ávila de Gómez	07/24/2021
361	Rosalba Rojas	07/23/2021
362	Diana Rocío Baratto	07/23/2021
363	Adriana Morales Valero	07/24/2021
364	Álvaro Mejía Uribe	07/24/2021

365	Beatriz Elena Arango Cadavid	07/24/2021
366	Carmen Elisa Balanta	07/24/2021
367	Elena Peroni Cadavid	07/24/2021
368	Gina Ángel	07/24/2021
369	Jairo Archila	07/24/2021
370	Janeth Urbano Cerón	07/24/2021
371	José Henry Cruz Bernal	07/24/2021
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373	María Cristina Rodriguez Ardila	07/24/2021
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375	Mary Quiroga	07/24/2021
376	Nilsa María Guevara de Pinzón	07/24/2021
377	Rosa Imelda Ávila de Gómez	07/24/2021
378	Sandra Milena Angarita Vargas	07/24/2021
379	José Romero Ocampo	07/24/2021
380	Inés de Mantilla	07/25/2021
381	Maritza Arias	07/25/2021
382	Laudises Jara	07/25/2021
383	Paula Andrea Chica Serna	07/25/2021
384	Rosa Martínez	07/25/2021
385	Arturo Pinzón Medina	07/25/2021
386	Camilo Mejía Motta	07/25/2021
387	Concepción Ardila Sanabria	07/25/2021
388	José Miguel	07/25/2021
389	Luis Hernando Ortega Camacho	07/25/2021
390	Orlando Landazábal Esteban	07/25/2021
391	Myriam Quintero Álvarez	07/25/2021
392	Ángela Martínez	07/26/2021
393	Dora Carolina Ayala	07/26/2021
394	Felisa Rubio	07/26/2021
395	Luisa Colmenares	07/26/2021
396	María Carolina Ortegón Monroy	07/26/2021
397	Miguel Antonio Olmos Martínez y Dora Orlanda Carreño de Olmos	07/26/2021
398	Pablo González Gaitán	07/26/2021
399	Orlando de Jesús Grajales Marín	07/26/2021
400	Justo Sandoval	07/27/2021

401	Héctor Saúl Mantilla Serrano	07/27/2021
402	Imelda de Jesús Cortés	07/27/2021
403	Adriana Elena Álvarez Rivera	07/27/2021
404	Ángela Patricia Yaya Murillo	07/27/2021
405	Jane María Gordon Arango	07/27/2021
406	María Lucero Castelblanco Reyes	07/27/2021
407	José Guerrero Guerrero	07/27/2021
408	Patricia Uribe	07/28/2021
409	Clara Elena Londoño Escobar	07/29/2021
410	Olga Pachón Manrique	07/30/2021
411	Helena Jiménez Hilarón	08/04/2021
412	Adriana de Arteaga	08/04/2021
413	Sonia Londoño López	09/14/2021
414	María Eugenia Briñez Nino	09/15/2021
415	Diana Jazmín Martínez	09/16/2021
416	Elena Peroni Cadavid	09/30/2021
417	Elizabeth Ramírez	09/30/2021
418	Gloria Inés Valenzuela	09/30/2021
419	María Victoria Pardo Quintero	09/30/2021
420	Rosa Anaya	09/30/2021
421	Fredy Enrique Medina Quintero	09/30/2021
422	Berta Daly González Calderón	09/30/2021
423	Milena Cañas González	09/30/2021
424	Gustavo Vélez Mejía	09/30/2021
425	Norberto Chacón	09/30/2021
426	Susana Pardo Escallón	09/30/2021
427	Catalina Vergara	09/30/2021
428	María Nancy López Zuluaga	09/30/2021
429	Itel Cruz Atencio Antolínez	09/30/2021
430	Isidro Vargas	09/30/2021
431	Paula Agudelo	09/30/2021
432	Gloria de Polania	09/30/2021
433	María Teresa Gnecco Ruiz	09/30/2021
434	alhgamishca	09/30/2021
435	Fabiola Romero Daza	09/30/2021
436	Cristina López	09/30/2021

437	Valeria Esteban	09/30/2021
438	Elena Mejía Jaramillo	09/30/2021
439	Luis Abdón Suárez	09/30/2021
440	Martha Liliana Bustos Suárez	09/30/2021
441	Hilda Santander	09/30/2021
442	Prof. Omar	09/30/2021
443	Luis Eduardo Castañeda Escobar	09/30/2021
444	Dolly Cecilia Castellanos	09/30/2021
445	Edilma Vera	09/30/2021
446	Claudia Zabala	09/30/2021
447	Diana García	09/30/2021
448	Álvaro Gómez Rueda	09/30/2021
449	Yovana Herrera	09/30/2021
450	Gladys Patricia Ospina Restrepo	09/30/2021
451	Consuelo Restrepo	09/30/2021
452	Martha Beatriz Moreno Hernández	09/30/2021
453	Aldemar Roa	09/30/2021
454	María Velasco Mendoza	09/30/2021
455	Margarita Villamil Daza	09/30/2021
456	drtp15	09/30/2021
457	Ana María Torres	09/30/2021
458	Eugenia Ramírez Cabrera	09/30/2021
459	Ana Cristina Sandoval Moreno	09/30/2021
460	José Adelmo Arias	09/30/2021
461	Samofra	09/30/2021
462	María del Portillo	09/30/2021
463	Martha Lucía Hidalgo	09/30/2021
464	Óscar de Jesús López Restrepo	09/30/2021
465	Aminta Franco	09/30/2021
466	Jahel Medina Rosas	09/30/2021
467	Mary Hope	09/30/2021
468	Luz Alba Rodríguez de Aponte	09/30/2021
469	María Cristina López Gómez	09/30/2021
470	Nidia Yesmith Cely Martínez	09/30/2021
471	Beatriz Gómez	09/30/2021
472	Gloria Gallo	09/30/2021

473	Hilda Santander	09/30/2021
474	Eva Arias Contreras	10/01/2021
475	Gloria Castilla	10/01/2021
476	Leopoldo Varela Acosta	10/01/2021
477	Lilia Rodríguez	10/01/2021
478	María del Pilar Castro Caicedo	10/01/2021
479	María Nelly Barrera Maldonado	10/01/2021
480	Mónica Uribe	10/01/2021
481	Johanna Vivas	10/01/2021
482	Nancy Cuenca	10/01/2021
483	Nathalie Cerón	10/01/2021
484	Omar Díaz	10/01/2021
485	Liceth Arias	10/01/2021
486	Nancy B Montañez	10/01/2021
487	Sergio Carranza	10/01/2021
488	Myriam Janett Vivas Rodríguez	10/01/2021
489	Alfonso Prieto Guzmán	10/04/2021
490	Carlota Arias	10/04/2021
491	Gloria Jazmín Esparza Buitrago	10/04/2021
492	Argemiro Ortiz	10/04/2021
493	Jairo Ramírez Cortés	10/04/2021
494	Ludy Yolima Herrera Mora	10/04/2021
495	María Gómez	10/04/2021
496	Nubia Gómez	10/04/2021
497	Rosalba Bautista Parada	10/04/2021
498	Antonio Corrales García	10/04/2021
499	María Nidia Reyes Leal	10/04/2021
500	Olga María Chicangana Bravo	10/04/2021
501	Imelda de Jesús Cortés	10/05/2021
502	Hernán Darío Gómez Gómez	10/05/2021
503	Ángela Ladino	10/05/2021
504	Carlos Mauricio Orozco Serna	10/05/2021
505	Norma Echeverri de Arias	10/05/2021
506	Óscar Augusto Granados García	10/05/2021
507	Beatriz Velilla	10/06/2021
508	María del Socorro Cuéllar Osorio	10/06/2021

509	Nelly Cortina Buelvas	10/06/2021
510	Martha Cecilia Rodón Ordóñez	10/08/2021
511	Cecilia Díaz	10/08/2021
512	Mario García Isaza	10/09/2021
513	Héctor Saúl Mantilla Quintero	10/11/2021
514	Diego Javier Hernández Mondragón	10/11/2021
515	Beatriz Cadavid Clausen	10/13/2021
516	Gilma Lucía Parra Barajas	10/13/2021
517	María Margarita Vivas Martínez	10/13/2021
518	Martha Duarte Pereira	10/13/2021
519	Wiliam Ricardo Castillo Cortés	10/13/2021
520	Alejandro Martínez Rivera	10/13/2021
521	Alba Guerrero López	10/14/2021
522	Aura Lucía Latorre	10/14/2021
523	Blanca Pinzón Suárez	10/14/2021
524	Claudia Patricia Chávez Mancera	10/14/2021
525	Derlly Patricia Martínez	10/14/2021
526	Elizabeth Garcés Sánchez	10/14/2021
527	Erika García Acosta	10/14/2021
528	Esperanza Guerrero Oviedo	10/14/2021
529	Henry Hernando Giraldo Zuluaga	10/14/2021
530	Jairo Chávez Solís	10/14/2021
531	Luz Mery Ramos Bonilla	10/14/2021
532	María de los Ángles Muñoz Motta	10/14/2021
533	Martha Bustos Suárez	10/14/2021
534	Olga Lucía Picón Jácome	10/14/2021
535	ONG Fundepaz	10/14/2021
536	Patricia Quijano	10/14/2021
537	Rafael Figeueredo	10/14/2021
538	Raga ATH	10/14/2021
539	Santiago Dorronsoro Aguilar	10/14/2021
540	Silvana Galindo	10/14/2021
541	Angie Paola	10/14/2021
542	Fredy González	10/14/2021
543	Jessica Carolina Múnera Daza	10/14/2021
544	Jheny Mabel Lasso Arcos	10/14/2021

545	Luis Felipe Patiño Serrano	10/14/2021
546	Silvia Patricia Cuanca Valenzuela	10/14/2021
547	Catalina de Bedout	10/14/2021
548	Eduardo Monroy Cortés	10/14/2021
549	Germán Esteban pineda Castillo	10/14/2021
550	Milton Alexander Monroy Castro	10/14/2021
551	Jaime Duarte Garzón	10/14/2021
552	Jazmín Helena Rengifo Monguí	10/14/2021
553	Josefina Montoya	10/14/2021
554	Margarita Solano de Fino	10/14/2021
555	María Margarita Rosa Forero Chacón	10/14/2021
556	María Betty Pedraza	10/14/2021
557	Yessica Yolima Zorro Suárez	10/14/2021
558	Larissa León	10/14/2021
559	Lida Hurtado	10/14/2021
560	Marlene Trujillo	10/14/2021
561	Raquel Aragón Pinto	10/14/2021
562	Maria Claudia C de Ramírez	10/14/2021
563	John Fredy Rodríguez Argote	10/14/2021
564	Oscar Fernando Petecua	10/14/2021
565	Alejandro Quiñónez	10/14/2021
566	Adriana María Garzón Pinzón, Adriana Merlano, Adriana Toro Acosta, Adriano Bolívar, Alba María Rubio Fierro, Alba Constanza Monroy Sarmiento, Alberto Pretelt, Alexander Cabrera Rojas, Alfonso Correa	10/14/2021
567	Ana de Dios García, Ana Obdulia Quintero, Ángela Mejía, Anneliesse Garrido, Araceli Londoño Convers, Audelina Pepicano, Beatriz Ariza de Alarcón, Bussiness01lorena, Carlos Frid Rivera Rodríguez	
568	Carmen Yolima López Ortiz, Carolina Caballero, Clara Isabel Barrero, Clara Lucía Loaiza, Claudia Janeth Obando Rodríguez, Claudia Jannethe Casas, Claudia Ortiz, Claudia Patricia Navia, Claudia Ribero	10/14/2021
569	Clelia Henao, Coordinacioncentraljidemr, Daniela Londoño Palacio, Darío García Botero, Delcy Eliana Lozano Albarracín, Derlly Patricia Benítez, Diana Barato, Diana Cabera Rojas, Diana Dominga Gómez, Diana Carolina Cabrera Rojas	10/14/2021
570	Diana Pérez, Diego Fernando Ruiz, Dora Prada, Elizabeth Burgos Murillo, elpicon, Erika Duarte, Evelyn López	10/14/2021

571	Felisa Ríos, Felisa Rubio, Flor María Niño, Flor Rojas, Florecita Amaya, Francia Elena Pretelt, globepena, Gloria Cecilia Rodríguez Palacino	10/14/2021
572	Jaqueline Ramos Espinosa, Jeiny Licet Guataquira, Jennifer Maldonado, Jhoana Medina, Jhon Fredy Naranjo Chávez, Jorge Vásquez, Josefa Pinto de García, Juan Alberto Hurtado, Juan Carlos González Vargas	10/14/2021
573	Juan Vigoya, Julia Andrea Riaño, Juliana Díaz-Granados Ceballos, Leidy Jhoana Rodríguez, Leonidas Domínguez Peralta, Ligia Abril Roncón, Liliana Benavides Salazar, Lina Cabrera, Lorena Cabrera Fierro, Lorena Gallego Martínez	10/14/2021
574	Lucy Romero, Lucía López Urrego, Luis Hernando Ortega Camacho, Luz Ángela Echeverri, Luz Arguello, Luz Betty González de Méndez, Liz Clara del Pilar Escobar, Luz Dary Lozano Albarracín	10/14/2021
575	Luz Marina Castro, Luz Marina Rodríguez Martínez, Luz Stella Giraldo Vargas, Luz Yaneth Suárez, Lyda Olarte, Magally Echeverri, Marcela Mesa, Margarita Aspiazo Portocarrero, Margarita Villalobos, María Alejandra Alzate	10/14/2021
576	María Angélica Moreno, María Antonia Albarracín, María Camila Cárdenas, María Cristina Ochoa, María Emma Gallego Marín, María Emperatriz Arias, María Graciela Talero Contreras, María Janeth Alvarado, María Ruth Jiménez	10/14/2021
577	Maribel Sabogal Mora, María Vásquez, María Virginia Romero, María Yadira Granda Granda, María Yenny Yáñez, Marisol Forero, Maritza Beltrán Marleny Quintero, Martha Cañón	10/14/2021
578	Martha Cecilia Botero, Martha Cecilia Vivas, marthagarnica08, Mary Liz Santana, Merly Yamiles Méndez, Mireya Aldana, Mónica Garrido, Myriam Helo	10/14/2021
579	Victoria Esquivel de Cipagauta, Magda Viviana Acosta, Wilington Ortiz Santana, Wilmar Peña Bolaños, Yaneth Velasco, Yara Torres, Yenifer Henao Ruiz, Yolanda Correa, Yudi Angélica Ciro	10/14/2021
580	Andrea Ximena Gutiérrez Casas, Clara Estupiñán, Clara Mabel Parra Rodríguez, Dina Paola Arcila, Evelia Lara Moreno, Inés Palacios, luisdres2020	10/14/2021
581	Cecilia Díaz	10/15/2021
582	María Isabel Torres	10/15/2021
583	Padre Eduardo Achata	10/15/2021
584	Paula Daniela García	10/15/2021
585	Carlos Uribe Reyes	10/15/2021
586	Evelyn Barrera García	10/15/2021
587	Luz Stella Giraldo Vargas	10/15/2021
588	María Camila Cárdenas	10/15/2021
589	María Emperatriz Arias	10/15/2021

590	Imelda de Jesús Cortés	10/15/2021
591	Nancy Judith Ospina Motta	10/15/2021
592	Gustavo Adolfo Mesa Mesa	10/15/2021
593	José Nepomuceno Pérez Suescun	10/19/2021
594	Mario Páez Chuquen	10/19/2021
595	Raquel Cruz Castillo	10/19/2021
596	Mario García Isaza	10/19/2021
597	Alba Rosa Penagos Bernal	10/19/2021
598	Rosario Tamayo Veccino	10/19/2021
599	Agustina Parada Arias	10/20/2021
600	Jeimmy Aldana	10/20/2021
601	María Consuelo Cely Vargas	10/20/2021
602	Mariluz Moreno	10/21/2021
603	Lina Domínguez	10/25/2021
604	Graciela Aguilar	10/25/2021
605	Magda González	10/28/2021
606	Jaime Torijano	11/12/2021 and 11/16/2021
607	María Eugenia Mancipe	16/11/2021
608	Andrés Durán	17/11/2021
609	Bayner Julián Ramírez Calderón	17/11/2021
610	Ernesto Armando Zuloaga Niño	17/11/2021
611	Paola Andrea Londoño Álvarez	17/11/2021
612	Adriana Gamboa	18/11/2021
613	Juan pablo González Escallón	18/11/2021
614	Oscar Fernando Fetecua	11/18, 22 and 24/2021
615	Marcos Eugenio Wittig Wood	11/19/2021
616	Juan Gabriel Gallego	11/25/2021
617	Beatriz Elena Arango Cadavid	11/26/2021
618	Nelson Gutiérrez	12/02/2021
619	Gloria Patricia Gómez Noreña	01/20/2022
620	Guillermo Enrique Higuera Salcedo	02/03/2022
621	Edgar Chacón López	02/03/2022

ANNEX 10.13

BLANK EMAILS WHERE THE SUBJECT CONTAINS GENERAL INTERVENTIONS AGAINST ABORTION AND IN FAVOR OF MAINTAINING ITS CRIMINALIZATION

NUM	APPLICANT	FILING DATE
1	Nohema López	11/15/2020
2	Gonzalo Tobón	11/16/2020
3	Jaime Forero Sabogal	11/16/2020
4	Celso Guatavita Cifuentes	11/17/2020
5	Amparo Rodríguez	11/23/2020
6	Michelle Castañeda	11/24/2020
7	Blanca Elisa Acosta Suárez	11/24/2020
8	Laura Lizarazo	11/25/2020
9	Alejandra Jiménez Pulido	11/25/2020
10	Martha Cecilia Gil Rendón	11/26/2020
11	Gabriel Méndez Jaimes	02/03/2021
12	Ilba María Acero de Angulo	07/22/2021
13	María Lucía Martínez Sierra	07/22/2021
14	María Margarita González Gaitán	07/22/2021
15	Marcela Rodríguez	07/22/2021
16	Diego Quintero	07/22/2021
17	Marcela Rodríguez	07/22/2021
18	Marcela Rodríguez	07/22/2021
19	Ángela Patricia Espinosa Marín	07/22/2021
20	Gladys Ramírez	07/22/2021
21	Néstor Javier Gómez Patiño	07/22/2021
22	Paquita Lizarazo	07/22/2021
23	Pilar Rodríguez García	07/22/2021
24	Ramón Ibarra	07/22/2021
25	Ruby Taborda Díaz	07/22/2021
26	Silvia Eugenia López Téllez	07/22/2021
27	Vilma Castillo	07/22/2021
28	Bernardino Carrero	07/22/2021
29	Guillermo de Jesús Giraldo Sánchez	07/22/2021
30	jm2008	07/22/2021

31	Myriam Galvis	07/22/2021
32	Maro Rodríguez	07/22/2021
33	San José Carpintero	07/22/2021
34	Gabriel Giraldo	07/22/2021
35	Sigifredo Chávez	07/23/2021
36	Clara B	07/23/2021
37	jeoc49	07/23/2021
38	Luz Botero Uribe	07/23/2021
39	Silvia Arenas	07/23/2021
40	Mélida Unigarro Miño	07/23/2021
41	Janeth Castillo Muñoz	07/23/2021
42	Ana Serrato	07/23/2021
43	Baruch Yidihs	07/24/2021
44	María Elena García	07/24/2021
45	Rosita Becsa	07/24/2021
46	Hercy Cárdenas León	07/24/2021
47	Luzmila Gil	07/26/2021
48	Olga Santos de Montenegro	07/26/2021
49	Bernarda Victoria	07/27/2021
50	Teresa Castro Cotrino	10/14/2021
51	Cristian Alejandro Rodríguez	10/14/2021
52	Cecilia Camacho	10/14/2021
53	Silvia Flórez	10/14/2021
54	Amparo Sotomonte	10/14/2021
55	Ana Rosario Arias	10/14/2021
56	Clara Lombo	10/14/2021
57	Doris Sanabria, Esperanza Canaria, Fabiola Garzón	10/14/2021
58	Gabriela Cantero Sandoval, Gloria Chavarria Álvarez	10/14/2021
59	Ivonne Delgado	10/14/2021
60	María Gallo	10/14/2021
61	Mariangel Hernández Alvarado	10/14/2021
62	Mercedes Barón	10/14/2021
63	Nubia Romero	10/14/2021
64	Suleima Benavides	10/14/2021
65	Janeth Ojeda	10/14/2021
66	Ruby Villamarín	10/15/2021

67	Compañía Colombiana e Ingenieros Constructores	10/19/2021
68	Gabriel Méndez	11/16/2021
69	Ligia Tovar	11/16/2021
70	Cristina López Gómez	11/18/2021
71	Usuariojm2008	11/26/2021
72	Elba González	01/19/2022
73	Usuarioelroncondegloria123@gmail.com	02/08/2022

ANNEX 10.14

INFORMATION FILED IN RESPONSE TO THE EVIDENCE (*AUTO DE PRUEBAS*)

NUM.	APPLICANT	FILING DATE
1	Claudia Cecilia Puentes Riaño, Policies and Strategy Director for the Attorney General (Fiscalía General de la Nación)	11-06-2020
2	Edgar Leonardo Bojacá Castro/ Chief of the ICBF's Legal Office	11-11-2020
3	José Antonio Carrillo Barreiro/ Legal Office coordinator- Judiciary Defense Group	11-17-2020
4	Luis Andrés Fajardo Arturo- People's Vice-ombudsman	11-12-2020
5	Constanza Dorian Arias Perdomo/ Ombudsman- Huila Region	11-12-2020
6	Germán Gamarra Hernández- President of the National Tribunal of Medical Ethics	11-10-2020 and 11-27-2020
7	Luis Gustavo Fierro Maya- Chief of the Legal Office- Ministry of National Education	11-12-2020

JUDGE CRISTINA PARDO SCHLESINGER'S DISSENTING OPINION TO RULING C-055 OF 2022

With due respect to the decisions of the majority, I dissent in the matter of reference for the reasons I will now present:

This ruling constitutes a negative milestone in the case-law's evolution regarding the protection of life. It is no longer acknowledged and protected to be replaced by the new "autonomous life" category, insufficient to justify the inviolability of the right to life in scopes different from gestation. As it will be seen, it is about a significant banalization of the right to life, whose protection in the gestation stages is inferior to the one recognized to non-human objects such as the environment, animal life, and even private property. Therefore, the idea that there are available and disposable human lifes is introduced. Lifes that may be eliminated for the vainest reason as, despite the good intention declarations made in the ruling, in the decision, no argument was made opposing abortions for reasons such as racism, eugenics, or misogyny (as it is a common practice in countries in eastern countries).

With all the preceding, not only the scope of protection of the right to life is blurred, as initially recognized by the Constituent as an absolute protection right ("the right to life is inviolable"), but it profoundly affects the pillars of the constitutional order, such as the notion of person, the idea of a State that recognizes and does not create the rights inherent to a human person, human dignity, equality, and freedom. The latter is completely disfigured despite being constantly invoked, as it is detached from the duty to respect coexistence.

1. Regarding the suppression of the matter of legal subjectivity of the embryo by means of abstraction and language

From the ruling's reading, attention is drawn to the almost complete omission of any reference to the human being soon to be born whose life ends with an abortion. Because of the use of the language in the ruling, it seems that what ends is a situation (pregnancy) and that what is at stake is an ethereal and abstract value ("the legal asset of life") rather than the life of a human being under gestation. It is a euphemistic language that hides a relevant truth. "Life" does not exist autonomously outside living beings. Consequently, "human life as a value" can only be subsequent to the existence of human beings whose life is valued. And the problems related to the limits and weighing of the right to life are not discussions on the conceptual boundaries of the "idea" of life but are matters that directly impact in the life or death of living beings of the human species.

Moreover, different to other rights referring to people's activity (e.g. the, freedom rights), life is not something that human beings do, but what they are. Someone's life is identified with itself, it is its act of being. And this act does not allow modulation nor temporary restrictions. Freedom may be limited,

and it in fact demands it. One can have more or less freedom. But concerning life, one either lives it or stops living. Thus, pertaining to the right to life, the discussion is about problems regarding the annulment or not of the subject.

2. On the relativization of the subject of rights and the protection of life

Faithful to the spirit of constitutionalism that started in the second post-war of the XX century, reaffirming and updating liberal revolutions, the 1991 Constitution is based on the principle of the existence of unalienable and indefeasible rights inherent to the human condition, where the legal system does not have a creating function, nor a right to dispose. The Constitution is explicit. The Preamble declares the founding right of human dignity within the legal system. Article 5 acknowledges the "supremacy of human unalienable rights of the person and protects the family as basic institution of society", and art. 94 declares that the enunciation of the rights and guarantees contained in the Constitution and in the international conventions in force shall not be construed as a denial of others that, **being inherent to the human person**, are not expressly outlined in it". Furthermore, the preceding article refers to international sources, such as international human rights conventions, in which a person is equalized to a human being (e.g., Interamerican Convention for human rights Art. 1.2) and Constitutional article 14 states very clearly that "*every person has the right to the recognition of its legal personality*".

The general idea of these articles is that neither the person in the legal sense, this is, the legal subjectivity, nor the rights stemming from it are free creations of the legal system. Article 14 is clear. The legal personality can be preached from a preexisting reality that is not created by the system: the person in a real sense. Thus, the legal system cannot do anything other than an act of recognition. Likewise, from this reality (the person) it is preached that its rights are not of the State's creation or disposal and serveas purposes and principles of the political order. Those rights inhere the condition of a person and their validity is prior and independent of the legal system that, if they are not explicitly set forth, it is not an obstacle for them to be recognized as demands the condition of a person.

That, of course, does not say yet who shall be considered a person in the constitutional order but simply refers the definition of the legal personality to the recognition of its natural base. This means it compels us to say that wherever a person exists, there shall be recognition of their legal personality, without prejudice to extending the entity of legal personality to realities that are not naturally personal.

The Constitution denies the State or any of its organs or citizens the prerogative to define completely who are subjects of rights. It is true that concerning some associative phenomena, might constitute different recognition regimes. But what cannot be, in any way, is deciding autonomously on the recognition of the legal subjectivity of the natural person. That is because, accepting otherwise, everything arising from the legal subjectivity, would be simple concessions from the State - that is all rights. Prerogatives that can be granted or revoked. Today the State could say that such or those

human beings have or not the right to education, freedom of cults, or private property, and tomorrow change its mind. Further even, it could simply exclude from the condition of person entire groups of the population, as many legal and judicial instances in history have done (remember, for example, the infamous judicial precedent Dred Scott v. Sandford of 1857, in which the Supreme Court of the United Stated denied the legal subjectivity of the entire Afro-American population). By elementary logic, one can infer that the concession of a State attribution or one of its agents to define and not acknowledge the legal person is not compatible with the State of Law (*Estado de Derecho*), as in such case, it is not the State that is based on the law but the rights that are based on an ominous will of those who hold the power in the State. If it is not the intention to be left at the mercy of the State arbitrariness, which is the founding idea of the State of Law, it is necessary to ascertain what type of reality is the person upon which the whole legal system is founded and whose legal subjectivity the State is compelled to recognize. It should be noted that not all States have agreed on the criterion over which personality is defined. There are models that only recognize it, for example, in an ethnic or national group or some that deny it by gender or age. None of these models seems compatible with the type of State enunciated by the 1991 Constitution. It proscribes all discrimination and, above all, declares itself to be founded on human dignity. Many times, to understand human dignity, reference has been made to the dimensions set forth in ruling T-881 of 2002. However, the requirements thereby indicated (autonomy, material conditions and intangibility of non-pecuniary assets) just like their legal operativity, are expressions of a more profound and prior reality. The truth is that these requirements are applicable by recognizing certain eminence that is natural to the human condition. Eminence means goodness or superior merit and, thus, is a comparative point concerning another type of reality, in this case, the non-human realities. The principle assumes, therefore, the recognition of a certain superiority of the human over the non-human. The Constitution is thus humanist.

The concept of eminence is attributed solely to human beings and not to anything else. The distinction between the human and the non-human world is not simply a qualitative variation but an immeasurable difference in value. The difference between the human, a person, and the non-human, a thing, is immeasurable. The Kantian requirement of not treating persons as mere things is an absolute principle of constitutional law. Recognizing human eminence is complete and unconditional, regardless of historical or contingent circumstances. It applies to all human beings, regardless of age, gender, economic status, moral merit, social class, ethnicity, religion, etc. Wherever there is a human being, there is a being that the legal system acknowledges as superior and inviolable.

The Constitution does not vaguely say that it recognizes the dignity of the person, the citizen, or any other condition other than human. This is, among other things, the reason why we can say that all people enjoy equal constitutional protection. Indeed, the human condition is the only thing that remains unaltered and identical in all persons, while its manifestations are almost infinitely variable.

At this point, it is necessary to distinguish between the human condition and the manifestation of that condition. While the human condition is identifiable insofar as it corresponds to the species homo sapiens, in which all human beings coincide, the manifestation of the human condition has to do with how this belonging to the species homo sapiens manifests itself in time and space in history and circumstances.

On the human condition, we all concur, but on its manifestation, almost no one. Indeed, the human condition manifests differently in Gestation, childhood, adolescence, youth, and old age. And in health and disease. It flourishes depending on the conditions of education, the availability of resources, or the same human decision. Therefore, if the standard for the recognition of rights were the manifestation of humanity, the pretension of equality in rights or at least of fundamental rights would be vain.

The Ruling (ruling) from which I am dissenting, erroneously confuses the human condition with one of its manifestations in a certain period of life, specifically with the probability (always uncertain) of survival outside the mother's womb, which in the judicial ruling is called *autonomy*.

It is necessary to accept that, since conception, a biological individual and a differentiated human organism exists. This does not mean being psychologically free (which some human beings never are) or environmentally independent from others. It means, more simply, a being different from the gametes that originated it and from the mother who carries it in her womb temporarily. The difference between a biological being and gametes can be verified by the difference in the number of chromosomes and DNA and the fact that the life cycles of the gamete and the newly conceived organism are substantially different. While the former seems destined for conception or death, the latter begins a unitary, orderly, and directed vital process projected for decades.

The distinction between the mother and the fetus is clear due to genetic and immunological facts, which will be asserted on later, but above all, because of facts as evident as the current possibility of conception and conservation of the embryo outside the mother, using mechanisms such as *in vitro* fertilization. Additionally, the fetus that it is not part of the mother is also proven by the fact that childbirth is not a mutilation, after which the woman loses her physical integrity, as would happen if she were to lose, for example, a kidney or a limb.

The human organism begins from conception[648], an orderly and constant movement that only ends with death. This process of self-organization and self-movement is called life. And life is a historical

[648] When does human life begin? The moment from which human life begins, and therefore the human being who carries it, is sufficiently clear for contemporary science:

"The scientific data from all disciplines on the beginning of life are unanimous, without there being a single one either in genetics, immunology, biochemistry, embryology, cytology, and physiology, to raise doubts as to when life begins. All the data agree that a new life begins with fertilization or never begins at all. That life begins with fertilization is not a hypothesis but a scientific fact. There is no data indicating that human life does not begin at conception. That is why, in textbooks used worldwide

process that manifests itself in different ways and passes through various stages. Each of them is characterized by a certain appearance and different degrees of dependence - physical, psychic, and environmental - without being able to predict a specific stage in which dependence disappears completely. Thus, before birth, the human being has a complete environmental dependence on his mother, greater in the first months and lesser in the final months. However, the human being is also physically dependent on other beings during infancy, when he needs to be held, fed, and cared for by others, without whose attention he dies.

In maturity, independence is partially accentuated, requiring society and social interaction to satisfy physical and intellectual needs. Then, dependence is accentuated again in old age. These are forms of dependence that are predicated on the act of being and, therefore, are merely circumstantial. In each of these cases, ontological independence is maintained since, although it is a being that needs and will never cease to depend on others, it is not confused with them. It may be in others in a locative way (in the womb or in the arms), it has to be with others for survival, but its being does not merge with that of others.

However, the problem of making personality dependent on independence, which the Ruling predicts, generates several issues. In the first place, it appeals to a probabilistic criterion, therefore uncertain, and to an arbitrary number to determine this possibility. It predicts autonomy when the possibility of external survival is 50% [649]. Why not 49.9%, 40%, 30% ,or 25%? Or alternatively, why not 51% or 60%? Not to mention that if the protection of life is to be measured according to the criterion of the possibility of survival, one might ask when that survival is considered sufficient: an instant, hours, weeks, months, or years? And if this is so, why not extend this criterion to the ill? Is the right to life of a terminally ill patient less important than that of a healthy person? Is that of someone who undergoes a risky operation less than that of someone who does not have to undergo surgery? Do healthy people, in general, have more rights?

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for the teaching of medicine or biology, it is pointed out that the beginning of an individual starts from a single cell called a zygote (...)Fertilization is not a simple combination of genes from the progenitors. It is a process that lasts 24 hours, which begins with the entrance of the sperm and ends with the formation of a new cell with the phenotype of a zygote (…) When the zygote (or new individual) in the unicellular phase is fully formed, is when the formation of the new genome, which allows the development of a new individual, is completed (...).
*The specific genome that is formed at the end of the constitution of the zygote, is the same in all cells and throughout life. This specific DNA sequence makes it possible to identify an individual, for example, in criminology and gives it its biological identity (...)The other elements of the body undergo continuous change: proteins, cells, capacities, functions, size, and appearance of the body change, and the only thing that remains unchanged from the end of fertilization until death is the genetic information formed in the zygote, which gives biological identity to the individual and determines all the biological stages of a being's life (…)The zygote has a unique organization and is very different from any other cell. It is not just another cell since its unique organization allows it to develop into a complete individual, being the unicellular stage of a new being. (*Javier Marcó Bach. *El Principio de la vida humana.* School of Medicine of the Panamerican University of Mexico. Available at: http://www.medigraphic.com/cirujanogeneral).

[649] The ruling I am dissenting from states the following about this percentage: "*The concept of autonomy, which is associated with the idea of prohibiting the practice of abortion with consent at the moment in which it is possible to consider that the dependence of the pregnant person on life in formation is broken, that is, when a greater probability of autonomous life outside the womb (close to 50%) is accredited, circumstance that has been evidenced with greater certainty from the 24th week of gestation, which corresponds to the most advanced stage of embryonic development*". Constitutional Court. Press release of February 21, 2022.

Furthermore, the Ruling states that the defense of life is a gradual condition related to development. That is to say, the greater the development, the greater the possibility of extrauterine survival, so the greater the development, the greater the protection of life.

According to this logic, the newborn's life has less protection than that of the infant, and that of the latter, has less protection than that of the adult. This is not equal rights but a form of discrimination barred by the Constitution, since the Constitution only allows differences in treatment to protect the most vulnerable and, therefore, the most dependent. And we cannot lose sight of the fact that dependency is an object of protection and not of unprotection in the legal system.

To justify the protection of life based on environmental or circumstantial dependence is to deny the protection of life altogether since there is no such thing as environmental independence. Indeed, environmental dependence can be defined as the need for specific physical conditions that allow functions such as nutrition, oxygenation, or development. These needs are predicated on all human beings who, for example, need a certain quality of air and food to subsist. The aridity of the soil or severe air pollution can be as lethal for the adult as the deprivation of the uterine environment for the human being in gestation. The environmental dependence of the unborn on the mother is similar to that of the born child on the incubator it may potentially need.

It should be noted, moreover, that this judicial precedent not only confuses the human condition with autonomy but also, in a way, reaffirms the idea that total subjectivity (legal personality) is attained at birth, and the previous instances of life are simply a "legally protected good". Although birth entails a greater degree of "independence", it cannot even be considered environmental independence but simply a change of location. Whoever is born alive, by doing so, demonstrates his viability to be alive and, therefore, does not differ in aptitude for extrauterine life from that which he himself had an instant before birth. The only thing that changes is the fact of being "inside" or "outside" the maternal enclosure. The neuronal, organic, and sensory development, as well as the size, weight, and other aspects, are the same. And yet, the position taken by the Court makes the greatest qualitative difference that can be made (person and non-person), depending on a simple change of location (being inside or outside).

If it were to be argued that, in this case, the difference is established not by the recognition of a genuine difference but by a convention, the conclusion would be even worse since it would have to be assumed that the word of the legislator, judge, or in general, of the decision-maker would have the power to create the person out of nothing, to transform the thing into a person, by means of will and language. This has much more to do with magical thinking than juridical rationality.

If, originally, the juridical personality rested on the common and universal, now it has been replaced by an arbitrary criterion (a number, moment, or position fixed without justification) or by virtue of a gradual condition in which all differ (independence).

2. The absolute voiding of the "value of life" of the unborn.

Apart from relativizing legal personality by magically or arbitrarily denying it to the unborn, the Court does not seem to take too seriously the recognition of nascent life as a "value" or "legal good".

In fact, according to the Court, although the life of the unborn is not properly a right, it is a value, and yet, if one examines the degree of protection the Court is willing to grant to such value, it is easy to see that not only is it not a strong protection but, in fact, it is a protection inferior to the one given to legal goods which, if one takes the principle of human dignity seriously, cannot be considered higher values than human life.

In other dissenting opinions, I have stated that by outlawing sport hunting outside specific cultural contexts and, on the other hand, allowing the elimination of human beings in gestation, the Court implicitly recognizes a higher hierarchy to certain forms of subhuman life than to unborn human life. Moreover, the Court does not object to the prohibition and criminal punishment of justifiably prosecuted conducts such as animal cruelty or environmental damage. But the most radical harm that a human being can suffer, which is the loss of his own life, is accepted without hesitation and even, according to certain rhetoric typical of the *obiter dicta* of constitutional jurisprudence, attempts to elevate it to a fundamental right.

It is important to note that we are not necessarily dealing here with bloodless deaths. There is scientific evidence of fetal suffering, and in certain stages of pregnancy, included within the period of total decriminalization set by the Court, abortion must be performed by invasive and necessarily painful techniques.

And beyond that, with the acceptance of this new regime of total decriminalization until the very late date of twenty-four weeks, the Court completely breaks with the previous weighting, which at least required a compelling reason for the performance of the abortion and moved to the acceptance of any reason to abort (or at least not to suffer a penalty for abortion). According to the prior jurisprudence - which at some point I criticized - although human life in Gestation did not have the same value as that of the child already born, at least it had some degree of protection. It could not be futilely attacked. The criminal law required men and women (since the criminal type did not have a qualified subject) to treat this legal right with a minimum seriousness. But under the new regime, before the 24th week, it seems perfectly indifferent whether an abortion is performed for no reason or worse, for reasons incompatible with the spirit of the Constitution, such as, for example, illness, race, or sex.

The Court has not allowed such arbitrariness with respect to any other protected legal property. It allows greater arbitrariness with respect to a living individual of the human species than with respect to a human corpse, which is still protected by the legal and penal system. Moreover, the theft of objects worth less than ten minimum wages (punishable by up to two years in prison) seems to be recognized as more severe than the voluntary, unnecessary, and arbitrary destruction of life.

Given that, in the best of cases, the majority of the Constitutional Court seems perfectly indifferent to the fact that a nascent life is eliminated for any reason whatsoever, without the existence of necessity, situations of special motivation, or anything other than the desire that such a life should not continue to exist, it is worth asking whether affirming that it is a "protected legal good" is not instead a contradiction in terms.

3. The elevation to absolutes of an extra-constitutional category and the adoption of an idea of freedom detached from the requirements of coexistence.

As we have seen, the ruling from which I am dissenting weighs the legal rights involved in the case of abortion. The first reason for this error lies in the undervaluation of the right to life of the unborn human being, which, in fact, is not even fully recognized as a valid right. The second reason lies in the excessive weight given to the sexual and reproductive rights of women.

Strictly speaking, sexual and reproductive rights are not an autonomous constitutional category. The term is alien to the Constitution, and its introduction into jurisprudence has been interpreted by international doctrine and soft law. Instead, what exists is a series of rights linked to protection against discrimination and violence based on sex, sexual components of rights such as health or integrity (e.g., sexual and reproductive health), and rights linked to the family, such as the free choice of the number of children.

That said, none of these rights has an absolute character, and all admit modulation and weighting. If they are authentic rights, they must be lived within the framework of coexistence and harmonization with the rights of others and with the social order. This is especially true of rights that are conceived as orbits of freedom or disposition, in respect of which no legal tradition in history has ever asserted that they can be unlimited.

Thus, rights such as the right to self-determination of the number of children are limited by the possibility of exercising the right without affecting the rights of another. Just as there is no doubt that this freedom cannot reasonably be extended to infanticide or the attempt against the life of the adult child or that it cannot cover conduct such as the forced sterilization of the couple, it must be admitted

that, in the case of abortion, its "choice" is invalid, since it necessarily eliminates the subject in gestation.

It may be objected that between the first and the last cases, there is the difference that in the case of abortion, the woman acts on her own body, over which she has control. In fact, the slogan in favor of total permission for abortion is the right to decide over one's own body or to do with it as one wishes. Two fallacies are hidden in this reasoning. First, as explained above, abortion is an act directed at the unborn child's body, which is only locationally in the mother's body. It is the body of the unborn child that is affected and then eliminated. The action is directed towards the unborn child, indeed, in the mother's body, but not on it. In this regard, the pregnant woman can just as little allege the legitimacy of the action that attempts against the life of the unborn human being as the woman who intends to try against the body of an infant when she is carrying it in her arms. The two cases are undoubtedly different ways of being situated in the body of another person. On the other hand, the law does not recognize absolute disposition over one's own body. The human body cannot be sold as merchandise, and if someone tried to sell his own body or one of its organs, the contract would not be recognized by the law. Much less can it be predicated availability of the body to sexually abuse another person. All these cases, even though they present obvious differences with abortion, demonstrate the general principle that governs the interpretation of the "right over one's own body": it is limited by the rights of others and the legal order.

I believe it is necessary to note that recognizing orbits of freedom that allow the arbitrary disposal of the life of another introduces a dangerous novelty in the legal system: for the first time, a right to freedom that is not limited by the minimum duty of coexistence is recognized. A freedom that does not coexist is freedom incapable of founding social coexistence, for apparent reasons. The freedom to dispose of life as if it were private property, or with greater arbitrariness than is required in the case of private property, is not a freedom that permits co-living, that is, living with. It is a freedom that carries within itself the germ of violence.

It is incongruent that, in a country that has been plagued for more than sixty years by the pretension of disposing of the life of others when it is inconvenient for one's own projects, this type of decision is considered an achievement regarding the most fragile life: the unborn human being. This is not a step forward, nor is it progressive. It is a reaffirmation of a culture that instrumentalizes the life of others and relativizes human dignity.

4. The counterproductive effects of abortion on women's freedom and men's rights and responsibilities.

Although this ruling seeks to protect a woman's right to self-determination of the number of children, it is necessary to note that it can potentially have the direct opposite effect.

The more maternity is made dependent on the "choice" of the woman, the greater the possibility that she will be unduly pressured to "choose" not to be a mother.

The idea that every woman has the right to choose not to be a mother will lead to an increase in cases in which women are left free to choose between motherhood and career or between motherhood and a partner. In other words, as long as the culture of acceptance of the right to choose is insisted upon, the situations in which women are pressured to make this choice will multiply.

Moreover, the greater the concession of the freedom to decide over the life of the unborn, the greater the difficulty in (i) coherently substantiating the father's responsibility and (ii) defending the father's right to have children.

In the first case, male irresponsibility will be stimulated by the fact that, strictly speaking, the cause of birth is not the sexual act of the man but the female refusal to abort, so the logic of the imputation of paternal duties will be weakened, at least sociologically. In the second case, if we insist on the idea that the child's life is the object of full maternal disposition, the right to decide the number of children is shifted from the couple to the woman. The man is reduced to a mere third party who must accept the disposition of his child's life without even being required to give a reason. He is thus deprived of a right that the Constitution recognized, in principle, without distinction as to sex.

5. Non-affectation of the principle of equality

One of the arguments recurrently used to support claims in favor of decriminalizing abortion or recognizing a right to such conduct is that its prohibition violates the right to equality. This claim is presented in different ways. In some cases, emphasis is placed on the fact that, since only women can become pregnant, this leads to a difference in the exercise of sexuality, which the law is obliged to level out. This argument is usually linked to the assertion that while men have the right to sex without consequences, women have to assume the burden of pregnancy and motherhood. In connection with this line of argument, it is argued that only women are barred from access to a health service, such as - according to those who adhere to this thesis - abortion. Finally, others argue that the criminal offense of abortion penalizes women exclusively or disproportionately for exercising their sexual rights.

Before responding to these arguments, it is useful to distinguish between two different cases of inequality to which the legal system reacts in different ways. There are inequalities that are inherent in the reality of persons and things. People differ from each other in age, appearance, capacities, sex, attitudes, aptitudes, etc., without much difference being considered negative or having a legal connotation. On the contrary, it is the basis of social diversity, which the Constitution accepts as a positive value. However, there are differences in the treatment and allocation of social opportunities, which must be proscribed when they constitute unjustified preferences or discrimination. Now, in

developing the legal principle of equality, the State must ensure that pre-legal differences do not give rise to forms of discriminatory treatment and, therefore, proscribe or impede the enjoyment of constitutional rights.

The fact that pregnancy is an exclusively female phenomenon does not in itself discriminate in favor of or against women. It is part of the constitutive structure of human sexuality. And unless biased and patriarchal explanations are accepted, this fact is not indicative of any kind of female "weakness" or "deficiency," any more than it can be understood that men are disadvantaged by not being able to give birth. Thus, the fact that only women can become pregnant is a pre-legal factor that neither favors nor discriminates. It is quite another matter if the possibility of becoming pregnant gives rise to unjustified differential treatment, such as, for example, those related to employability, pay, or the conditioning of job permanence on the commitment not to become pregnant. These differences are obviously prohibited by law.

Consequently, the state of pregnancy, without being an illness or defect, constitutes a biological and social circumstance that entails certain specific needs (medical care, monitoring, psychosocial support, working conditions) and a special vulnerability. In addition to the above, it is historically verifiable that this condition has been linked to negative forms of discrimination. Because of this, it is justified that the State has measures of positive discrimination and reinforced protection, such as those that exist in our legal system.

In this regard, it is appropriate to examine in detail the arguments regarding equality. As we have seen, the exclusivity of the possibility of pregnancy for women neither favors nor discriminates legally. Whether this entails differences concerning the exercise of sexuality and whether these differences are legally relevant is another matter. The first alleged consequence of the fact that only women can become pregnant is that while the exercise of female sexuality seems to be necessarily cautious, the exercise of male sexuality can be spontaneous, unrestricted, and without "fear of the consequences". Now, while it is true that men should not and cannot assume the physical experience of pregnancy (which is why they are not subject to the unique and reinforced protection that the law requires in this case), it is not true, however, that the legal system authorizes them to an irresponsible exercise of sexuality without having to look at the consequences. The very idea that a man can disregard the consequences of his sexuality justifies irresponsible paternity, which is subject to criminal sanction in the legal system. As in the case of any other human activity, the exercise of sexuality, on the part of both men and women, requires the burden of assuming the consequences (which in the case of pregnancy does not necessarily mean assuming the upbringing of the child or the exercise of maternity, given that, under certain conditions, figures such as adoption are permitted). A different treatment simply disregards freedom.

In addition, there are now ways to avoid pregnancy that do not compromise the life already conceived, and once pregnancy has occurred, it is not necessary to assume the duties of parental authority. In fact, for many years, there have been various methods of birth control, both for male and female use. Thus, it can be said that, significantly since the sexual revolution, the prospect of unwanted pregnancies has been substantially reduced, although it is true that not all birth control methods are equally effective.

Claiming that the prohibition of abortion implies an imbalance in access to health care insofar as it proscribes a "treatment" that only women need presupposes the assumption that abortion is, per se, a medical and curative act. In this regard, it should be noted that, even among those who defend abortion, a distinction is made between forms of "therapeutic" abortion - that is, with a curative purpose - and others that are not. Now, in the first case, I consider that although the act is performed with a mediate medical purpose (since the immediate end is the death), it always involves a disproportion that makes it unjustified since even in cases in which the aim is to save the life of the pregnant woman, the possibility of healing or relief for her prevails over the certain death of the unborn child. And also, because the action is directly aimed at terminating the pregnancy, which is not in itself a disease. In any case, this is not the case on which the Court ruled since abortion for curative purposes was not only included within the grounds for decriminalization established by Court Ruling C-355 of 2006 but had already been previously provided as grounds for dispensing with the application of the penalty.

The "medical service" of abortion that, according to the plaintiffs, was considered unfairly denied by the general prohibition of abortion was that which had no direct relation to the woman's health. Therefore, the alleged discrimination did not exist unless pregnancy itself could be considered a disease, which has been repeatedly rejected by the jurisdiction and has no scientific support.

With respect to the fact that the criminal offense of abortion affects women in a special way, the following should be noted. In the first place, it is not true that the crime in question had a qualified active subject on the basis of sex. Although the first clause penalizes the woman who causes her abortion, the second clause specifies that the same penalty will be incurred by the person who, with her consent, carries out the conduct. Thus, only a partial reading of the article allows us to argue that there is an active subject qualified on the basis of sex. An alternative wording of the same criminal offense could be *anyone who voluntarily causes the death of the unborn child, either by causing his own abortion or by performing this action with the consent of the pregnant woman, shall be sentenced to imprisonment....*

Nor is it true that it is a crime whose existence in the Criminal Code entails a statistically disproportionate punishment of women, nor would it necessarily be discriminatory if this were the

case. In the first place, because, as can be corroborated by INPEC figures, the number of Rulings for abortion is significantly low, and in any case, the ruling fall more on men than on women[650]. In addition, the fact that a criminal offense is statistically committed by persons with a particular condition is not necessarily discriminatory. The contrary would lead to systematic discrimination against men, who make up the majority of those convicted of almost all the crimes covered by the Criminal Code.

6. The inappropriateness of criminal law arguments as a definitive argument.

It has been argued that the general prohibition of abortion before the 24th week contravenes the notion of criminal law as the "definitive argument" (*ultima ratio* principle*)* in democratic societies. The foregoing can only be reasonably sustained on the assumption that abortion is not very serious and harmful at present, which, as we have seen, requires a relativization of the recognition of the person and the affirmation of human dignity.

Only by arguing that the legal good affected by abortion before 24 weeks is less important than life in other stages can it be accepted that its criminal protection affects the ultima ratio principle. Indeed, this principle establishes that criminal law should be reserved only to deal with the most harmful conduct to important legal interests and that criminal sanction should not be applied when it is not necessary. It also means that criminal law constitutes the last line of defense of legal interests, i.e., that it is reserved for non-criminal deterrents who have not succeeded in "convincing" to act otherwise.

If there is no compelling reason to consider that human life is worth less before the 24th week of Gestation, there is also no reason to consider the conduct less injurious. Nor is there anything that excludes the possibility of appealing to figures of general criminal law to dispense with the penalty when it is not necessary (both regarding this crime and any other).

More attention is required with respect to the third Statement. In a State governed by the rule of law, the policy of protecting legal rights cannot rely solely on criminalization. This is true not only for abortion but for all other crimes. It is necessary to address the root causes of the behavior and develop deterrence programs, for example, through public awareness campaigns. However, this does not mean that such measures should or necessarily can replace criminal protection.

[650] Figures taken directly from the INPEC website show that currently, there are 11 people deprived of liberty in intramural detention for the crime of abortion. Of these, 7 are men who have been convicted, 3 are men who are accused, and 1 is a woman who has been convicted. Additionally, there is evidence of other related crimes:

- Abortion without consent: 14 men, 0 women.
- Abortion with unintended consequences (preterintentional): 2 men, 0 women.
- Injury to the fetus: 4 men, 0 women.

An example may be illustrative. Let's consider corruption, for example. It is a phenomenon with multiple causes, and it is clear that a policy based solely on criminalization is doomed to fail. In fact, as long as an excessively lax attitude towards this conduct persists, criminal protection will undoubtedly be insufficient. However, the fact that all other forms of deterrence and combating corruption are necessary does not mean that criminal defense is illegitimate or unnecessary. It is well known that there is still a long way to go in the fight against corruption and that more non-criminal measures are needed, but this does not imply that criminal offenses protecting public assets are unconstitutional or redundant.

In fact, even accepting the need for non-criminal protection, it can be assumed that there will always be a core of people for whom non-criminal deterrence does not and will not work. The penalty is directed precisely at the core of people. If a legal interest is truly valuable, then relying exclusively on non-criminal deterrence strategies is not satisfactory. If nascent human life is indeed a legal interest that the State takes seriously, the State cannot simply wait for non-criminal deterrence strategies (such as protection and subsidies for pregnant women) to work and passively observe, as this interest is harmed when deterrence is ineffective.

About the existence of the phenomena of constitutional *res judicata*.

Although the previous reflections justify my disagreement with the decision, it is necessary to clarify that the majority ignored the judicial phenomenon of *res judicata*, which prevented it from pronouncing on the merits on this occasion.

The majority argued that despite the existence of Court Ruling C-355 of 2006, it was appropriate to make a pronouncement on the merits because (i) the phenomenon of constitutional *res judicata* did not occur, given that the Court did not evaluate the charges in the aforementioned ruling, and in any case, (ii) a variation was evident in the normative context in which the challenged norm is inserted, and (iii) a modification in the material meaning of the Constitution.

In particular, the majority argued that there was no constitutional res judicata with respect to the charges related to the disregard of (i) the obligation to respect **the right to health and reproductive rights** of women, girls, and pregnant people; (ii) **the freedom of conscience** of women, girls, and pregnant persons, especially concerning the possibility of acting following their convictions regarding their reproductive autonomy; (iii) the preventive purpose of penalties and the constitutional requirements attached to the **ultima *ratio* character of criminal law**, and (iv) **the right to equality of women in situations of vulnerability and irregular migration status**.

In my opinion, such charges were formulated in the lawsuit resolved through Court Ruling C-355 of 2006 and were indeed analyzed therein.

Indeed, in 2006 the Ruling was motivated by three demands. In the first one, the main petition was total decriminalization, and only in a subsidiary way a modulation of the abortion regime according to the proportionality criteria was requested. Monica Roa's lawsuit and the other joint lawsuits that were resolved in Ruling C-355 of 2006 sought the total decriminalization of abortion.

The main petition was the following, according to a summary made by Causa Justa at the time: *In this case, the Court is asked to eliminate the crime of abortion* ***because it is unjust for the most vulnerable women****, inefficient and* ***violative of women's*** *and health personnel's rights.* ***Instead of using criminal law, there could be more and better health policies*** *that contribute to preventing deaths and complications from unsafe abortions and unwanted pregnancies, as well as comprehensive sexual education programs, information, access, and availability of contraceptive methods.*

As we can see, the first lawsuit (Mónica Roa) already contained arguments against total criminalization based on women's fundamental rights. For example, the incompatibility of the crime of abortion with the **right to reproductive autonomy and its discriminatory nature for prohibiting a health service only to women**. The second lawsuit (Pablo Jaramillo) advocated for total decriminalization, to the point that one of the arguments to also request the unconstitutionality of penalty reductions was that if the general rule was declared unconstitutional, it would make no sense to maintain these exceptions. In the third lawsuit, there were arguments regarding how the total criminalization of abortion led women to seek unsafe abortions (**especially low-income women**, young women, and girls), which are very dangerous to women's **health**. Regarding **criminal law as a *ultima ratio***, Court Ruling C-355 of 2006 analyzed the charge of whether criminal law was the best option to solve the problem of abortion, and the Attorney General's Office introduced considerations in this regard. The judgment, in that sense, said that legislative configuration freedom had limits and stated, literally, the following: *"On the other hand, the principle of proportionality operates within the criminal type itself since, due to the* ***ultima ratio nature of criminal law*** *in a social rule of law state, criminal sanctions as the maximum intervention in personal freedom and human dignity - axiological foundations of this state model - must be strictly necessary and reserved for socially significant conduct and, in any case, must be proportionate to the nature of the punishable act."*

Therefore, the charges relating to the disregard of health rights, reproductive rights of women, and equality, especially of the most vulnerable women, were brought up in the lawsuit and studied in Court Ruling C-355 of 2006, as well as the accusation of violation of the proportionality principle by resorting to criminal law as *ultima ratio*, without having established less restrictive measures to guarantee women's rights.

Regarding the violation of freedom of conscience and religion due to the criminalization of abortion, in the 2006 lawsuit, the charge was considered by the Sisma Mujer Corporation, the Office of the Attorney General of the Nation (*Procuraduría General de la Nación*), and the Ministry of Social Protection, who argued in their interventions that duties based on moral or religious stereotypes could not be imposed on women. The Sisma Mujer Corporation directly appealed to freedom of conscience and the secularism of the State. The Ruling analyzed this point, especially regarding the situation of a woman who has been raped. In this regard, it stated: "*As noted, when a woman is raped or subjected to any of the procedures referred to in the accused paragraph, her rights to dignity, privacy, autonomy, and freedom of conscience are abnormally and extraordinarily violated, as it is difficult to imagine a more serious violation against them and also one that is strange to peaceful coexistence among equals."*

Thus, the charges that are now being analyzed had already been studied in Court Ruling C-355 of 2006, so in the opinion of the undersigned, the legal phenomenon of constitutional res judicata was present, which prevented the Court from issuing a new substantive pronouncement. However, as mentioned, the Court justified the new pronouncement by arguing that, in any case, a modification in the material meaning of the Constitution and a variation in the normative context in which the challenged norm is inserted was evident. None of this was happening, as I will explain.

However, according to the Court Ruling from which I dissent, there would be a modification of the normative and jurisprudential environment subsequent to Court Ruling C-355 of 2006 that would modify the control parameter. This change is explained as follows by the dissenting judgment:

- Firstly, there *is a profound jurisprudential transformation regarding the consideration of the right to health as an autonomous fundamental right, in particular, in the cases of Court Rulings T760 of 2008, C-313 of 2014, and T-361 of 2014.*

While the above is true, those cases do not even refer tangentially to the right to health in relation to abortion. Thus, citing them to support "*a modification of the material meaning of the Constitution"* regarding the protection of the unborn life and consented abortion turns out to be an insufficient explanation.

-Secondly, the majority argues that *after 2006, and through the resolution of specific cases, constitutional jurisprudence has expanded its understanding regarding the constitutionally relevant issue of consensual abortion, based on the close relationship between behaviors that still constitute a criminal offense and those that do not.*

In this regard, it should be noted that such rulings resolved particular cases without effect towards all (*erga omnes*), among equals (*inter pares*), or towards those who were affected without being a party (*inter comunis*) and, therefore, do not modify the abstract and objective constitutional interpretation contained in Court Ruling C-355 of 2006.

Furthermore, the majority decision considered that there are international documents, of different normative value, which, unlike in 2006, have advocated for the decriminalization of abortion beyond the three legal grounds defined in Ruling C-355 of 2006 and, therefore, have an impact on a new constitutional understanding of the phenomena. Hence, such a claim is sufficiently supported by International Human Rights Law. Furthermore, it adds that subsequent to Court Ruling C-355 of 2006, multiple international organizations, including the Committee on Economic, Social and Cultural Rights, the Special Rapporteur ("*Relator Especial*" in Spanish) on the right of everyone to the enjoyment of the highest attainable standard of health and the Committee on the Elimination of All Forms of Discrimination against Women, have raised the need to decriminalize abortion as a measure in favor of the health and sexual and reproductive rights of this population, as well as a way to act to prevent violence against women.

In this regard, for the undersigned, no legally binding international documents bind Colombia to decriminalize abortion *"beyond the three legal grounds defined in Court* Ruling C-*355 of 2006".* The documents cited in the Court's ruling from which I dissent are not "*international treaties and conventions ratified by Congress, which recognize human rights and forbid their limitation in states of exception*" and, for that , prevail in the internal order in terms of Article 93 of the Constitution, that is, they do not form part of the block of constitutionality. All of them belong to the category of soft law and, as such, do not generate this kind of commitment and do not enter the block of constitutionality.

Regarding the jurisprudence of international courts, it is true that the authentic interpreter of the ACHR is the Inter-American Court.[651] Hence, the Constitutional Court has recognized the importance of the jurisprudence of the IACHR Court to interpret the ACHR as an instrument that is part of the block of constitutionality.[652] However, this *"does not imply integrating the jurisprudence of the Inter-American Court into the block of constitutionality*" but simply recognizing its value as a "*relevant hermeneutic criterion to be considered in each case*"[653]. The same is true in the universal system.

Consequently, the argument that there would be international documents that, by being integrated into the constitutional block, would allow us to consider that the parameter of constitutional control

[651] *Cfr.* Ruling SU-146 of 2020.
[652] A consequence derived from the legal value of the inter-American jurisprudence is that "the considerations of said Court [IDH] regarding the obligation of local authorities to take into consideration not only the text of the treaty but also its judicial interpretation, raises to the [Constitutional] Court the duty to articulate the institution of constitutional *res judicata* with the need to harmonize, to the greatest extent possible, international treaties on human rights and domestic law as long as they are integrated into the block of constitutionality ". Ruling C-500 of 2014.
[653] In Ruling C-327 of 2016, the Court held that the jurisprudence of the I/A Court HR "serves as relevant criteria that must be taken into account to determine the scope and content of the rights and duties that are enshrined in the domestic legal system".

regarding the protection of the life of the unborn child has changed is unfounded. Nor has there been a constitutional reform in this regard.

Finally, in the majority's opinion, *"*a modification in the material meaning of the Constitution can be appreciated in terms of the understanding of the constitutional problems involved in the crime of consensual abortion".

On this alleged change in the meaning of the Constitution, it is worth asking whether the Constitution can vary its content by way of interpretation in a matter as relevant as the existence of the right to human life. If the text of our Constitution recognizes the fact of rights that are inherent to the human person - meaning it does not establish them, it does not create them, since Article 94[654] cannot be understood in any other way- is it possible for the Constitutional Court, as the interpreter of the Constitution, to understand that there has been a social change that leads to admitting that certain human beings, because of their dependence on others, lack the right to life?

The Court's majority position has established by interpretation that the life of human beings in Gestation only deserves recognition and legal protection from the twenty-fourth week. Nonetheless, the Constitution proclaims that it does not establish the right to life but rather recognizes it as inherent to the human person. It also states that *"Every individual has the right to have their legal personality* ***recognized***."[655] This being the case, it is contradictory for the Court to abrogate the power to establish that which the constituent itself understood it could only recognize. Human life as a right constitutes an axis of the Constitution, whose reform replaces it. However, beyond that, this possibility of modifying the fundamental guarantee of the legal order puts coexistence itself at risk. No one in a State of law can determine who has the right to live and who does not. This is a pre-constitutional guarantee inherent to human dignity.

In the present case, it was inappropriate to appeal to evolutive interpretation for two reasons. First, there are matters that are not subject to constitutional reform since they are essential axes of the Constitution. If this prohibition of reform is predicated on the activity of the primary constituent itself, then it is also predicated on its interpreter, which is the Constitutional Court. As mentioned earlier, the essence of the Rule of Law lies in the recognition of legal requirements prior to the State and against which it does not have the power to create but only to recognize. Moreover, it has been established that the essence of the Constitution is based on respect for the individual and the recognition of the demands that derive from it. If this is the case, neither the people, their representatives, nor the constitutional jurisdiction have the prerogative to alter the person's legal definition or diminish the requirements derived from human dignity. Any reform in this regard will be substitutive for the

[654] **Article 94 of the Constitution.** *The rights and guarantees alluded to in the Constitution and in ratified international agreements should not be construed as a denial of other rights that, being inherent to the human being, are not expressly mentioned in these instruments.*
[655] Article 14. Political Constitution.

Constitution, including forms of interpretation that depend on the opinions and moral sentiments of the people.

Now, for the sake of argument, admitting that the Court could make an evolutionary interpretation of the Constitution by virtue of an alleged social change, which would lead it to understand that human life in Gestation only deserves protection as of the 24th week, then this social change should have been rigorously proven.

However, statistics in Colombia do not seem clear regarding the social change in the perception of abortion legalization. According to a very recent international IPSOS[656] survey of November 2021 - very close in time to the date of adoption of this Ruling - 65% of Colombians agreed that abortion should be limited to very exceptional situations or banned altogether. This international study by IPSOS, which brings together 27 countries, measures what is called the level of "Favorability towards the legalization of abortion". According to this study, 65% of Colombians agree that abortion should NOT be liberalized or legalized: it should be limited to very exceptional situations or prohibited altogether.

Thus, it was not possible to consider, as this Ruling did, that there had been a modification of the block of constitutionality or a change in the interpretation of the Constitution that would detract from the *res judicata* nature of Ruling C-355 of 2006, allowing for a new pronouncement.

In the above terms, I express the reasons for my disagreement.

CRISTINA PARDO SCHLESINGER

Magistrate

[656] IPSOS, according to Wikipedia, is “a multinational market research and consulting firm headquartered in Paris, France. The company was founded in 1975. It is the third largest research agency in the world.”

DISSENTING OPINION TO RULING C-055-22

Reference: Ruling C-055 of 2022
Dockett. D-13.956

Reporting judges: Antonio José Lizarazo Ocampo and Alberto Rojas Ríos

With the usual respect for the decisions made by the majority of the Full Chamber of the Constitutional Court, I would like to explain the reasons why I decided to dissent the ruling C-055 of 2022. Firstly, I will explain why I believe that the allegation of violation of the right to equality of women in situations of vulnerability and irregular migratory status did not meet the minimum requirements of suitability, and consequently, the Court could not pronounce on the substance of this matter. Secondly, I will argue why, in my opinion, there is a constitutional *res judicata* regarding the allegations of violation of the right to health and freedom of conscience, as well as the constitutional principles on the purposes of punishment and the minimum constitutional standards of criminal policy. In my view, the Court should have followed the ruling in ruling C-355 of 2006 concerning these allegations. Finally, without prejudice to the above, I will refer at length to the essential concerns I have regarding the reasons why the majority of the Full Chamber decided to declare the conditional constitutionality of article 122 of the Criminal Code and issue a call to the Congress of the Republic and the National Government.

1. The allegations of violation of the right to equality of women in situations of vulnerability and irregular migratory status did not meet the minimum requirements of suitability, and consequently, the Court should not have pronounced on the substance of this matter.

In my opinion, the allegations of violation of women's right to equality in situations of vulnerability and irregular migratory status lack certainty, relevance, and specificity. As these allegations were jointly analyzed by the Court, I will refer to them as if they were a single allegation.

(i) The allegation does not satisfy the requirement of certainty.

The reproach is not directed against the legal proposition established in article 122 of the Criminal Code, which was conditionally declared constitutional through ruling C-355 of 2006, but against the circumstances that, according to the plaintiffs, arise from said provision. Therefore, the requirement of certainty for a constitutionality allegation is not met.

According to the plaintiffs, on the one hand, the effects that the crime of abortion has on women in situations of vulnerability "are different". They refer, in particular, to "how the lack of information, availability, and confidentiality in the provision of VIP services has a disproportionate and discriminatory impact on certain vulnerable groups of women and girls that are themselves already vulnerable". On the other hand, they argue that the said crime generates an "indirect discrimination for women in irregular migratory situations because the requirements to access to VIP services that it imposes become disproportionate for them*"*. Among other circumstances, they argue that the irregular situation of some migrants exposes them to being victims of sexual violence, difficulties in filing a criminal complaint, and the impossibility of proving any of the legal grounds for having a legal abortion.

In accordance with the ruling of the Constitutional Court in C-1052 of 2001, for the "*reasons supporting the charges of unconstitutionality to be true, it means that the claim must be based on a real and existing legal proposition*". Thus, "*the exercise of the claim of unconstitutionality supposes the confrontation of the constitutional text with a legal norm that has a verifiable content based on the interpretation of its own text*" (emphasis added). The reasons on which the alleged violation of the right to equality of women in situations of vulnerability and irregular migratory status are based do not derive from the norm established in Article 122 of the Criminal Code, but rather from the circumstances or difficulties that some women face in accessing legal abortion, according to the plaintiffs' criteria.

Therefore, in my opinion, the charge does not meet the requirement of certainty. And for this same reason, I disagree with the majority of the Full Chamber now allowing the analysis of the constitutionality of a norm based on alleged indirect discrimination that, in any case, if it exists, is not due to the objective scope and content of the norm, but to possible structural and practical problems in handling certain situations.

(ii) The allegation does not meet the requirement of relevance.

The reproach is based on subjective arguments of the plaintiffs, instead of being supported by a confrontation between the challenged provision and the superior norm. For this reason, the allegation does not meet the requirement of relevance of a constitutional claim.

In their view, the plaintiffs describe situations that occur in practice in relation to women in vulnerable situations, particularly those in irregular migration situations, which they attribute to the existence of the norm. Specifically, they refer to the lack of information, availability, confidentiality, and obstacles to meet the requirements to access legal abortion. Following the jurisprudence of this Court, "arguments that are limited to expressing subjective points of view in which […] 'the plaintiff is not really accusing the content of the norm but is using the public action to solve a particular problem, such as the improper application of the provision in a specific case' are unacceptable" Therefore, for

the undersigned judge, circumstantial arguments such as those presented by the plaintiffs are not relevant to proceed with a constitutional study. In the grace of discussion, if it were proven that situations such as those described do occur, the public action of unconstitutionality is not the appropriate mechanism to rebut them. In that sense, the charge is not pertinent.

(iii) The argument does not meet the specificity requirement.

The plaintiffs did not explain specifically and directly why Article 122 of the Criminal Code violates the equality right of a particular group of women. Therefore, they did not meet the specificity requirement.

While it is true that the plaintiffs describe the practical difficulties and obstacles that some women may face when seeking access to an abortion, this is an indirect and broad reproach that fails to meet the required specificity to constitute a constitutional challenge. In this regard, it should be recalled that "*[*t]he constitutionality review is based on the need to establish whether there is an objective and verifiable opposition between the content of the law and the text of the Political Constitution, and it is unacceptable that the constitutionality should be resolved based on 'vague, indeterminate, indirect, abstract, and global' arguments that are not concretely and directly related to the provisions that are challenged". Therefore, I consider that the argument lacks specificity.

In summary, in my opinion, the alleged violation of the equality right of women in situations of vulnerability and irregular migration should have been considered inept, and under that understanding, the Full Chamber was not empowered to issue a substantive pronouncement based on this argument.

2. The Court should have adhered to what was decided in ruling C-355 of 2006 regarding the charges of violation of the right to health, freedom of conscience, and constitutional principles on the purposes of punishment and minimum constitutional standards of criminal policy.

For the undersigned judge, contrary to what was considered by the majority of the Full Chamber, the present claim raised the exact charges that were studied in ruling C-355 of 2006 regarding the alleged violation of the rights to health and freedom of conscience and for breach of constitutional principles on the purposes of punishment and the minimum constitutional standards of criminal policy. In addition, it is impossible to affirm that there is a modification in the material meaning of the Constitution or a change in the normative context, in contrast to the year 2006, to undermine the constitutional *res judicata* enjoyed by ruling C-355 of 2006. Therefore, what was appropriate in this case was to follow the resolution reached in the aforementioned ruling.

(i) There is identity between the charges studied in Ruling C-355 of 2006 and those raised in the present case.

Notwithstanding that in 2006 the charges may have had a slightly different approach, and even different superior norms may have been invoked, today the same constitutional objection made 16 years ago is presented. These places the Plenary Chamber in the same point of debate as it was in 2006, which is what is intended to be avoided through the institution of constitutional matters judged.

With respect to the right to health, the plaintiffs, in general terms, argue that maintaining the criminalization of abortion constitutes a barrier to the effective enjoyment of the right to health by pregnant women. In the words of the plaintiffs, “the challenged norm maintains a legal measure that, instead of facilitating, promoting or affirming, obstructs access to VIP as a reproductive health service” They add that “[t]he use of criminal law to regulate abortion, rather than eliminating or mitigating obstacles, is the main barrier that generates, maintains and deepens various structural barriers to access to VIP, which in turn has a multiplying effect”. Thus, they summarize that “[o]n the one hand, the challenged norm, contrary to the obligations of compliance and protection, generates, maintains and deepens structural barriers to access to VIP -which is part of reproductive health- under the three authorized causes [...] On the other hand, it violates the obligations of respect for reproductive health because it prohibits, contrary to international recommendations, a health service that women require in such a way that women who are not in the causes, especially the most vulnerable, must resort to unsafe abortions, putting their lives and mainly their health at risk, as demonstrated by current maternal mortality and morbidity figures in the country”.

In the Court Ruling C-355 of 2006 case, the charges of the alleged violation of the right to health were largely based on the fact that the crime of abortion constituted the main barrier for pregnant women to enjoy the right to health and pushed them towards the practice of clandestine abortions, which often led to their death. One of the plaintiffs at the time argued that “problems in pregnancy can seriously threaten the physical life, personal integrity, and health of the woman and are at greater risk when abortion is practiced in clandestine conditions, generally without compliance with medical protocols and hygiene rules”. Another group of plaintiffs stated that “the total decriminalization of abortion is in line with the protection of the right to health and the obligation imposed on the State to provide the necessary means for women who decide to have an abortion to do so under adequate, safe, and dignified conditions”. This latter group added that “it is the obligation of the State to provide special assistance and protection to women during pregnancy, and this entails that if they decide to interrupt it, the State must provide the necessary health mechanisms to guarantee the physical integrity of the woman”.

When contrasting the arguments of the charge for violation of the right to health presented in the current case and in 2006, it can be observed that it was the same reproach. Based on this, in C-355 of 2006, it was concluded that the only events in which it was reasonable to allow abortion, to guarantee, among others, the right to health of pregnant women, were the three events established in the described causes.

In addition to the above, I disagree with the majority opinion of the Full Chamber regarding the reasons why it considered that the charge analyzed in 2006 was not analogous to the one presented to the Court today. On the one hand, the Chamber considered that at that time, the Court did not pronounce on the positive obligations of compliance and protection of the State for the guarantee of the right to health and reproductive rights of women, girls, and pregnant persons. On the other hand, in the opinion of the undersigned magistrate, sixteen years ago, the Court did indeed pronounce on the obligations of the State regarding the right to health. Precisely, the Chamber argued as follows:

[T]his excerpt discusses the various aspects of health as a constitutionally protected matter and fundamental right and the State's different obligations to protect it. On the one hand, the State is obliged to take necessary measures, including legislative measures of a criminal nature, to protect health. On the other hand, health as a constitutionally relevant matter and fundamental right limits the freedom of the legislator to adopt measures that undermine people's health, even if it is to preserve the general interest, the interests of third parties, or other constitutionally relevant matters.

In addition, the Court also considered it relevant that constitutional jurisprudence considers sexual and reproductive rights as part of the right to health. In my opinion, this aspect could potentially fall under one of the grounds for challenging constitutional precedent, but it is by no means part of the reproach and, therefore cannot be compared for the purpose of determining the identity of the charges.

Thus, the constitutional challenge that arose in 2006 in relation to the right to health is the same as the one raised in this case.

The various facets of health as a constitutionally protected matter and fundamental right imply different state duties for its protection. On the one hand, the protection of health obliges the State to adopt necessary measures, including legislative measures of a criminal nature. On the other hand, health as a constitutional value and fundamental right constitutes a limit to the freedom of the legislature’s configuration, as it excludes the adoption of measures that undermine people's health, even when it is in pursuit of preserving the general interest, the interests of third parties, or other constitutional values.

Furthermore, the Court considers the jurisprudential recognition of sexual and reproductive rights as part of the right to health-relevant in this case. In my opinion, this aspect could potentially fall within one of the grounds for challenging constitutional precedent, but it is by no means part of the present challenge and, therefore, cannot be compared for the purpose of determining the identity of the charges.

The charge of violating the right to freedom of conscience is based on the argument that Article 122 of the Criminal Code prevents women from deciding whether or not to have an abortion in accordance

with their values and principles, which affects their reproductive autonomy. The claimants argue that the personal prerogative to decide in accordance with the subjective rule of morality "should serve in the case under study to recognize that in matters of reproductive autonomy, women have full authority to make a decision aimed at exercising it, based on a system of values derived from their moral convictions, as part of their interaction with their social, political and economic context, but especially because gestation is a process that only they are in a position to face". Therefore, in their view, "when a woman is prohibited from having an abortion, she is forced to act against her own freedoms".

This same charge was brought in 2006 under the guise of violating the rights to freedom, autonomy, free development of personality, and privacy. The first claimant argued that "when the State decides to recognize the autonomy of the person, what it has decided is to establish the scope that corresponds to the ethical subject: to let her decide about her own life, about what is good and bad, about the meaning of her existence". Therefore, "a woman's decision to terminate an unwanted pregnancy, a decision that has to do with her integrity, is a matter that only concerns the person who decides about her own body". Additionally, she added that, in light of the rights to human dignity and free development of personality, one cannot "privilege, through criminalization, a particular conception of life and force women to carry unwanted pregnancies to term". The second claimant argued that "prohibiting a woman from voluntarily interrupting her pregnancy directly attacks her autonomy to reproduce, as the decision to have an abortion or not, in any circumstance, is nothing more than the exercise of that autonomy". Finally, the third group of claimants stated that "forcing the continuation of an unwanted pregnancy is to disregard this right by imposing on those who do not want to experience it, the experience of motherhood", it is to impose "the condition of being a mother" on them, and "interferes with a woman's right to make her own decisions about her body and reproductive capacity, decisions that are within the sphere of each woman and not the State's".

Based on the above, in Ruling C-355 of 2006, the Full Chamber, after considering, among other things, that the right to the free development of personality "includes freedom *in nuce*, 'because any type of freedom ultimately boils down to it'", concluded that "although the protection of the unborn child through criminal measures is not disproportionate and therefore the sanction of abortion is in accordance with the Political Constitution, the criminalization of abortion in all circumstances implies the complete pre-eminence of one of the legal matters at stake, the life of the unborn child, and the consequent absolute sacrifice of all the fundamental rights of the pregnant woman, which undoubtedly is unconstitutional".

Therefore, for the undersigned judge, although in 2006 the plaintiffs did not expressly invoke Article 18 of the Political Constitution, the claim was the same; that is, whether the criminalization of abortion affects the pregnant woman's faculty to decide, according to her own criteria, whether it is right or

wrong. Furthermore, the pronouncement of the Court at that time dealt with this matter. Thus, it is materially the same claim.

Regarding the claim of violation of constitutional principles on the purposes of punishment and minimum constitutional standards of criminal policy, on the one hand, the sub-examined demand argued that the crime of abortion, first, *"*disregards the preventive and retributive purposes of the penalty since it does not prevent the conduct prescribed in the general or particular area, nor does it contemplate a fair and legitimate negative consequence to the social harm caused", and second, "lacks preventive efficacy and disregards the character of ultima ratio of criminal law, while lacking empirical foundations and not measuring its economic costs and in terms of rights".

On the other hand, in Ruling C-355 of 2006, concerning this aspect, one of the charges was summarized by stating that its reproach lay in that the State's interference through the criminalization of abortion imposed a responsibility on the woman that exceeded the burden that citizens must bear. Hence, "the present request does not imply a request to the constitutional judge to act as a legislator and add general criminal conditions to abortion. It rather refers to carrying out the exercise of balancing constitutional rights and duties and thus establishing the limits within which the legislator must reformulate the treatment of this issue".

To decide on the constitutionality challenges resolved in Ruling C-355 of 2006, the Court conducted a similar analysis to the one in Ruling C-055 of 2022, from which I depart. At that time, the Full Chamber chose to refer to the need for the criminal offense of abortion and to weigh the right to life of the unborn against women's rights, to determine whether the legislature had exceeded its scope of discretion. This shows that, fundamentally, the Court addressed the same constitutional problem and carried out the same analysis as the Full Chamber in the ruling from which I dissent.

Indeed, in Ruling C-355 of 2006, the Court, among other things, made an exposition about proportionality and reasonableness as limits to the legislature's scope of discretion in criminal matters. In the development of this exposition, the Court referred to jurisprudential precedents that addressed the limits of the legislature on criminal issues, including the principle of proportionality, within which the principle of necessity was studied. Then, when assessing the constitutionality of the same norm that is now under study, it concluded, among other things, the following:

[O]ne could argue whether the nature of these measures for protecting gestational life should be criminal or if other types of provisions, such as social or welfare policies, would be more effective in ensuring the life that is in the process of gestation through the guarantee of medical care, nutrition, or income for the pregnant woman. It should be noted that it is the legislator's responsibility, in the first place, to decide among the universe of possible measures those most suitable for protecting

constitutionally relevant legal matters, and their decision, in principle, can only be subject to control when it is manifestly disproportionate or unreasonable.

In fact, it is not up to the constitutional judge to determine the nature or character of the protective measures that the legislator must adopt to protect a specific legal good; it is an eminently political decision reserved for the power that has democratic legitimacy to adopt this type of measure, and the intervention of the constitutional judge is only posteriori and exclusively to analyze whether the decision adopted by the legislator does not exceed the limits of its power of configuration.

This is because if the legislator decides to adopt criminal provisions to protect certain constitutionally relevant matters, due to the gravity of this type of measures and their potential restrictiveness of human dignity and individual freedom, its margin of configuration is more limited.

[…]

In this specific case, the Colombian legislature adopted criminal measures to protect life in gestation. Such a decision, without analyzing the specific content of each norm in particular, is not disproportionate due to the importance of the legal interest to be protected. However, this does not mean that this Court considers that the legislature is obligated to adopt criminal measures to protect the life of the unborn or that this is the only type of measures adequate to achieve this purpose. The perspective from which the issue is approached is different: given the relevance of constitutional rights, principles, and values at stake, it is not disproportionate for the legislature to choose to protect life in gestation through criminal provisions.

Employing criminal measures to protect the unborn and, consequently, to criminalize abortion, it is in accordance with the Political Constitution; however, penalizing abortion in all circumstances implies the complete preeminence of one of the legal matters at stake, the life of the unborn, and the absolute sacrifice of all fundamental rights of the pregnant woman, which undoubtedly results unconstitutional.

In this way, it is possible to observe that the constitutional issue addressed in Ruling C-355 of 2006 is the same that the plaintiffs raised in this case and was also addressed by the majority of the Chamber. Therefore, for the undersigned magistrate, it is clear that there was an identity between the charge studied in 2006 and the one that the Chamber had to study in this opportunity, thus configuring the constitutional *res judicata*.

In summary, based on the reasons expressed, the undersigned magistrate considers that there was a constitutional *res judicata* regarding the charges that were considered apt by the Full Chamber in the ruling from which it dissents.

(ii) There is no evidence of a material modification of the Constitution that has transformed the premises that served as the basis for declaring the conditional constitutionality of Article 122 of the Criminal Code in Ruling C-355 of 2006.

For the majority of the Full Chamber, the Court's jurisprudential developments regarding (a) the right to health, (b) access to abortion in the three circumstances provided for in the C-355 ruling of 2006, and (c) gender-based violence, as well as some recommendations, reports, and observations from international organizations, demonstrate a change in the material meaning of the Constitution. In the opinion of the undersigned judge, the foregoing does not represent a change in the country's social, economic, political, or ideological reality that has in any way transformed the premises that served as the basis for the conditional constitutionality of the crime of abortion in 2006.

In accordance with repeated constitutional jurisprudence, the exception of constitutional res judicata due to a change in the material meaning of the Constitution, also known as the living Constitution, "occurs when the country's social, economic, political, or ideological reality transforms the premises that served as the basis for declaring the constitutionality of the norm at the time, which allows for a new study in light of new realities".

In my opinion, the abundant case law that the Constitutional Court has issued regarding the fundamental right to health, including the decisions cited by the majority of the Full Chamber - T-760 of 2008, C-313 of 2014, and T-361 of 2014 - does not clearly, directly, and conclusively affect the scope of access to VIP, as it was assessed and exceptionally established in ruling C-355 of 2006. I come to the same conclusion when comparing the constitutional case law that has evidenced gender-based violence and inequity when a woman is a victim of a crime based on her gender, or when civil and tax norms imply discriminatory treatment towards them. From the latter case law, it is not possible to deduce that there is now a different way of conceiving women's rights in relation to the right to abortion in the country. Finally, the decisions that have been issued in specific cases in the context of obstacles to access abortion in the framework of the three causes provided for in Ruling C-355 of 2006 have been exclusively addressed, not in a broader context.

Regarding the reports, observations, recommendations, and other documents issued by international organizations, I consider that they do not serve as a basis for arguing that there is a change in the material meaning of the Constitution. This is because, at least for two reasons. First, because such statements are not binding in accordance with the second paragraph of Article 93 of the Political Constitution. According to this provision, only international human rights treaties ratified by Colombia are binding sources for the Colombian State and, therefore, only these enjoy preeminence, superiority, or supremacy in the domestic legal system. In this sense, soft law norms cannot per se represent a change in the parameter of constitutional control. Accepting such an approach would imply that the instruments that are part of the strict block of constitutionality cede to international

instruments that have a hermeneutic, non-binding character. Second, it is impossible to affirm that there is a consensus at the international level regarding the decriminalization of abortion, which eventually leads to reflecting on a social or ideological change. As an example, the Inter-American Commission on Human Rights does not urge states to decriminalize abortion but to adopt comprehensive and immediate measures to respect and guarantee women's sexual and reproductive rights.

In conclusion, I consider that the exception to the constitutional *res judicata* of a change in the material meaning of the Constitution is not formed in the present case.

(iii) There is no change in the normative context in which Article 122 of the Criminal Code is inserted.

The Statutory Health Law - Law 1751 of 2015 -, the law for raising awareness, prevention and punishment of forms of violence and discrimination against women - Law 1257 of 2008 -, and the recommendations, observations, reports, and other documents issued by international organizations do not imply a change in the normative context that requires a new constitutional assessment of the crime of abortion, different from that carried out in Ruling C-355 of 2006. Similarly, the precedents of the Court, issued in the exercise of concrete control, regarding access to VIP, do not have such scope.

Although Laws 1257 of 2008 and 1751 of 2015 established novel provisions regarding gender violence and the right to health, they do not imply a novel normative context for the crime of abortion, in contrast to that existing in 2006, for the reasons explained below. Firstly, by that year, a broad normative framework was already conceived regarding women's rights, mainly at the international level. This normative framework was expressly invoked by the Court in Ruling C-355 of 2006. The fact that this had materialized nationally through Law 1257 of 2008 does not lead to the conclusion that it did not exist or was not taken into account in Ruling C-355 of 2006. Secondly, at that time, to adopt the constitutionality decision, the Court took into account women’s reproductive rights as part of the fundamental right to health. Likewise, it considered the interpretation of international organizations regarding norms related to women's right to life and health, including General Comment No. 14 of the Committee on Economic, Social, and Cultural Rights. It is pertinent to highlight that the latter document was important for the determination of the majority of the Full Chamber in Ruling C-055 of 2022, which, in my view, shows that the normative context in force in 2006 is the same or very similar to the current one. Thirdly, Laws 1257 of 2008 and 1751 of 2015 do not directly affect Article 122 of the Criminal Code.

Regarding the scope of observations, recommendations, and other international law documents as a reference for the change in the normative context, I refer to the considerations made above regarding the lack of binding force of such soft law instruments.

Finally, I also reiterate that the rulings issued by the Court regarding access to VIP in no way expanded the legal framework developed, in part, by Ruling C-355 of 2006. This is because these decisions deal with access to this service within the framework of the causes provided by the Court in the aforementioned constitutionality ruling. Therefore, it is impossible to infer a change in the normative context in which the crime of abortion is inserted from these.

In summary, in the opinion of the undersigned magistrate, it is not possible to affirm that there is a change in the normative context in which Article 122 of the Criminal Code is inserted and, therefore, it was not viable for the Court to disregard the constitutional res judicata that vests in the C-355 ruling of 2006.

Conclusion. Based on the reasons stated, I consider that in the present case, the Court should have adhered to the decision reached in the C-355 ruling of 2006, which has effects of constitutional res judicata that cannot be undermined through the charges raised in the complaint under study. This is because the charges invoked by the plaintiffs, in this case, are identical to those studied in that decision and because none of the hypotheses that allow the *res judicata* of a constitutional judgment to be undermined are configured.

3. Essential objections against the reasons for which the majority of the Full Chamber decided to declare the conditional constitutionality of Article 122 of the Criminal Code and to urge the Congress of the Republic and the National Government.

Without prejudice to the fact that my vote is based on the Court's obligation to respect the institution of constitutional res judicata, I will now outline the essential objections I have with respect to the grounds that motivate the conditional constitutionality of article 122 of the Criminal Code in the terms established in Ruling C-055 of 2022 and the exhortation to the Congress of the Republic and the National Government. On the one hand, I will pose several questions about some of the arguments of the project. In the framework of these questions, I will explain the reasons why, in my opinion, the debate on the decriminalization of abortion should have taken place within the Congress of the Republic and not within the ambit of constitutional control. On the other hand, I will refer to the fact that it is the responsibility of the National Government, and not the Constitutional Court, to determine public policy on abortion.

The foregoing is based, first, on the fact that life is a constitutional value that must be protected, in general, from the moment of conception, as stated in Article 4.1 of the American Convention on Human Rights. Second, there is an interest on the part of the State to protect this value, as it is of

great value in light of the Political Constitution. Third, the child requires protection both before and after birth, in accordance with the provisions of the Preamble of the Convention on the Rights of the Child. The preceding is not intended to diminish in any way the importance of women's reproductive rights.

For these purposes, I will refer to (i) the lack of scientific evidence regarding the existence of other effective measures to guarantee the life of the fetus and the consequent lack of protection of the right to life of the unborn; (ii) the questionability of considering VIP as a reproductive health service in any event; (iii) the absence of a holistic and comprehensive analysis of the abortion criminal offense in terms of the legally protected interest; (iv) that penalizing abortion after the 24th week of gestation creates a lack of protection of the life of the unborn; (v) that the Court is not in a position to establish from which moment abortion should be criminalized, and (vi) that it is not in a position to determine the guidelines for establishing public policy in this matter.

Developing these arguments, I will explain why, in my opinion, the debate on the decriminalization of abortion should have taken place in the natural scenario of democratic representation, where, with the participation of actors with multiple perspectives, it should have been decided whether, based on the principles and values that are intended to radiate in Colombian society, partial decriminalization of abortion could be accepted, and if so, how.

3.1 There is a lack of scientific evidence that other effective measures exist to protect, respect, and guarantee the life of the fetus.

In the opinion of the undersigned, the decision to decriminalize abortion starting from the 24th week of gestation should have been preceded by a much broader analysis of what other effective measures exist to protect, respect, and guarantee the life of the fetus. Failure to do so constitutes a widely condemnable circumstance, as it results in a broad lack of protection of the fundamental right to life of the fetus, without the minimal methodological guarantees that obliged an inquiry into the existence of other means that retain the necessary character of the analyzed action.

The majority decision cites the Final Report of the Criminal Policy Advisory Commission on the diagnosis and proposal of criminal policy guidelines for the Colombian State, of June 2012. In it, said commission lists as measures of great impact in the pursued objective “health campaigns to prevent unwanted pregnancies, training in sexual and reproductive health, free health services, and counseling on family planning as means to prevent unwanted pregnancies”. Likewise, the mentioned report points out that comparative experience and studies of Colombian reality show that it is better “to adopt a public health perspective, combining vigorous campaigns to promote sexual and reproductive health and to prevent unwanted pregnancy, with broad decriminalization of VIP, allowing women access to safe abortion in cases where they legally have the right to interrupt the pregnancy”. Nevertheless, in the opinion of the undersigned, it was essential for the Court to delve much deeper

into the scientific and statistical evidence about the efficacy of other measures aimed at protecting the life of the fetus.

In Colombia, there is public policy related to sexual education focused on girls, boys, and adolescents, as stated in the ruling, as well as the prevention of unwanted pregnancy and attention to sexual and reproductive health. Firstly, the Ministry of Health and Social Protection has, among others, the following relevant resources regarding the topic: a) a section on their website called “Prevention of Unsafe Abortion/Voluntary Termination of Pregnancy (IVE)”; b) Resolution 3280 of 2018, which adopts the technical and operational guidelines of the Comprehensive Care Route for the Promotion and Maintenance of Health and the Comprehensive Health Route for the Maternal Perinatal Population and establishes guidelines for their operation; and c) Circular 016 of 2017 for the Strengthening of actions that guarantee safe, dignified, and adequate care for mothers in the national territory. Secondly, a gender public policy has been included in the CONPES for some time, which has taken into account the prevention of teenage pregnancy and the provision of sexual and reproductive health services. Thirdly, the Ministry of Education has, among others, a) the methodological guide for the prevention of pregnancy in girls and adolescents and b) Directive 01, which establishes guidelines for preventing school dropout of children, girls, and adolescent mothers or those in pregnancy, and adolescent fathers, especially victims of the armed conflict. Fourthly, without this being an exhaustive list, the District Health Secretariat of Bogotá has a Circular related to the provision of health services related to voluntary termination of pregnancy (Circular 043 of 2012).

Given the existence of measures recommended to protect the life of the unborn, for this subscribing magistrate, doubts remain about their effectiveness, considering that abortions continue to be practiced. In fact, it has been documented that the decriminalization of abortion has not had an impact on reducing the abortion rate. Therefore, an unanswered question remains: if clear and ostensible infringement of the right to life was the only way to safeguard the rights to health and freedom of conscience, with some rational basis in measures that could have seriously and responsibly countered and undoubtedly avoided, under the pretext of safeguarding these rights, the irreparable injury to the fundamental right to life. If the Court intended to remove a measure established by the Legislature within its freedom of configuration from the legal system, the minimum it should have done was to sufficiently explain which and why other measures effectively protect the right to life of the unborn.

3.2 It is impossible to assert that VIP, under any circumstance, is a reproductive health service and that not decriminalizing its practice constitutes an infringement of the right to health.

In the opinion of the subscribing judge, within the current legal and jurisprudential framework, it is not possible to assert that VIP, under any circumstance, is a reproductive health service and, as a

consequence, it is also not possible to maintain that not decriminalizing its practice constitutes an infringement of the right to health.

Firstly, the jurisprudence of the Constitutional Court's protection action has not considered the VIP as a reproductive health service in any event, but only in the three scenarios indicated in Ruling C-355 of 2006. This is corroborated by the twelve protection action rulings the Constitutional Court has issued regarding abortion.

Secondly, this service cannot be inferred from General Comments 22 and 14 of the DESC Committee, given that, on the one hand, they are not binding on the State but rather hermeneutical criteria, and on the other hand, because such comments lack a balancing of the right to life of the unborn as a right that is sought to be protected through laws that criminalize abortion. Therefore, I consider it inappropriate for the Court to base part of its argument on a duty still unclear whether it can be considered constitutional in turn.

In summary, it is not appropriate to derive a positive duty regarding the right to health from jurisprudence that addresses it in a limited manner and from instruments that are not binding and that, as can be inferred from their text, has not performed a balancing of the right sought to be protected by the criminal offense of abortion.

3.3 A holistic and comprehensive analysis of the criminal offense was crucial in relation to the protected legal interest.

The criminal offense of abortion does not aim to punish a woman for the mere fact of being a woman but rather to punish anyone who affects the legal interest of the life in gestation. For this reason, a holistic and comprehensive analysis of the criminal offense was crucial in relation to the protected legal interest, the criminal policy strategies of the State to prevent and punish this offense, criminology studies and documents, technical, statistical, probabilistic, and historical elements that would support the decision if the objective was to define the suppression of the offense. This decision, which has put an end to the offense with a mere stroke of a pen, ignores its validity which has been endorsed by the values and principles constitutionally protected and evoked under the formula of the Democratic and Rule of Law State.

Indeed, in accordance with the explanatory memorandum that would later become Law 599 of 2000, "it is possible to attack the fetus as a being that, although it has a life dependent on the mother, in itself represents human life, as the Constitutional Court understood when it determined that there is life from conception; therefore, protection of the legal interest of the fetus was extended independently". Likewise, in ruling C-355 of 2006, it was affirmed that "[i]n the specific case, as has been repeatedly held, the life of the unborn is a good protected by the constitutional order and,

therefore, the decisions adopted by the pregnant woman regarding the interruption of life in gestation transcend the sphere of her private autonomy and are of interest to the State and the legislature".

The decision from which I depart today limits ex-ante the possibility of the legislator to respond, through broad and open debates on the political controversy, to a deep social disagreement on the decriminalization of abortion. In fact, despite the fact that the second resolution seems to adopt a weak remedy that would allow the National Government and the Congress of the Republic to design a public policy for VIP, it restricts the possibilities of the legislator to consider alternatives that may be appropriate - both argumentatively and factually - for the guarantee of the right to life of the unborn. Thus, the possibility that the legislator foresees, for example, the penalization of the abortion conduct, accompanied by public policy measures that could guarantee its suitability, is proscribed.

The Constitutional Court cannot overlook that the debate on the decriminalization of VIP does not exclusively concern a criminal policy issue but is closely linked to a profound social disagreement regarding the scope of life and freedom of conscience as substantive values of the legal-political system, as well as the meaning of Articles 11 and 18 of the Political Constitution. In this context, the decision of conditional constitutionality - and constitutional control itself - excludes, in the state institution with the least democratic legitimacy, significant social groups that would have the possibility of expressing themselves and participating in the construction of equally suitable alternatives, together with opposing sectors, for the guarantee of the rights and values whose interpretation - one of several possible ones - underpins the Court's decision. Only the Congress of the Republic, together with citizen participation mechanisms such as the referendum and the National Constituent Assembly, offers the aforementioned space for the discussion of ethical and political issues such as the one under discussion, as it is a reflection of democratic values and an expression of popular sovereignty. Only from there does the legitimacy of the decision adopted arise.

With the majority's way of proceeding in the Full Chamber, the recommendation made by the Criminal Policy Advisory Commission is also disregarded, which indicated that with regard to the evaluation of the decriminalization of abortion, "a broad debate is suggested that addresses the issue from a legal perspective but also from a public health perspective, with a view to determining the adopted legal regime and the corresponding period".

In this way, for the undersigned magistrate, the majority of the Full Chamber failed in the holistic and integral analysis in the function of the protected legal matter, which requires the issue of abortion to be discussed only within the democratic representative body.

3.4 Criminalization of abortion after the 24th week of gestation results in a lack of protection of the life of the unborn, to whom protection is due since conception.

In my opinion, penalizing abortion after the 24th week of gestation results in a lack of protection for the right to life of the unborn, which should be protected from the moment of conception, in accordance with Article 4.1 of the American Convention on Human Rights.

The majority decision establishes that the 24th week of gestation is a constitutional optimum that reconciles the rights to health, freedom of conscience, and equality of women in vulnerable and irregular migratory situations with the right to life of the unborn. However, in my view, this standard fails to consider any evaluation of fetal development before the 24th week of gestation as a legal interest that society should protect. For example, scientific literature shows that at 45 days, the human embryo has hands, feet, head, organs, and brain, and at eight weeks, its nervous system is functioning. Therefore, the normative criterion used by the majority decision fails to consider such aspects, leaving the right to life of the unborn unprotected. In the biological conditions that the vast scientific literature shows, we are far from believing that the decision and action of abortion within the time frame allowed by the majority is truly balanced; on the contrary, it openly denies the right to life, calling into question the constitutional optimum proclaimed in the ruling.

The fact that the right to life enjoys gradual and incremental protection, as established by the Inter-American Court of Human Rights, does not lead to the conclusion that it can only be protected by criminal law from the viability or autonomy of the fetus. Similarly, the margins of lack of protection that some pregnant women face to effectively enjoy their sexual and reproductive rights do not necessarily have to be addressed through the decriminalization of abortion. Instead, public policy should be strengthened to prevent unwanted pregnancies, promote responsible motherhood and fatherhood, and provide assistance during pregnancy, among other things.

Therefore, in my opinion, even after a balancing exercise, I consider that the decision from which I depart establishes a wide margin which results a lack of protection for the right to life of the unborn.

3.5 The Court is not in a position to determine the weeks after which an abortion can be performed.

Following the previous paragraph, I consider that the Court is not even in a position to determine the weeks after which it is possible to practice abortion. This is because it is not the body responsible for establishing how to protect the right to life, which is actually the responsibility of the body that represents the views and conceptions of the entire Colombian society, which is the legislative body. This determination involves discussing what constitutes the value that is intended to be protected. In this way, based on the conception one has about life, it is possible to determine how it should be protected. This debate cannot be confined to a mere normative criterion but must undoubtedly encompass moral and scientific aspects that the majority of the Court was not in a position to exhaust.

Note how in most countries, the decriminalization of abortion has resulted in a democratic debate, within which, in addition, it has been determined the moment from which it is socially acceptable for the fetus to enjoy another type of protection. The importance of this being the subject of a broad debate is such that, for example, in some countries, measures are contemplated aimed at accompanying the decision-making process to abort (for example, guidance is provided, and a term is established for the woman to reflect, after having received such guidance).

In this way, the fact that it was the Constitutional Court that determined, based on a normative criterion, the moment from which abortion was criminally punishable not only annuls the possibility of debating aspects of great social significance but also omits the assessment of countless aspects that it is not in a position to evaluate.

3.6 The Court is not in a position to determine *ex ante* the guidelines of public policy on the matter.

Lastly, in line with the above, I believe that the Court is also not in a position to establish in detail the guidelines to be followed in designing public policy regarding the benefits derived from women's sexual and reproductive rights and the life of the unborn. This is because the design of a comprehensive policy in this area requires the collaboration of interdisciplinary experts (health, education, etc.) to determine the most suitable measures to prevent situations that may lead to abortion being considered as an option to avoid the birth of a child, to the extent possible.

To our understanding, it is not within the purview of the highest constitutional court to develop public management instruments in matters of health and responsible sexuality. It is well known that the responsibility lies with the executive branch, which has the technical capacity to diagnose social causes and provide preventive health care that enables it to act according to the program defined by the National Government in favor of the affected population. For the same reasons, the Court is not authorized to define limits for the formation and execution of public policy when it is supported by law. The remaining ingredients, such as in this case, which allow for the assessment of the protection of the fetus and the mother considering the socio-demographic and cultural context, need not exceed the bounds of the legislator, who is the only one authorized by the Political Constitution for these purposes.

In the terms above, I dissent from the decision in Ruling C-055 of 2022.

Date as above.

POLA ANDREA MENESES MOSQUERA
Judge

Dissent to the vote of Justice Jorge Enrique Ibáñez Najar to Ruling C-055 of 2022 (File D-13.956)

With Ruling C-055 of 2022, the Constitutional Court majority decided to declare the conditioned constitutionality of article 122 of the Criminal Code, understanding that the conduct of "*aborting*" provided for therein will be punishable only "*when it is performed after the twenty-fourth (24th) week of gestation, and in any case, this time limit will not apply to the three cases in which* Ruling C-*355 of 2006 ruled that there is no offense of abortion, namely, "(i) When the continuation of the pregnancy constitutes a danger to the life or health of the woman, certified by a doctor; (ii) When there is a serious malformation of the fetus that makes its life unviable, certified by a doctor; and (iii) When the pregnancy is the result of conduct, duly reported, constituting rape or non-consensual sexual act, abusive or non-consensual artificial insemination or transfer of a fertilized ovum, or incest*". Likewise, the judgment urged the Congress of the Republic and the National Government to "*formulate and implement a comprehensive public policy - including the legislative and administrative measures required, as appropriate - that avoids the broad margins of unprotected dignity and rights of pregnant women*", and to "*protect the legal good of life in gestation without affecting such guarantees, based on the conditioning set out in the previous resolution*". For this, the Ruling established some minimum assumptions that the legislator must consider.

With due respect for the decisions of the Honorable Constitutional Court, of which I am honored to be a member, I depart from the majority decision because, as I will explain below: (i) serious doubts exist regarding the deliberation and issuance process of Ruling C-055 of 2022, which affect due process and its validity; beyond these preliminary considerations, with regard to the text of the judgment, (ii) the incompetence of the arguments in the demand related to equality, health barriers, freedom of profession or occupation, the secular state, freedom of conscience, and the principles of criminal law required the Constitutional Court's inhibition; and (iii) in this instance, constitutional res judicata was established with respect to what was decided by this Corporation in Ruling C-355 of 2006, a phenomenon that prevented the Full Chamber from ruling on the current demand because, contrary to what was considered by this Court, there is identity of arguments and object, and the grounds for weakening the *res judicata* do not exist.

Regarding the substance, I believe that the decision adopted by the majority position does not comply with the Political Constitution or the International Treaties ratified by Colombia, since, as I will develop later: (i) it leaves the fundamental right to life in an absolute state of unprotection with regard to the unborn before the 24th week of gestation; (ii) if they exist, it does not support the reasons of constitutionality for which penalization up to the 24th week of gestation does not comply with the constitutional block, and on the contrary, the decriminalization of abortion with a deadline system up to the 24th week of gestation unreasonably and disproportionately affects the constitutional and conventional obligation to protect the life of the unborn, disregarding that the *nasciturus* is a sentient being and, correspondingly, also disregarding their rights to life, human dignity, and health, among others; (iii) it does not adequately address the proportionality test required in cases where there are conflicting rights; and finally, (iv) in line with the foregoing, beyond the well-founded exposition contained in the ruling, I consider that the determination regarding penalizing or decriminalizing abortion is a matter of the State's criminal policy that Congress must define in the exercise of the principle of normative configuration freedom.

With this dissent, I establish my position on the necessary respect for human life in gestation, the respect for the principle of separation of powers between the organs of the public administration, and the absence of constitutional reasons that motivated the issuance of ruling C-055 of 2022. Likewise, in the final section, I express my doubts about gaps left by the judgment that could generate misinterpretations regarding its scope.

A. On the invalidity of Ruling C-055 of 2022 due to irregularities in its issuance and voting.

1. First, Ruling C-055 of 2022 is invalid since there were irregularities in its issuance by the Plenary Chamber. To address this matter, I shall begin by describing in general terms the process of approval of the Judicial Ruling regarding those relevant circumstances and then indicate the reasons why such events lead to the decision of the Plenary Chamber to be invalid.

2. In the framework of file D-13.956, on August 25, 2021, Magistrate Antonio José Lizarazo Ocampo registered the Judicial Ruling with the General Secretariat of this Corporation so that it could be studied and analyzed by all the magistrates.

3. In the Work Plans of November 3, 10, and 12, 2021, the report presented by Magistrate Antonio José Lizarazo Ocampo in File D-13956 was included for discussion and decision, which was contained in 192 pages with the following draft ruling:

> FIRST: Declare Article 122 of Law 599 of 2000 "whereby the Criminal Code is issued" UNCONSTITUTIONAL.

> SECOND: ORDER the National Government, through the Ministry of Health and Social Protection and other competent authorities of the executive branch, within a term no longer than two (2) years from the notice of this Court Ruling, to formulate and implement a public policy -including the legislative and administrative measures that are required-, in accordance with the absence of criminal sanction for the conduct of consensual abortion in all cases, which avoids the wide margins of lack of protection for the dignity and rights recognized in the Constitution and, likewise, protects the legal right to life in gestation without affecting such guarantees.

4. Likewise, in the Work Plans of those same days of November 3, 10, and 12, 2021, the report presented by Magistrate Alberto Rojas Ríos in Case D-13856 was included for discussion and decision, which was contained in 302 pages with the following draft ruling:

> FIRST: Declare Article 122 of Law 599 of 2000 "whereby the Criminal Code is issued" to be UNCONSTITUTIONAL.
>
> SECOND: DEFER the effects of this decision for the term of two legislatures after the notice of this ruling, so that the Congress of the Republic adapts the legislation to the Political Constitution.
>
> THIRD: If the Congress of the Republic does not issue a law regulating free access to VIP, and until it does so, it shall be understood that women, girls, adolescents, and pregnant women, in all cases, have the right to interrupt their pregnancies voluntarily.

5. The opinions above were explained and fully supported by the respective Panel Judges in the Plenary Session held on November 12, 2021. On the same date, a challenge was presented against Judge Alejandro Linares Cantillo, who subsequently, on November 16 of the same year, expressed his impediment to deciding on this case. In a session held on November 18 of that year, the Plenary Session voted on a draft order presented by Judge Antonio José Lizarazo Ocampo proposing to deny the impediment presented by Judge Alejandro Linares Cantillo, which resulted in a tie. For this reason, it was necessary to draw a Co-Judge who would decide the matter. For this purpose, Co-Judge Hernando Yepes Arcila was drawn.

6. In a session held on January 20, 2022, with the presence of the aforementioned Co-Judge, the Plenary Session resolved to accept the impediment of Judge Linares Cantillo and remove him from the knowledge and decision of file D-13956.

7. In the same session held on January 20, 2022, the draft Court Ruling with its respective

resolution presented by Judge Antonio José Lizarazo Ocampo in File D-13956 -transcribed above, was discussed, and at the time of the decision, there was a tie of 4-4. Due to this tie and based on the jurisprudence of this same corporation[657], it was decided that, due to the impossibility of determining, a Co-Judge would be drawn, and the lawyer Julio Andrés Ossa Santamaría was selected for this purpose. This Corporation, in Auto 017 of 2016, stated:

> "It is clear that the purpose of appointing a Co-Judge is, first of all, to resolve ties that arise, so much so that in Article 48, Numeral 5 of the Internal Regulations, it is established that in the event of a tie to decide on a motion for reconsideration, a Co-Judge shall be called[658]".

Thus, Co-Judge Ossa Santamaría was called upon to vote on the opinion that had been voted on January 20, 2022, rotated in 2021, which, among other things, provided for the unconstitutionality of Article 122 of the Criminal Code. It was in relation to this opinion that Co-Judge Ossa Santamaría had to express his vote.

8. On February 2, 2022, Magistrate Antonio José Lizarazo Ocampo sent a message to the Magistrates who would participate in the decision indicating "*Good morning, dear colleagues. I would like to submit a working document that reflects the debate on the opinion that I presented in file D-13956", accompanied by a file called "20220128A ADDITIONAL working document Exp D-13956 AJLO*", which stated the following:

> **"Additional working document to the opinion presented in File D-13956 (M.S. Antonio José Lizarazo Ocampo)**
>
> **"I. Scope of this document**
>
> "This document is additional to the initially distributed opinion, which proposes to declare the simple and immediate unconstitutionality of the challenged provision as a base proposal.
>
> "Unlike the initially rotated opinion, this document includes a complete proposal for the reasoning of an alternative resolution -which proposes to declare the conditional constitutionality of the challenged norm-. In any case, it should be considered that this document is constructed from the elements of the initially rotated opinion and the extensive discussion that took place in the Plenary Session on January 20.

[657] Constitutional Court, Ruling C-151 of 1994.
[658] Similarly, Court Ruling SU-047 of 1999.

"Likewise, this document synthetically incorporates the observations made by the members of the Plenary Chamber during the discussion of the proposal in the session of January 20th for its strengthening. To avoid duplicity of information, all these observations are included in the reasoning of this new proposed resolution. However, if the base proposal - simple and immediate unconstitutionality - is chosen, the changes referred to below will also be included in the final judgment.

"Finally, it should be considered that, since this is a working document constructed after the Plenary Chamber session, the additional aspects referred to below will be expanded and clarified in the text of the judgment if the required majorities are achieved. For these purposes, the base text of the proposal will be taken as the foundation to the extent that it is not inconsistent with this additional working document and the observations that are adopted in the new discussion of the issue with the participation of the Co-Judge Julio Andrés Ossa Santamaría.

“Accordingly, in comparison with the initially distributed proposal, the changes that this document synthetically collects are the following:

“**Regarding the resolution,**

“It proposes a different resolution, which integrates the regime of grounds provided for in Court Ruling C-355 of 2006 with that of time limits, based on the notions of autonomy and gradual and incremental protection of life in gestation. Consequently, it proposes that the act of aborting only be punishable when carried out after the twenty-fourth (24th) week of gestation, without prejudice to the three grounds for VIP provided for in Court Ruling C-355 of 2006.”

9. Thus, with this "working document" of 41 pages, the resolution that had already been voted on in the Plenary Chamber on January 20, 2022, and which had been tied, was changed and, in its place, an alternative resolution was proposed, with a different *ratio* which was noted would only be expanded and clarified in the text of the judgment, if the required majorities were achieved, in which it proposed to declare the conditional constitutionality of Article 122 of the Criminal Code as follows:

"**SOLE ARTICLE: Declare the CONDITIONAL CONSTITUTIONALITY** of Article 122 of Law 599 of 2000 'by means of which the Criminal Code is issued', in the sense that the conduct of abortion provided for therein shall only be punishable when carried out after the twenty-fourth (24th) week of gestation

> and, in any case, this time limit shall not apply to the three cases in which Court Ruling C-355 of 2006 stated that no crime of abortion is committed, namely, "(i) When the continuation of the pregnancy constitutes a danger to the life or health of the woman, certified by a doctor; (ii) When there is a serious malformation of the fetus that makes its life unviable, certified by a doctor; and (iii) When the pregnancy is the result of conduct, duly reported, constituting carnal abuse or non-consensual sexual act or artificial insemination or transfer of a fertilized ovum, or incest".

10. With the aforementioned "working document" containing the proposal for the new decision and the simple proposal for the new ratio, subject to expansion and precision in the ruling if the required majorities are obtained, the rapporteur that had been discussed and voted on January 20, 2022, and that had ended in a tie, was changed, which I recorded in the respective Chamber.

11. After some other incidental procedures advanced on the occasion of new requests for the challenge presented within the framework of case D-13,956, finally the plenary session of February 21, 2022 was convened and held, with the presence and participation of Co-Judge Julio Andrés Ossa Santamaría, who had been drawn and summoned exclusively to break the tie that arose when voting on the rapporteur and decision that had been discussed on January 20, 2022, in which it was proposed to declare the unconstitutionality of Article 122 of the Criminal Code.

12. However, the debate of the plenary session held on February 21, 2022, was limited to presenting the new alternative decision proposal included in the aforementioned summary document that had been sent via chat by Co-Judge Antonio José Lizarazo Ocampo. The discussion began with an oral presentation by the rapporteur on the declaration of conditioned constitutionality and the interventions of the Justices who followed him in speaking focused on the content of the summary document. I must even warn that the ad hoc Judge expressed his decision to support this new proposal from the summary document without even referring to the decision project that had been initially registered and voted on January 20, 2022, much less without listening to the other Justices who had voted against the project.

13. Considering the above, it can be concluded that the vote approving the conditioned constitutionality of Article 122 of the Criminal Code was carried out with respect to the proposed summary text and not the opinion that had been voted on by the Full Chamber in the session of January 20, 2022, which resulted in a tie, hence the need to appoint a Co-Judge. The Co-Judge who was selected to break the tie on the vote taken on January 20, 2022, on the opinion proposing the unconstitutionality of Article 122 of the Criminal Code did not even pronounce on said opinion, but on the alternative resolution proposal which suggested the declaration of conditioned constitutionality, which had not been discussed or voted on. Therefore, Co-Judge Julio Andrés

Ossa Santamaría's intervention in the February 21, 2022 session was clearly inadmissible. Said Co-Judge was selected, in accordance with the law, to break a tie on a decision of unconstitutionality with a specific ratio, not to vote on a decision of constitutionality conditioned with a completely different *ratio* that had not been discussed or voted on. In summary, the first flaw is evidenced by the fact that Co-Judge Julio Andrés Ossa Santamaría **was not authorized** to vote on the opinion that was approved in the February 21, 2022 session.

14. The second flaw is evidenced by the fact that, in any case, in my opinion, **the absolute** (for the decision) and relative (for the reasoning) **majorities** required by Decree 2067 of 1991[659] were not achieved. In fact, in ruling C-055 of 2022, the resolution is:

> "Declare the CONDITIONAL CONSTITUTIONALITY of Article 122 of Law 599 of 2000, "by means of which the Criminal Code is issued," in the sense that the act of abortion provided therein **will only be punishable when carried out after the twenty-fourth (24th) week of gestation** and, in any case, this time limit shall not apply to the three situations in which Court Ruling C-355 of 2006 stated that the crime of abortion is not incurred (...)" (emphasis added).

15. Certainly, what was certified as approved by the "majority" to declare the conditional constitutionality of Article 122 of the Criminal Code under a determined timeframe of 24 weeks of pregnancy is certainly doubtful, considering the content of the vote clarification presented on the same day, February 21, 2022, by Co-Judge Ossa Santamaría, which accompanies the press release of the same date. Although it is literally called a "clarification", it constitutes a partially dissenting opinion, which should have been added on that same date to those of us who dissented from the decision project with the opinion of Justices Lizarazo and Rojas, and in that case, the majority decision is another one and not the one that appears certified. In fact, as summarized in Press Release No. 5 of February 21, 2021, published by the Constitutional Court, the Co-Judge did not agree with the conditionality of constitutionality that was approved in Court Ruling C-055 of 2022 since, in his opinion, the determination of the 24 weeks was part of the freedom of configuration competence in the hands of the Colombian Congress to regulate this matter of criminal nature. In this regard, he warned:

> "*According to the Co-Judge, although it is unconstitutional to impose a custodial sentence on a woman who has an abortion in the first 13 weeks of pregnancy, and conversely, it is constitutional to do so when the fetus has passed the 24-week mark, the Legislature retains an important margin of configuration to determine what should be the legal - not criminal - treatment of abortion between week 14 and week 23. The foregoing is due to the gradual*

[659] Decree Law 2067 of 1991, Article 14.

> *and incremental nature of the protection of the life of the unborn, and because the decisions of the Court must respect the freedom of configuration of the legislator in those scenarios of weighting where there is no blatant violation of the rights at stake. In this sense, the position of Co-Judge OSSA SANTAMARÍA advocated for a graduated regulation of the protection of the unborn, a gradation to which the majority position did not allow*[660]".

16. As can be seen from the so-called "clarification" of the vote, Co-Judge Ossa Santamaría did not support the position of the four judges who voted in favor of decriminalizing abortion up to 24 weeks of gestation. It is essential to remember that the legal issue that this Constitutional Court had to resolve was whether the classification of abortion in Article 122 of the Criminal Code is compatible with the Political Constitution. Faced with this legal issue, four judges of the Court considered that penalizing abortion up to week 24 was unconstitutional. Co-Judge Ossa Santamaría, on the other hand, believed - and expressed this in the Plenary Session - that unconstitutionality only occurs with respect to the criminalization up to week 13 of gestation.

17. The issue raised in this paragraph raises a serious problem of validity concerning Court Ruling C-055 of 2022 for at least three reasons:

First, constitutional judgments require the application of the principle of congruence of the decision[661]. This principle requires that the reasoning of the judgment and the decision be congruent and guarantees access to justice, as recognized by international bodies[662]. Therefore, if the conclusion of the Court is that the crime of abortion is unconstitutional up to 24 weeks of gestation, congruence requires that the reasons for such unconstitutionality be explained in the motivations of the decision. However, for Co-Judge Ossa Santamaría -who supported the Court's decision- unconstitutionality only occurs with penalization up to 13 weeks of gestation. Therefore, there is no congruence between the expressed motivation and the expressed vote.

Second, Decree 2067 of 1991 in Article 14 establishes that a relative majority is required for the approval of the considerations. In Court Ruling C-055 of 2022, the ratio decidendi is related to why penalizing up to 24 weeks of gestation is unconstitutional. However, as already evidenced for Co-Judge Ossa Santamaría, the only unconstitutionality generated in this case is the penalization of abortion up to 13 weeks of gestation. Therefore, given that there were eight judges of the Constitutional Court and one Co-Judge in the decision-making, five favorable votes to the considerations of the decision were required. Specifically, regarding the *ratio decidendi*, Court

[660]Constitutional Court, Press Release No. 5 of February 21, 2022, regarding Court Ruling C-055 of 2022.
[661]Cf. Constitutional Court, Rulings C-209 of 2016 and T-079 of 2018.
[662]IACHR Court. Case of Fermín Ramírez v. Guatemala. Merits, Reparations and Costs. Judgment of June 20, 2005. Series C No. 126. Paragraph 74; I/A Court H.R., Case of Barreto Leiva v. Venezuela. Case of Barreto Leiva v. Venezuela. Merits, Reparations and Costs. Judgment of November 17, 2009. Series C No. 206, para. 47; European Court of Human Rights, Pronina v. Ukraine (2006), par. 25.

Ruling C-055 of 2022 obtained only four votes, those of the Magistrates Antonio José Lizarazo Ocampo, José Fernando Reyes Cuartas and Alberto Rojas Ríos and the Magistrate Diana Constanza Fajardo Rivera. The Constitutional Court has already established that the consequence of the absence of the majority of votes in relation to the *ratio decidendi* of a decision is the nullity of said decision, therefore, the validity of this decision was initially questioned[663].

Third, the nature of Co-Judge Ossa Santamaría's vote is essentially a partial dissenting opinion and not a clarification of vote. As already explained, the Co-Judge did not actually support the decision of Magistrates Lizarazo, Reyes, Rojas, and Fajardo regarding the unconstitutionality of penalization of abortion up to 24 weeks. Therefore, in this circumstance, Court Ruling C-055 of 2022 did not obtain the absolute majority required by Article 14 of Decree 2067 of 1991; or Co-Judge Ossa Santamaría's vote is incongruent and should be null, in which case the proposed majority would not be reached either.

These discussions about the congruence and motivations of decisions of the Constitutional Court are of the utmost relevance for its legitimacy, especially in a matter that generates so much polarization in the country. Colombians expect Judicial Rulings that are transparent from this Court; therefore, darkness and doubts about the majorities of the Constitutional Court are especially problematic and not merely a formal issue.

18. In summary, there is a scenario in which irregularities were presented that evidently taint the decision adopted by this Corporation in Court Ruling C-055 of 2022, in the terms that I will summarize.

19. First, the election of the Co-Judge was made with the purpose of breaking the tie in the vote to approve or reject the draft Judicial Ruling registered by Magistrate Lizarazo Ocampo in 2021, which was voted on January 20, 2022, resulting in a tie. However, the debate in the session of February 21, 2022, with the presence of the Co-Judge, was not carried out with respect to that ruling, but on a summary document that Magistrate Lizarazo had indicated was "additional" to the initial project in which he had included an alternative proposal to declare, as it was ultimately decided, the conditional constitutionality of the object of constitutional control under a system of deadlines. Therefore, the debate of the Full Chamber should have been given with respect to the ruling already voted on by the Magistrates, without prejudice to the fact that, by the decision of the majority, the final determination could have been changed. In other words, the Co-Judge exceeded the nature of his function by not having resolved the tie in the Full Chamber with respect to the draft Judicial Ruling.

20. Second, in line with the above, the discussion in the session of February 21, 2022, took place

[663]Cf. Constitutional Court, Ruling SU-453 of 2019.

with a new ruling contained in a new summary document that contained the observations and comments made by the Magistrates who initially supported the unconstitutionality of Article 122 of the Criminal Code. This limited the deliberative process of the approval procedure in the Full Chamber, since the Co-Judge was not presented with a comprehensive overview of the debate that had taken place on this matter and, therefore, did not consider the reasons that justified the position of the Magistrates who voted against the initial ruling. This was even less possible since in the session of February 21, 2022, the Co-Judge presented his opinion in the first interventions of the session without having heard from the other Magistrates whose arguments had not been included in the summary document that was the subject of discussion.

21. Finally, it is noted that doubts arise about the majority that approved Court Ruling C-055 of 2022 since, as previously demonstrated, the reasons that justified the so-called "clarification of vote" of Co-Judge Ossa Santamaría refer to a disagreement regarding the conditioning of constitutionality included in the operative part of the Ruling. Hence, that manifestation constitutes a partially dissenting opinion, with which the supposed five votes that approved the decision are blurred.

22. This Corporation has indicated that in judicial practice, scenarios may arise in which Justices clarify or dissent from their vote. In this regard, it has been clarified that:

> *"The first of these allows expressing a particular position to those participants in the decision who, having accompanied all the resolutions with their vote, fully or partially disagree with the support that precedes them, while the second, the dissenting opinion, allows the dissenting Justices to explain the reasons why they disagreed with the decision, as established based on their negative vote. It should be added that it is possible to express a partially dissenting opinion in those cases where there is disagreement only with part of the decision made, or simply dissent (which in that case would be assumed as total) when none of the decisions incorporated in the judicial order are agreed upon[664]"*

23. The dissenting vote pertains to the decision adopted by the Corporation, that is, its operative part, while the clarification of the vote refers to the reasoning behind the decision, that is, its motivational part. Therefore, if the disagreement of the Co-Judge was related to the fixed deadline system included in the conditionality of the operative part, this necessarily implies that they agreed with the declaration of constitutionality but not with the conditionality as included in Court Ruling C-055 of 2022. Consequently, there is a partial dissent even if it was titled as a mere clarification of the vote since the reasons for the dissent were not limited to the justification of the judicial order."

[664]Cf. Constitutional Court, Ruling T-345 of 2014 and Auto 293 of 2016.

B. The inadequacy of the grounds for the claim required the Constitutional Court to abstain from hearing the case.

24. The Constitutional Court has stated that:

> "The unconstitutionality trial implies the abstract confrontation of the content of the challenged provision and the superior norm. Compliance with it imposes on the plaintiff a burden of a substantial nature: to formulate at least one specific, direct, and concrete charge of unconstitutionality **against the accused norm**, which allows the judge to establish whether there is indeed a true **problem of constitutional nature** and, therefore, an **objective and verifiable opposition between the literal content of the law and the Political Constitution**. As expressed by the jurisprudence of this Court, the formulation of indirect and unreasonable charges that cannot be attributed to the text of the norm cited in the claim, or that are not directly related to it, prevent the validity of the unconstitutionality process from being guaranteed as they disregard its purpose, **which is to carry out the abstract and impersonal control of** laws[665]**"** (Bolded text is not present in the original text)

25. As pointed out by some intervening parties, the claim presented in this constitutional process does not include constitutionality charges, butinstead of convenience or ineffectiveness of public policies. In this sense, as stated by Court Ruling C-055 of 2022, charges related to the alleged violation of the right to freedom of profession or occupation and the principle of the secular state are inept due to lacking certainty, relevance, specificity, and sufficiency. However, I do not share the reasons given by the decision regarding the charges related to the violation of the alleged right to legal abortion, the right to equality, the right to freedom of conscience, and the principle of minimum criminal law, which, in my opinion, should also have been declared inept, for the reasons I will explain below.

The Court should have declared the ineptitude of the charges related to the alleged violation of the right to legal abortion, the right to health, and the right to equality for being irrelevant.

26. As stated in the text of the Judgment, a charge must contain "**constitutional reasoning**, that is, not based on legal or doctrinal arguments, nor on particular events, personal facts, one's own experiences, real or imaginary events and occurrences in which the challenged norm has allegedly been applied or will be applied, nor on personal desires, social aspirations of the plaintiff or their wish regarding a **social policy**" (emphasis added). This implies that there must be a contradiction between the challenged norm and the Constitution. The contested norm in this case is Article 122

[665]Constitutional Court of Colombia, Ruling C-561 of 2002.

of the Criminal Code.

27. Regarding the charges of the alleged violation of the right to VIP -a nonexistent right in the Colombian constitutional system- and to health, the judgment states that "the plaintiffs argue that the unconstitutionality of the challenged provision derives, among other reasons, from the way in which the criminalization of abortion is maintained, becoming the main obstacle to guaranteeing VIP in the cases that ceased to be a crime from Ruling C-355" and adds that "in turn, they warn that the challenged provision maintains a measure that not only does not facilitate, promote or affirm but obstructs access to the VIP procedure as a reproductive health service that all women require. In addition, the plaintiffs argue that it is a component of the right to reproductive health and that it stands as a fundamental guarantee for the realization of all their other human rights."

28. As evidenced, the constitutionality charges are related to the inadequate application of the health system regarding behaviors already decriminalized by Ruling C-355 of 2006. Therefore, the charges do not refer to the non-conformity of Article 122 of the Criminal Code with the Constitution but to the alleged barriers to implementing Ruling C-355 of 2006. These arguments are related to the alleged inconvenience of maintaining the crime in the legal system because, in the words of the plaintiffs, it maintains barriers. Thus, it is an argument of inconvenience and not of constitutionality, so it is irrelevant.

29. Regarding the right to health, other arguments are presented related to the impossibility of accessing medical services that could be relevant in a constitutional action, but in any case, they constitute a constitutional *res judicata* -as will be seen later-.

30. Regarding the right to equality, the Ruling acknowledges that the claim alleged "that Article 122 of the Criminal Code, although neutral in its text, generates indirect discrimination against such groups of people, as it impacts them in a different way, evidently more disproportionate, than the generality of women who are identified as active subjects of the conduct of consented abortion. This is because the particular situation of these women exposes them **to a greater extent to the practice of unsafe abortions** that seriously endanger their rights to health and life, as well as to multiple barriers to access to the VIP procedure."

31. Thus, the claim bases the allegation of indirect discrimination on (i) the lack of knowledge of the Colombian legal system by migrant women[666], (ii) higher rates of malnutrition, inadequate health services, and sexual violence[667], and (iii) the request for special documents to access health services[668]. All the above are important problems that the migrant population must face, but as important as they may be, they do not refer to issues of unconstitutionality, and they are

[666]Just Cause Claim, pp. 91-100.
[667]Ibidem, p. 93.
[668]Ibidem, pp. 94 y 95.

undoubtedly not issues that can be solved with a Court ruling that decriminalizes abortion. To address these problems, comprehensive public policies are required, which are by no means within the competence of the Constitutional Court in a constitutional study.

32. Therefore, both the argument of equality and those related to the alleged right to VIP and the right to health are irrelevant and should have been excluded from the substantive analysis.

The Court should have declared the inadequacy of the violation of freedom of conscience charge due to lack of specificity.

33. As stated in the Court's Ruling, the charge of violation of freedom of conscience was presented in two perspectives: one related to the secular state, which was declared inadequate, and another related to women's freedom of conscience which implies, according to the decision:

> "From the second perspective, that is, the one that is based on personal convictions that are not of a religious context, the challenged norm would violate 'the guarantee of women to act in favor of their freedom of conscience', that is, that in exercising reproductive autonomy, women should have full authority to adopt a decision based on the value system resulting from their ideological convictions built based on moral experience, as part of their interaction with their social, political, and economic context; moreover, taking into account that it is she who assumes the gestation process."

34. As will be evidenced later in the section on the *res judicata*, this argument is essentially the same as that related to personal autonomy presented in the decided claims in Court Ruling C-355 of 2006[669]. Therefore, this argument loses specificity due to the appearance of a change in the argument, since it does not present the contradiction of the penal norm with the elements of freedom of conscience but rather confuses freedom of conscience with personal autonomy. In addition to this lack of specificity, for not presenting the alleged constitutional violation, it is important to draw attention to the problematic and dangerous nature of this argument, which completely disregards the unborn's humanity. In fact, one of the expressions of the claim presented expressly included the following statement in relation to the unborn: "In short, his or her quality as a 'person' is determined by the mother, that is, by the subject who is in a position to make him or her be born as such[670]." In this sense, this charge is based on the idea that a third party can, in their conscience, define the legal personality of a human being, which, in addition to lacking specificity, is openly contrary to the theory of Human Rights and our Political Constitution.

[669]On this occasion, the Court studied the lawsuits filed by citizens Mónica del Pilar Roa López, Pablo Jaramillo Valencia, Marcela Abadía Cubillos, Juana Dávila Sáenz and Laura Porras Santanilla.
[670]Just Cause Claim, p. 113.

Therefore, in my opinion, this charge should have been declared unfounded by the Constitutional Court.

The Court should have declared the inadequacy of the charge of violation of constitutional principles of criminal law due to lack of certainty and relevance.

35. The claim argued that Article 122 of the Criminal Code should be declared unconstitutional as it does not fulfill the purposes of punishment, does not prevent conduct, and does not consider the elements of retributive purposes. Additionally, it included an argument regarding the non-compliance with the principle of criminal law as *ultima ratio*.

36. Contrary to what was stated in the ruling, this charge lacks certainty and relevance as it includes discussions that only belong to the criminal policy of the State. It is worth noting that, on multiple occasions, this same Court has stated that, based on Article 150 of the Constitution, discussions on criminal policy belong to the legislature and more precisely to the Congress of the Republic, which has the constitutional competence to issue the Criminal Code[671]. Therefore, the convenience or efficiency of the criminal offense of abortion to fulfill the purposes of punishment is entirely irrelevant in a constitutional analysis. The Court has no competence to evaluate, with respect to each offense, how much the prohibited conduct has decreased since it is not an evaluation body of the State's public policies, a matter that goes beyond the functions that the Constitution attributes to the Constitutional Court and affects the principle of functional separation and distribution of public power. For this reason, regarding criminal offenses, this Court has defined that the limits to the margin of configuration of the legislature in criminal policy are: (i) strict legality[672], (ii) affectation of dignity[673], and (iii) affectation of fundamental rights in their essential core[674].

37. Since these charges did not demonstrate the affectation to any of these limits, but rather seek the evaluation of criminal policy regarding abortion, this charge does not account for the constitutional norms violated, nor the reasons why they were violated, but rather assesses the convenience of the criminal offense. Therefore, in my opinion, this charge should also have been declared unfounded.

C. On the Constitutional res judicata

38. Based on the analysis presented above, it can be concluded that the only claim that would meet the requirements of clarity, certainty, specificity, relevance, and sufficiency would be the alleged violation of the right to health, not due to the so-called barriers, but in the abstract due to

[671]Cf. Constitutional Court, Rulings C-762 of 2002, C-025 of 2018 and C-107 of 2018.
[672]Constitutional Court, Ruling C-121 of 2012.
[673]Constitutional Court, Ruling C-806 of 2002.
[674]Cf. Constitutional Court, Rulings C-939 of 2002 and C-203 of 2016.

the impossibility of accessing an abortion in the healthcare system outside of the three causes provided for in Ruling C-355 of 2006, which could imply a risk to health in clandestine abortions. However, regarding this claim, in my opinion, the Court should have maintained the *res judicata*. Therefore, the Court did not have jurisdiction to analyze the lawsuit presented within the framework of file D-13.956, as the phenomenon of the *res judicata* was configured in relation to what was decided in Ruling C-355 of 2006.

39. Constitutional *res judicata* is a procedural legal institution that finds its basis in Article 243 of the Constitution, and Article 22 of Decree 2067 of 1991, through which decisions set out in judgments are granted an "immutable, binding and final" character[675]. Therefore, "the Rulings that the Court issues in the exercise of jurisdictional control become *res judicata*[676]".

40. Thus, the Constitutional Court has established that this figure is relevant for the Colombian legal system since it materializes the principle of legal certainty[677]. In effect, the *res judicata* principle not only guarantees that legal controversies do not extend indefinitely[678] but, additionally, "legal certainty is preserved since the reference is objective and prior. In addition, the scope of a possible second pronouncement of the Court on the same norm is restricted to what was judged in the first ruling - which does not prevent the previous judgment from being a relevant precedent - while exercising constitutional control on what had not been judged, which is essential to ensure the full and effective supremacy and integrity of the Constitution[679]".

41. In Ruling C-055 of 2022, the analysis derived from constitutional *res judicata* resulting from integrative judgments (interpretive, additive, or substitutive) or those that have declared the conditional constitutionality of a norm is recalled. It is stated that even when the reproach is directed against the same legal norm, it is necessary to contrast the legal problem resolved in the past with the claims that will be subject to analysis on this occasion. The Ruling also suggests examining "whether there is identity in the way the case was studied, and the solution adopted." In addition to the above, it was proposed that, without prejudice to the existence of constitutional *res judicata*, a new control may be carried out when a modification of the control parameter is demonstrated, a change in the material meaning of the Constitution, and/or a variation of the normative context of the object of control.

42. The majority of the Full Chamber, in this case, held that *res judicata* was not established because the issues to be analyzed were not strictly speaking the subject of consideration in Ruling C-355 of 2006. In any event, the analysis of the *res judicata* is relaxed in this case due to a change

[675]Constitutional Court, Ruling C-774 of 2001.
[676]Cfr. Political Constitution of Colombia, Article 243.
[677]Constitutional Court. Ruling T-022 of 2005.
[678]Ibidem.
[679]Constitutional Court. Ruling C-382 of 2005.

in the material meaning of the Constitution regarding the "understanding of the constitutional problem posed by the crime of consensual abortion," as well as a variation in the normative context in which Article 122 of the Criminal Code is found.

43. In contrast to the ruling, however, it is evident that there is an identity of object and charges and that, in this case, none of the assumptions that, according to jurisprudence, allow for the relaxation of *res judicata* have been proven, in accordance with the Court's decision in Ruling C-007 of 2016.

44. As the Court has pointed out, the delimitation of *res judicata* in abstract constitutional control as a superior principle contained in the Political Constitution is based on two elements: (i) the object of control or rule studied, and (ii) the charge or charges examined with respect to the substance of the matter. In this sense, "there will be *res judicata* if a previous pronouncement of the Court in abstract control has been made on the same rule (identity in the object) and if the constitutional reproach raised is equivalent to that examined in a previous opportunity (identity in the charge)[680]"

45. In accordance with Ruling C-007 of 2016, the *res judicata* can be formal and material, absolute and relative, implicitly relative, explicitly relative, or apparent.

	Typology	**Explanation**
1.	Formal	It applies to the object under control and is configured when "the prior decision of the Court has been submitted on a text identical to that submitted again for its consideration[681].
	Material	It applies to the object of control and exists when the Court did not examine the same normative provision, but due to the similarity of the normative contents, the provisions produce the same legal effects.
2.	Absolute	It is established with respect to the analyzed unconstitutionality claim. This occurs when "the first decision exhausted any debate on the constitutionality of the accused norm",[682] which is why a new examination of constitutionality cannot be carried out.
	Relative	It is determined from the unconstitutionality claims addressed in the first decision. In effect, if in the previous opportunity the Court

[680]Constitutional Court, Ruling C-007 of 2016. In the same sense, see, Rulings C-796 of 2014, SU-027 of 2016, C-219 of 2018 and C-039 of 2019.
[681]Cf. Constitutional Court, Ruling C-007 of 2016.
[682]Cf. Constitutional Court, Ruling C-007 of 2016.

		pronounce on the constitutional validity from the perspective of some claims.
3.	Implicit	This categorization only applies when there is a relative *res judicata* in the terms described. It will be implicit when the previous decision did not include in the operative part a mention about which unconstitutionality claims the constitutional review addressed in the judgment.
	Explicit	This categorization also only applies when there is a relative *res judicata*. It will be explicit when the operative part of the ruling expressly refers that the Court's determination is limited to the analyzed claims.
4.	Apparent	It occurs in those cases in which "the Court, despite adopting a decision in the operative part of its rulings declaring the constitutionality of a norm, actually does not exercise any judicial function and, therefore, the *res judicata* is fictitious[683]."

46. In the present case, the identity of object and claims is configured, so that Ruling C-055 of 2022 ignores that there is *res judicata* in this opportunity, in the understanding that there is full identity of: (i) the challenged norm in File D-13.956 with the one analyzed by this Corporation in Ruling C-355 of 2006, that is, Article 122 of the Criminal Code; in this regard, there is no controversy regarding the fact that in this constitutional proceeding there is identity of object and the challenged norm now is the same one evaluated in C-355 of 2006; and (ii) the claims of the current lawsuit with the issues addressed by this Corporation in 2006. The Court's decision states that the *res judicata* is not configured if there is no identity of claims; thus, regarding the argument of violation of the right to equality, the judgment establishes that:

> "201. The Chamber cannot find evidence that the previous charge is analogous to the one currently being formulated, for the following three reasons: firstly, **in 2006 the Court did not pronounce** on the positive compliance and protection obligations of the State for the guarantee of women's, girls' and pregnant people's right to health and reproductive rights, as derived from Articles 42 and 16 of the Constitution, particularly as a result of the enactment of Law 1751 of 2015, the Health Statutory Law. Secondly, **in that year, it was not possible**

[683]Cf. Constitutional Court, Ruling C-007 of 2016.

> **for the Court to pronounce on the obligation of respect attached to the right to health**, based on recommendations for the decriminalization of abortion issued by multiple human rights protection organizations - regardless of their normative value - as these were subsequent to the issuance of Ruling C-355. Thirdly, unlike in 2006, as of the present date, **the duality of the challenged norm - crime/non-crime - makes it impossible to assess the status of the VIP as a procedure assigned to the scope of health**, according to constitutional jurisprudence, which has considered sexual and reproductive rights as an integral part of this fundamental right to health, autonomous and justiciable directly". (Bold text not in the original text)

47. However, in my opinion, this stance incurs a fundamental error in the analysis of the possible configuration of *res judicata*, as this concept is not analyzed based on the decision rendered by the Court, but rather on the arguments presented in the claim[684], and therefore, the element is called the identity of charges. Thus, the lack of integral analysis by the Constitutional Court in relation to the presented arguments does not imply the absence of identity of charges. In this section, the Court should have analyzed whether the claims in 2006 included the same arguments presented on this occasion, a matter that is evident in relation to the right to health. Thus, from the summary made in C-355 of 2006, it can be seen that at that time, the Court analyzed the correspondence of Article 122 of the Criminal Code with women's health, not in relation to the decriminalized extreme cases, but in general. The charges presented by citizen Mónica Roa are summarized as follows:

> "The physical life, personal integrity, and health of women can be seriously threatened by problems during pregnancy and are at greater risk when abortion is performed under clandestine conditions, usually without complying with medical protocols and hygiene rules. This social reality is constitutionally relevant.
>
> The objective dimension of the right to life imposes on the state the obligation to prevent women from dying from unsafe abortions. The right to life is understood as the fundamental right per excellence established in the Constitution. It has been understood that the right to life not only has a subjective dimension of ensuring life but also includes the obligation of others to respect the right to continue living or to anticipate their death."

48. The response to this analysis is that the offense was constitutional, except in the extreme cases decriminalized. This does not mean, as evidenced by the above excerpt, that the

[684]Cfr. Constitutional Court. Rulings C-796 of 2014; C-492 of 2020; and C-312 of 2017.

charge was presented only in relation to the decriminalized instances, but that after analyzing the alleged violation of the right to health, the Court found that the formula of decriminalization by grounds was the one that allowed the constitutionality of the norm, in relation to the right to health. Therefore, regarding the only charge that met the requirements of admissibility of the constitutional process, the *res judicata* is configured.

49. The majority position of the Court also includes a series of elements that have arisen in international law after the issuance of Ruling C-355 of 2006, as well as the health statutory law. However, adding sources to a constitutionality charge does not transform the charge, as the charge remains the same: the alleged violation of the right to health. The foregoing, of course, without prejudice to the fact that otherwise, the new sources are mere recommendations from international bodies that are not binding on the State and, in that sense, do not form part of the constitutional block.

50. In this sense, I disagree with the existence of a supposed formal, relative, and implicit *res judicata*, given that there is a total coincidence in the material content addressed by the Court in 2006, regarding the charges of the claim that the Full Chamber analyzed in File D-13.956. To demonstrate this assertion, below, some comparative tables are made on the content of the charges that were examined by this Corporation in Ruling C-055 of 2022, regarding the issues addressed at the time in Ruling C-355 of 2006. Each table is made according to the theme of the four charges that were considered suitable on this occasion by the majority of the Full Chamber, and then, the reasons are explained for considering that there is coincidence with what was addressed in 2006.

Charge	**Constitutional Court Ruling C-355 de 2006**	**Constitutional Court Ruling C-055 de 2022**

Right to health and reproductive rights	In legal basis 7 of the ruling, an extensive pronouncement was made regarding women's sexual and reproductive rights, as well as different constitutional guarantees associated with VIP. Likewise, in legal basis 8.3, the rights to life, health, and integrity of women were discussed, and among other issues related to the right to health, women's reproductive health was addressed.	The plaintiffs essentially alleged the alleged violation of the right to health, the reproductive rights of women, girls, and pregnant persons, in accordance with the provisions of Articles 16, 42, and 49, and the right to VIP. All of this from a perspective of equality in access to reproductive health. According to this ruling, the charge is not analogous, insofar as after the first ruling, some international instruments and pronouncements have been issued that have established obligations regarding the right to health and reproductive rights of women, with respect to which the Court has not previously ruled.

51. With due respect, I depart from the approach presented in this judgment. As can be seen from the table above, in two sections of Ruling C-355 of 2006, the Court ruled on the constitutionality of Article 122 of the Criminal Code regarding women's health and reproductive rights.

52. The explanation given regarding the possibility for the Court to rule on the State's obligations in guaranteeing women and girls' right to health and reproductive rights does not demonstrate that the issues to be analyzed in both cases are dissimilar. On the contrary, in both rulings, reference is made to the protection of women's reproductive health rights. The argument presented in Ruling C-055 of 2022 seems to be aimed at a possibility of flexibilizing *res judicata* due to the change in the material meaning of the Constitution or the normative context but does not allow for a cardinal distinction between the two issues to be established.

Charge	**Constitutional Court Ruling C-355 de 2006**	**Constitutional Court Ruling C-055 de 2022**

Right to equality	Legal basis 7 of the ruling refers extensively to the lack of guarantees that women have had to achieve real equality, as women have historically been victims of discrimination. Additionally, the demands raised the issue that low-income women and single mothers may find themselves in circumstances of greater vulnerability compared to others, which may imply greater vulnerability.	Disregard for the principle of equality of women in situations of special vulnerability and irregular migratory status. According to the ruling, this is an issue that was not addressed in any way in Ruling C-355 of 2006. Therefore, following the line of arguments presented in the demand, it was necessary to rule on the norm regarding the structural barriers of access that this population has to the VIP procedure, to the extent that the challenged norm does not affect all women equally.

53. I consider that Ruling C-055 of 2022 starts from an incorrect assertion in that it states that "in Ruling C-355 of 2006, the Court did not analyze any objection related to the alleged disregard of the right to equality." As explained in the table above, in legal basis number 7, the ruling did recognize the discrimination that women have suffered in achieving real equality. This is even related to one of the arguments in the demands that gave rise to that abstract control of the constitutionality process regarding the difficulties faced, especially by low-income women and single mothers. Therefore, while the demand that gave rise to this judgment refers to an issue related to the impact on women in irregular migration situations, it is not clear how the assessment of these women is excluded from the examination carried out by the Court in 2006 on women in vulnerable situations.

Charge	**Constitutional Court Ruling C-355 de 2006**	**Constitutional Court Ruling C-055 de 2022**
Freedom of Conscience	Legal basis 8.2 develops the scope of the right to free development of personality, in	The lawsuit refers to an alleged violation of freedom of conscience enshrined in Article

	which "freedom *in nuce* (...) [is condensed], therefore it is about the right to general freedom of action, which includes not only the specific freedom rights enshrined in the Constitution (freedom of worship, conscience, expression, and information, freedom to choose a profession or occupation, economic freedoms, etc.) but also the sphere of individual autonomy not protected by any of these rights[685].	18 of the Constitution, in the sense that Article 122 of the Criminal Code obliges women to act in a manner contrary to their conscience and self-determination. The ruling notes that the control parameter, in this case, is different in that in Court Ruling C-355 of 2006, reference was made to the right to free development of personality provided for in Article 16 of the Constitution.

54. Contrary to what was stated in the ruling, it should be noted that there is unity in the object of constitutional control also in this regard since, as can be seen from the quote made in the previous section, it is clear that the Constitutional Court in 2006 did not limit its examination to the content provided in Article 16 of the Constitution, but to several other constitutional guarantees that are necessarily involved in the scope of protection of the right to free development of personality. Although many of these other guarantees, such as freedom of conscience, are enshrined in other provisions of the Constitution, the fact that no express reference was made to the article number does not imply that the constitutional control had excluded that constitutional freedom that is interrelated and was mentioned by the Court in 2006.

55. As explained in its jurisprudence, this Court has indicated that the right to free development of personality is articulated with several other freedoms or superior guarantees. In Court Ruling C-336 of 2008, the Constitutional Court told that the right to free development of personality, also known as the right to autonomy and personal identity, seeks to protect the individual's power to self-determine; that is, the possibility of adopting, without any intrusion or pressure, a lifestyle consistent with their own interests, convictions, inclinations, and desires, provided, of course, that the rights of others and the constitutional order are respected. Thus, **it can be stated that this right of choice entails the freedom and independence of the individual to govern their own existence and to design a model of personality following the dictates of their conscience,**

[685]Constitutional Court, Ruling C-355 of 2006.

with the only limitation of not causing social harm. (emphasis added)

56. Likewise, in Court Ruling SU-108 of 2016, when determining the content of freedom of conscience, it was indicated that this guarantee is also part of the right to free development of personality. In this regard, it stated:

> "The open way in which the constituent conceived freedom of conscience and the consequent right of objection, that is, the guarantee that no one can be forced to act against their conscience, poses, among other things, the dilemma of whether this safeguard entails the right to object to compliance with a legal duty for reasons of ethical or moral order. // Indeed, **the confrontation between the dictates of individual conscience and the imperative of positive law is increasingly common in a pluralistic society that also defends personal autonomy, and free development of personality**." (emphasis added).

57. Therefore, it would not seem appropriate that the only reference made by Court Ruling C-355 of 2006 to freedom of conscience concerns conscientious objection on the part of health professionals who must perform the IVE procedure. On the contrary, based on this systematic and articulated reading of the right to free development of personality, I respectfully believe that there would be no reason to indicate that the control parameter that the Court raised on this matter in 2006 did not include the right to freedom of conscience provided for in Article 18 of the Constitution.

Charge	**Constitutional Court Ruling C-355 de 2006**	**Constitutional Court Ruling C-055 de 2022**
Constitutional purpose of general prevention of punishment and the *ultima ratio* of criminal law	One of the issues examined as part of the constitutional review was the limits on the exercise of the legislature's freedom to shape due to the particularities that arise in the area of criminal law. Several of the issues mentioned in the previous comparative tables were analyzed as evidence for this purpose. For the most part, the ruling develops the assumptions from	The lawsuit raises an alleged violation of the constitutional purpose of prevention of punishment and the mechanism of ultima ratio, which are examined in light of the preamble and Articles 1 and 2 of the Constitution. The ruling states that although "there are some similarities between this charge and some aspects addressed in Ruling C-355 of 2006, it is not possible to

	which the legislature's freedom to shape for these types of issues must be read, and the concept of criminal law as a last resort. This is found, for example, in legal basis 9.	infer that the constitutional problem now raised was resolved in that ruling." Specifically, because (i) "the general prevention purpose of punishment is not evaluated - particularly related to the lack of suitability of the provision to protect gestational life effectively"; and (ii) "Ruling C-355 of 2006 only refers once to the expression *ultima ratio* - as indicated above - and only to provide a general contextualization about this requirement, without having the scope that the plaintiffs assign to it on this occasion, associated with the subsidiary nature of criminal sanctions that requires, before resorting to the punitive power of the State, to resort to less harmful controls to achieve a similar standard of protection that criminal law provides, and more respectful of women's rights. Additionally, it is noted that the charge proposed by the plaintiffs on this occasion includes the conditioning that was made to the norm in Ruling C-355 of 2006 as part of the object of control.

58. Notwithstanding the arguments raised in the Judicial Order, it was not possible to carry out a new review of constitutionality on this charge as the criminal law as a last resort ("*ultima ratio*") was one of the legal bases that served as support for declaring the conditional constitutionality of Article 122

of the Criminal Code. In Court Ruling C-355 of 2006, a reference is made to the criteria that determine the constitutionality of the criminal policy, and the need to resort to instruments of prevention, dissuasion, attention and conflict resolution before resorting to the state's right to punish ("*ius puniendi*"). Based on these considerations, the Court will "review the constitutionality of the criminalization of the VIP as it is enshrined in the criminal law".

59. To carry out a new review of the constitutionality of Article 122 of the Criminal Code under the understanding of the general prevention and *ultima ratio* of criminal law, ignores the figure of res judicata. Above all, when the analysis of the merits of this charge results in a new conditioning of the rule as indicated in Court Ruling C-055 of 2022, which does not have the complementary nature to the three scenarios in which abortion had been decriminalized, but rather modifies it to broaden the scope of application of the provision.

60. The charges that were analyzed by the Plenary Chamber had already been studied by this Chamber when it assessed the constitutionality of Article 122 of the Criminal Code in Court Ruling C-355 of 2006 and declared its conditional constitutionality. Therefore, the Court should have followed the decision of Court Ruling C-355 of 2006.

D. Non-existence of grounds for weakening the *res judicata*.

61. The majority of the Plenary Chamber also justified the review of the merits of those four charges in a contradictory manner under the argument that, according to the constitutional jurisprudence, two assumptions were configured **to make the constitutional *res judicata* more flexible or to enervate it**. As described by this Corporation, making *res judicata* more flexible is a strictly exceptional possibility, given the relevance of the legal interests that are sought to be protected by such procedural legal institute. A doubt arises as to whether the lack of coincidence between the issues addressed in one and the other judicial rulings was supposedly clear, as it is attempted to be established in Court Ruling C-055 of 2022, why was it necessary to provide additional evidence that a relaxation of the *res judicata* was required?

62. The position of the majority of the Court considered that there were grounds for the weakening of the constitutional mattered judged. However, I will depict below, the reasons why I consider that: ***(i)*** there wasn't a variation in the material meaning of the constitution; ***(ii)*** there is no new normative context that modifies the legal regime of voluntary abortion as a crime; and ***(iii)*** there was an incorrect application of the criteria for lifting the constitutional *res judicata*.

There was no variation in the material meaning of the Constitution in relation to abortion with consent.

63. The majority's position considered that there was a change in the material meaning of the Constitution in relation to abortion with consent due to four phenomena: ***(i)*** the jurisprudential

transformation that now considers the right to health as one with a fundamental character, from the court rulings T-760 of 2008, C-313 of 2014, and Y-361 of 2014, all subsequent to Court Ruling C-355 of 2006, with respect to which a new reading of Article 122 of the Criminal Code had to be made; ***(ii)*** the alleged broadening of the understanding of abortion with consent that has reached the Constitutional Court, and that now identifies barriers and protection deficits to the detriment of women who wish to have an abortion; ***(iii)*** international documents of "different normative value" that have proposed the decriminalization of abortion beyond the three grounds; and, ***(iv)*** greater precision by the Constitutional Court for addressing gender-based violence in its jurisprudence.

64. According to the jurisprudence of the Constitutional Court, changes in the material meaning of the Constitution or in the understanding of the Constitution's relevant provisions consist on "the comprehension of the Political Consitution as an evolving or living text. This hypothesis does not depend […] on the formal incorporation or reincorporation of the norms to the block of constitutionality, but of the way that understanding of the constitutional rules and principles changes in time" [686]. However, it is significant social, political, or economic changes that produce adjustments in the material meaning of the Constitution[687].

65. In this regard, I emphasize that it was the Constitutional Court itself that produced the phenomena ***i, ii,*** and ***iv*** to which it refers as reasons that evidence the change in the material meaning of the Constitution or in the relevant mandates. Phenomena ***i, ii,*** and ***iv*** are jurisprudential, and fall within the legal sphere, and therefore do not justify the Constitution changing its meaning to adapt to a *significantly* new social, political or economic reality. Consequently, phenomena ***i, ii,*** and ***iv,*** not constituting or evidencing a significant social, political, or economic change, do not justify any change in the material meaning of the Constitution.

66. Otherwise, it would be like enabling this Court to modify the meaning of the Constitution and thus empowering itself to rule on matters that are already a *res judicata*. This argument, besides being circular, in as much as the Constitutional Court would be competent to rule again on a matter, since the Court itself modified the jurisprudence to empower itself, is risky for the functional separation and distribution of public power, legal certainty, and the legitimacy of the Court itself.

67. Indeed, unlike the above, this case does not represent a substantial change in the material understanding of the Constitution. On the contrary, Court Rulings T-760 of 2008, C-313 of 2014, and T-361 of 2014, all subsequent to Court Ruling C-355 of 2006, are the result of the jurisprudential line that this Corporation had been developing around the right to health, given the connection that this has with other superior guarantees such as human dignity, and the dignified life of persons. Even before the issuance of Court Ruling C-355 of 2006, this Corporation has already understood that the

[686] Constitutional Court, Court Ruling C-233 of 2021. Grounds 141.
[687] Constitutional Court, Court Ruling C-233 of 2021. Grounds 139-142.

right to health could be understood as fundamental, autonomous, and not only by virtue of the connection with the right to life with dignity[688].

68. Indeed, this corporation has tirelessly protected the right to health through the action of protection ("*acción de tutela*"), because it is connected to life with dignity[689i]. In some court rulings, the right to health was identified as a fundamental guarantee by connection[690] Likewise, before Court Ruling C-355 of 2006 was issued, the Court indicated that the "right to health is fundamental in an autonomous manner, when there are regulations that generate a subjective right to receive the attention and medicines defined therein. In this sense, this Corporation has indicated that the right to health is violated when it is possible to verify the non-compliance of these norms" [691].

69. By this time, international organizations such as the Committee on Economic, Social and Cultural Rights of the United Nations had also established the right to health was fundamental[692]. This instrument served as a hermeneutic criterion for Court Ruling T-859 of 2003, which established the autonomous fundamental nature that such constitutional guarantee could have in order to be protected through an action of protection ("*acción de tutela*").

70. It is clear that the jurisprudential development that took place with Court Rulings T-760 of 2008, C-313 of 2014, and T-361 of 2014 took place in the logical development that should be given under the constitutional parameters with regards to health as a fundamental and autonomous guarantee in itself. To that extent, such decisions do not result in a significant substantial variation on the relevance that this right already had in the Constitution of 1991. What was decided in the above decisions was a reasonable and necessary consequence of the development of the constitutional technique that the Constitutional Court has been clarifying over the years.

71. On the other hand, the phenomena ***iii*** also do not support in any way the change in the material meaning of the Constitution for three reasons:

First, if the meaning of the Constitution must "evolve" in order to survive as a "living" text, it must survive to all the pronouncements of international bodies, then there would be no constitutional supremacy but supremacy of pronouncements and studies of international bodies or experts.

Second, just like the phenomena ***i, ii,*** and ***iv,*** the phenomena ***iii***, several pronouncements of international bodies or experts –as well as the United Nations Rapporteurs— do not constitute or imply a *significant* social, political, or economic that would justify a change in the material meaning of

[688] Constitutional Court, Court Ruling T-859 of 2003 and T-1313 of 2005.
[689] Constitutional Court, Court Ruling T-1228 of 2005, T-060 of 2006, and T-099 of 2006.
[690] Constitutional Court, Court Ruling T-1123 of 2005.
[691] Constitutional Court, Court Ruling T-1313 of 2005.
[692] Committee on Economic, Social and Cultural Rights of the United Nations (CESCR) of the United Nations, General Comment No. 14, august 11 of 2000. "The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights") // 1. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity (…)"

the Constitution. Much less, to the extent that none of the pronouncements referenced by the Constitutional Court in the court ruling is a binding instrument of international law for Colombia[693].

Third, even if the Court assumed –wrongfully— that pronouncements by international bodies and experts imply significant social, political and economic change, it could not consider that automatically, this implies the alleged change occurred in Colombia. The constitutional control in Colombia is not based in society, politics, or the economy of other countries, because the Constitutional Court is only competent in Colombia. Consequently, these pronouncements of international bodies and experts do not offer any indication of changes that would justify the change of the material meaning of the Colombian Constitution.

Lastly, what is evident from recent surveys, especially this year's Invamer's Survey, is that more than 80% of Colombian citizens reject the decriminalization of abortion up to 24 weeks of gestation[694].Therefore, it seems that, socially, abortion continues to be a reprehensible conduct that can be addressed through criminal law.

There is no new regulatory context that modifies the legal status of elective abortion as a crime.

72. The Constitutional Court considered that a change in the normative context occurs when, on the one hand the competent authorities issue a norm that the Constitutional Court has already judged, subsequently, in a different normative context. Or when, on the other hand, the provision retains its formal content, but the competent authorities modify the law in which it is included, so that the material content of the provision –without any formal modification— changes.

73. In any case, the majority of the Court considered that the change in the normative context justifies a new constitutional assessment, this time, with the purpose of preventing the provision from producing unconstitutional effects when it is integrated into the new normative context.

74. According to Court Ruling C-055 of 2022, the context of the crime of abortion changed due to five phenomena: ***(i)*** the issuance of the Statutory Health Law of 2015, the new contest of health insurance and the shift from the fundamental right of health by connection with life, to the fundamental right to autonomous and inalienable health with individual and collective dimensions; ***(ii)*** the issuance of pronouncements by international bodies and experts regarding the alleged need to decriminalize abortion as a measure to guarantee sexual and reproductive rights, and to combat violence against women; ***(iii)*** the change of meaning that criminal policy gave to proportionality and the purposes of punishment, through the information provided by the Criminal Policy Advisory Commission, the data

[693] In fact, the Constitutional Court itself stated: "Although **this type of document is not binding** *per se* […]" (emphasis added).
[694] Tendencias *El Tiempo. (*March 4, 2022). Invamer poll: majority rejects abortion up to 24 weeks. *El Tiempo.* https://www.eltiempo.com/colombia/otras-ciudades/encuesta-invamer-aborto-hasta-24-semanas-rechazado-por-mayoria-655939.

of the Attorney General's Office on the prosecution of the crime of abortion in Colombia between 1998 and 2019, and the bill of the same Attorney General´s Office to partially decriminalize consensual abortion; ***(iv)*** the issuance of Law 1257 of 2008 in order to comply with international commitments on freedom, autonomy and sexual and reproductive health, and ***(v)*** the process of jurisprudential evolution of the Constitutional Court in relation to women´s rights to sexual and reproductive health, and the elimination of structural barriers to women´s access to these superior guarantees. In my opinion, this interpretation of the majority of the Court is also unfounded.

75. The foregoing, given that the phenomenon ***(i)*** does not justify a new pronouncement of the Court in relation to the crime of abortion. Indeed, regarding Law 1751 of 2015 on the matter of guaranteeing the right to health, what is certain is that it was not demonstrated how its issuance configures a different understanding of the norms in which Article 122 of the Criminal Code applies. This law of a statutory nature is intended to regulate the right to health enshrined in the 1991 Constitution, without being clear from its rules what the changes in the legal system are, so that it may result in the debatable conclusion of making a fundamental institution such as constitutional *res judicata* more flexible.

76. For a change in the normative context to weaken the constitutional *res judicata* –with the transcendence that such weakening has— the change must be relevant, i.e., have an impact on the accused provision. Otherwise, the constitutional *res judicata* would be an irrelevant legal figure, since any change in the legal system in which the provisions analyzed by the Constitutional Court are inserted could generate an infinite number of pronouncements by this High Court.

77. Th Court considered in that the right of health was fundamental as it is directly connected with the right of life; now the constitutional jurisprudence and the law agree on the fundamental and autonomous nature of the right of health in its individual and collective dimensions.

78. However, Ruling C-055 of 2022 did not explain how the *res judicata* in Ruling C-355 of 2006 generates – if so - unconstitutional results with respect to the fundamental and autonomous nature of the right of healthcare; it did not even clarify why it only noticed this change in the normative context until 2022, long after the jurisprudence of this Corporation recognized hat the right of health is fundamental and autonomous.[695.]

79. The phenomenon ***ii)*** does not constitute or imply any change in the Colombian normative context for one reason: none of the pronouncements of international bodies or experts that the Constitutional Court referenced are normative in the strict sense of the word. The Court, erroneously, yield to

[695] Constitutional Court, Court Ruling C-088 of 2020.

international documents that have no binding character and that, in any case, do not provide for an obligation for Colombia to decriminalize abortion up to 24 weeks of gestation[696].

80. Specifically, the recommendations of international organizations do not imply a change in the content of the norms. Beyond the calls that this represents for the Legislative and Executive Branches to adopt the corresponding measures within the framework of their freedom of normative configuration, this type of circumstances does not translate into a modification of the law or its understanding.

81. It is not possible to admit that the Court has included the phenomenon ***iii)*** as basis for normative change. The most elementary for the practice of law is the knowledge of the legal sources and their mandatory nature. Therefore, I am surprised that the majority has considered as part of an alleged change in the normative context several reports of the Advisory Commission on Criminal Policy and the Office of the Attorney General of the Nation and a bill (Bill No. 209 of 2016, House of Representatives).

82. If only, for the sake of argument, it were accepted that reports and bills are part of the Colombian normative context, the Constitutional Court should then include –as part of the change in the Colombian normative context— countless reports and interventions before different authorities that show the harmful effects of abortion on the health and lives of mothers and their unborn children, as well as bills to protect human life before birth[697].

83. In any case, regarding the reevaluation of the proportionality and purposes of punishment in the framework of the State's criminal policy based on the aforementioned information provided by the Criminal Policy Advisory Commission, the Attorney General's Office and the legislative initiative to decriminalize consensual abortion (Bill 209 of 2016, House of Representatives), I consider that there are aspects that exceed the role of a constitutional judge in the field of abstract control of constitutionality. These are policy matters that concern both the Legislative Branch and he Executive Branch.

84. The phenomenon ***(iv) consist in the*** issuance of Law 1257 of 2008, with the purpose of "guaranteeing all women a life free of violence, both in the public and private spheres, the exercise of the rights recognized in the national and international legal systems, the access to administrative

[696] Public Interest and Human Rights Legal Clinic. Citizen intervention before the Constitutional Court on November 12 of 2020. File 13.956. https://www.corteconstitucional.gov.co/secretaria/archivo.php?id=22681.
[697] Bill 161/2021C. Whereby Article 11 of Chapter I, Chapter II of Title II of the Political Constitution of Colombia is amended and other provisions are enacted, entitled "right to be born". House of Representatives –First Permanent Constitutional Commission. https://www.camara.gov.co/derecho-a-nacer; Bill 140 of 2020, "Whereby Articles 90 and 93 of Law 84 of 1873 are amended and other provisions are enacted". http://leyes.senado.gov.co/proyectos/index.php/proyectos-ley/cuatrenio-2018- 2022/2020-2021/article/140-por-medio-de-la-cual-se-modifican-los-articulos-90-y-93-de-la-ley-84-de-1873-y-se-dictan-otras-disposiciones .

and judicial procedures for their protection and care, and the adoption of the necessary public policies for their realization.

85. The issuance of Law 1257 of 2008[698] implies a development of the Legislator with the purpose of promoting the prevention and punishment of forms of violence and discrimination against women. This materializes a constitutional mandate to especially protect women, without such legislative advance being conceivable as a change in the constitutional understanding of the norms within the framework of which Article 122 of the Criminal Code is interpreted.

86. The Constitutional Court, however, did not explain why the *res judicata* in Ruling C-355 of 2006 conflicts with the provisions of Law 1257 of 2008, nor why the permanence of such *res judicata* together with Law 1257 of 2008 implies unconstitutional consequences.

87. Furthermore, despite the fact that the Court has had more opportunities to rule on the crime of abortion in past years, did not propose any reason why, almost 14 years after the issuance of Law 1257 of 2008, it did not notice the constitutional effects of Ruling C-355 of 2006 until now. This is especially worrisome in the understanding that Law 1257 of 2008 does not have the purpose of regulating abortion in any of its paragraphs, and in this sense it is inadmissible that the Court takes any regulation related to women's rights and interprets that they have a scope related to the decriminalization of abortion, because this ends up reducing the problems of women to the discussion on abortion.

88. In phenomenon ***v)*** the court ruling refers to a change in the understanding of the constitutional problem regarding consensual abortion related to the impossibility that the court had in 2006 to assess the access barriers faced by women to access the VIP as a result of the same grounds that were raised in the conditional enforceability declared through Ruling C-355 of 2006. However, the Court did not explain why its jurisprudence on women's rights to sexual and reproductive health, as well as on the states obligations to eliminate structural barriers that prevent women from accessing these superior guarantees, conflicts with the *res judicata* in ruling C-355 of 2006. In fact, the legal basis 256 does not even include footnotes that would allow readers to identify how the jurisprudence of this Corporation regarding these matters generates any unconstitutional result when inserted in a legal order in which there is also *res judicata* of Court Ruling C-355 of 2006.

89. This point does not justify a relaxation of the *res judicata* either, since it implies an evaluation of public policy that exceeds the object of analysis of the Court from an abstract control of constitutionality, inasmuch as the application and practice of the normative precepts added by the same Corporation to article 122 of the Criminal Code becomes part of the object of examination.

[698] "*Whereby rules are issued for awareness, prevention and punishment of forms of violence and discrimination against women, the Criminal Code, the Criminal Procedure Code, Law 294 of 1996 and other provisions are amended".*

Therefore, it should not be the Constitutional Court that should be called upon to evaluate the practical consequences of the VIP, but other authorities of the executive branch.

90. On this point, it is worth mentioning that, although there are international documents that "have advocated the decriminalization of abortion beyond the three grounds defined by Ruling C-355 of 2006", this does not have enough impact to alter the constitutional understanding of the phenomenon under study herein, much less to enervate a procedural legal institute whose purpose is to protect legal certainty.

91. It is true that the constitutional jurisprudence issued after Ruling C-355 of 2006 has represented an important advance in the guarantee of women's rights and the fight against gender violence. However, this does not imply a change in the material meaning of the constitution that is radically different from the considerations made by this corporation in 2006. On the contrary, within the arguments raised at the time, it is noted that gender violence was part of the debate, as were the international instruments that at that time had been issued on this matter.

92. I emphasize that in the argument on the weakening of constitutional *res judicata*, the Court referred to "phenomena", as if they occurred spontaneously. However, it is problematic that a good part of these "phenomena" are in fact jurisprudence or consequences of the direct from the jurisprudence of the Constitutional Court itself.

93. This, besides being problematic, carries with it a danger: if the courts jurisprudence or its effects are "phenomena" that justify changing the material meaning of the Constitution and the normative context after dispositions in this country, the constitutional court does not have limits, not even its own precedent, to change constantly what is constitutional and what is not. I descent from this position, since it violates the democratic principle and undermines the principle of separation of powers and the balance of public power.

Incorrect application of criteria for lifting the res judicata

94. I emphasize that the Constitutional Court should not limit its analysis of the grounds for weakening the res judicata, to purely formal considerations. Not every modification of a control parameter, change in the way of understanding constitutional rules and principles, or new normative context is necessarily constitutional.

95. When the constitutional court truly identifies -which did not occur in this case- any of the changes or modifications that, *based on the first impression,* have the potential to weaken or lift a constitutional *res judicata*, it must evaluate whether those changes or modifications are in accordance with the Political Constitution of Colombia, and if, consequently, they are in accordance with the essential elements or actual axis of the superior text. Otherwise, the Constitutional Court would incur in the fallacy of change, consisting in the idea that any change or modification of the social, political,

economic, international or normative context is good and is constitutional by the mere fact of being a change, which would clearly eliminate the supremacy of the Constitution and damage its integrity.

96. The Constitutional Court has the power and at the same time the duty and obligation to safeguard the integrity and supremacy of the Constitution. In contravention of article 241 of the Constitution, the discussed court ruling undermines the supremacy of the Political Constitution of Colombia because it privileges international -non binding- announcements over the constitutional protection of the life of human beings and gestation and the prohibition of torture and cruel, inhuman and degrading treatment.

97. In addition, this court ruling violates the integrity of the Constitution, since it integrates an interpretation or way of understanding the constitutional provisions that undermines some of the essential elements or axis of the Political Charter: the protection of human dignity, the safeguarding of human life, the principle and right to equality and the prohibition of discrimination.

98. This statement, however, does not imply that the *res judicata* in Ruling C-355 of 2006 cannot be weakened, for example, by technical advances that make it possible to demonstrate the particularities of human life and gestation, or that make it possible to opt for less harmful measures. Therefore, my dissent does not propose an irreversible *res judicata* in Ruling C-355 of 2006, but rather highlight the shortcomings that this particular case has with respect to this constitutional figure.

E. On the merits of the case: There were no legal grounds for declaring the conditional constitutionality of article 122 of the Criminal Code.

99. After addressing the previous issues, I will present the reasons why I consider that, even accepting the competence of the Constitutional Court to hear this lawsuit on the merits, the measure adopted by the majority position does not comply with the Constitution. Thus, Ruling C-055 of 2022 starts from a position according to which the current controversy involves an analysis of **rights** in tension, and the measure adopted by the majority to resolve this tension is to decriminalize the conduct of abortion up to 24 weeks of gestation. However, this decision is problematic from a constitutional point of view insofar as the Ruling: ***(i)*** does not support the reasons why the criminalization up to 24 weeks of gestation is unconstitutional; ***(ii) leaves*** unborn children under 24 weeks of gestation in an absolute lack of protection, and ***(iii)*** does not adequately address the proportionality test required in cases where rights are in tension.

The legal status of the human being in gestation and the correlative obligations of the state for its protection.

100. One of the most heated debates on the right of life has to do with the moment from which the existence of human species is protected. In Colombia, there has been much discussion about the legal status of the unborn, especially since article 90 of the Civil Code establishes that one “is a

person at birth, that is, when one is completely separated from one's mother". Based on the aforementioned provision, it has been determined that the protection is in the hands of *individuals* by virtue of the legal personality that is recognized to them under civil law [699].

101. However, the guarantee of the right to life is not reduced to a matter of legal certainty proper to civil law, but extends to the protection of the human species. "What is this at stake is not who has the right to inherit, but who has the right to life" [700]. The scope of the right to life cannot be limited to a *person's legal existence*, in as much as that human life is beyond. Therefore, although this norm is very relevant because it is the only one in national law that defines legal personality, it is infra-constitutional and was designed with very different purposes than the definition of the legal status of the unborn in relation to constitutional rights[701]. This regulation ignores the character of fundamental right and human rights that the right-to-life has, and therefore based on the first impression, it is in in opposition to the protection that international instruments have given to life from the moment of conception.

102. In this sense, a broad analysis of the norms that are part of the block of constitutionality leads to the conclusion that the unborn child: (i) is a member of the human species, (ii) is a child, (iii) and, in any case, is a sentient being. In my opinion, this undoubtedly has an impact on the State's obligations in terms of human rights protection, as I will explain below.

103. First of all, in accordance with the Declarations, Conventions, International Treaties and Covenants on Human Rights and the Political Constitution of 1991, **there is no higher good more important than human life, which is the foundation of all other rights, so that not even a judicial court, international or national, can arrogate to itself the right to determine when a life deserves constitutional protection *per se*.** As universally accepted jurisprudence and doctrine have pointed out, **there is no good or right more universal than the fundamental right of life**. **Human life from conception is prior to law**. Without the existence of human life there cannot be rights, or freedoms, or duties, or obligations.

104. The right to life is guaranteed that, both locally and internationally, it protects both the mere biological existence of the human being, as well as the possibility that human beings have to develop their faculties with dignity[702]. In Colombia it is enshrined in article 11 of the Constitution as follows: "*The right to life is inviolable. There shall not be death penalty*". In addition to being part of the customary law, it is enshrined in numerous human rights international treaties. For example, article 3

[699] Civil Code, contained in law 84 of 1873: "**Article 90.< LEGAL EXISTENCE OF PERSONS>.** The legal existence of every person begins at birth, that is, when it is completely separated from its mother. // The creature the dies in the maternal womb, or that parishes before being completely separated from his mother, shall not be born.
[700] Acosta, Juanita. Citizen intervention in the framework of File D-13.956.
[701] This is evidenced, among other things, by the fact that article 93 of the Civil Code establishes the necessary protection of the life of the unborn, which means that their lack of legal personality for civil purposes does not restrict them from the constitutional protection of life.
[702] *Cfr.,* Constitutional Court, Court Rulings T-926 of 1991 and T-416 of 2001.

of the Universal Declaration of Human Rights states that everyone has the right to life. In turn, article 6 provides that "*every human being has the right to recognition of its legal personality before the law everywhere*". For its part, the International Covenant on Civil and Political Rights states in article 6.1 that *"the right to life is inherent in the human person. This right shall be protected by law. No one shall be arbitrarily deprived of its life".*

105. In turn, principle 4 of the Declaration of the Rights of the Child states that *"**The child** shall enjoy the benefits of social security. He **shall be entitled** to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, **including adequate pre-natal** and post-natal care*" (Bold outside the original text).

106. Similarly, the Convention on the Rights of the Child refers on different occasions to the protection of the right to life. Thus, in its preamble, it states that, *"bearing in mind that, as stated in the Declaration of the Rights of the Child, 'the child, by reason of his lack of physical and mental maturity, needs special protection and care, including appropriate legal protection, both **before** and after birth'"* (emphasis added). Furthermore, article 6 provides that "Party States recognize that every child has the inherent right to life", and article 24.2.d provides that Party States shall ensure that the following are provided for appropriate prenatal and postnatal health care for mothers.

107. Thus, various international human rights instruments enshrine the special and inherent protection of the right to life of the human being and, in particular, the right to life of children and adolescents, as subjects that require special protection due to the particular situation of vulnerability in which they find themselves. This protection clearly also extends to the period before birth, in which both the mother and the unborn child enjoy guarantees that must be protected by the States. All this, taking into account that without human life there is no place for the recognition of any right.

108. At the regional level, the American Convention on Human Rights provides in Article 1.2. that: "For the purposes of this Convention, a person is every human being". Then, Article 4.1. of the same Convention states: "**Everyone** has the right to respect for their life. This right shall be protected by law and, **in general, from the moment of conception**". (Bold outside original text). Reading these two provisions together, it is evident that for the purposes of the ACHR, the human being in gestation has the right to life. The ACHR is a parameter of constitutionality, as this Court has accepted in multiple rulings by recognizing it as part of the block of constitutionality[703].

109. This recognition of legal personality for the purposes of conventional rights, which are part of the block of constitutionality, implies that the human being in gestation not only has the right to life -as expressly stated in Article 4.1. of the ACHR-, but also to other conventional rights, for example

[703] Cfr. Constitutional Court. Court Ruling C-146 of 2021; Constitutional Court. Court Ruling C-500 of 2014; Constitutional Court. Court Ruling C-111 of 2019.

personal integrity and the consequent prohibition of inhuman, cruel and degrading treatment,[704] or the right to equality[705].

110. However, multiple sources of international human rights law recognize the rights of all human beings, that is, all those who belong to the human species. Thus, the International Covenant on Civil and Political Rights establishes the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"[706]. The same occurs with the Universal Declaration of Human Rights[707], International Covenant on Economic, Social and Cultural Rights[708], Universal Declaration on the Human Genome and Human Rights[709], among others. Thus, international law has provided for the protection of the human genome as "The human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity"[710]. Moreover, article 18 of the Convention for the Protection of Human Rights and Human Dignity of the Human Being with regard to the Application of Biology and Medicine of April 4, 1997, enshrines the prohibition "on the constitution of human embryos for experimental purposes".

111. Given that there is no doubt in the scientific literature[711], which was also not in doubt in the medical interventions presented to this Court, the unborn **is a human being in gestation**, who deserves the legal protection that all these instruments provide.

112. In the regional systems of Human Rights protection, both the European Court of Human Rights and the Inter-American Court of Human Rights have referred to the legal protection that is intrinsic to the life of the unborn child. In the European Court it is understood that from conception there is a member of the human species ("*a member of the human race*"), which enjoys dignity and must be protected[712].

113. The Inter-American Court of Human Rights (hereinafter IACHR Court) in the *case of Artavia Murillo et al (In Vitro Fertilization) v. Costa Rica*, indicated that from a scientific context, the term

[704] American Convention on Human Rights (ACHR). Article 5: "1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person. 3. Punishment shall not be extended to any person other than the criminal. 4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons. 5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors. 6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners".
[705] ACHR. Article 24: "All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law".
[706] International Covenant on Civil and Political Rights. Preamble.
[707] Universal Declaration of Human Rights. Preamble.
[708] International Covenant on Economic, Social and Cultural Rights. Preamble.
[709] Universal Declaration on the Human Genome and Human Rights. Preamble and Article 1.
[710] Article 1 of the Universal Declaration on the Human Genome and Human Rights.
[711] Semi, K, Takashima, Y. Pluripotent stem cells for the study of early human embryology. *Develop Growth Differ.* 2021; 63: 104-115. https://doi.org/10.1111/dgd.12715;Sadler T, Lagman J. Lagman Medical Embriology. Baltimore: Lippicott & Wilkins; 2016; Herranz G. The fictitious embryo: history of a biological myth. Madrid: Palabra; 2013.
[712] European Court of Human Rights, Vo. V. France [GC] – 53924/, July 2004. France [GC] – 53924/, July 2004.

"conception" established in the Convention can have two readings: "One current understanding of the "conception" as the moment of encounter, or fertilization, of the egg cell by the sperm cell. Fertilization results in the creation of a new cell: the zygote. cell: the zygote. Some scientific evidence considers the zygote to be a human organism that harbors the necessary instructions for the development of the embryo. Another current understands "conception" as the moment of implantation of the fertilized egg in the uterus. This is because the implantation of the fertilized egg in the mother's uterus enables the connection of the new cell, the zygote, with the maternal circulatory system, which allows it to access to all the hormones and other elements necessary for the embryo's development.

114. In the same sense, regarding the debate on when human life begins:

> "*Some positions indicate that the beginning of life begins with fertilization, recognizing the zygote as the first bodily manifestation of the continuous process of human development, while others consider that the starting point of the development of the embryo and their human life is implantation in the uterus, where it has the capacity to join its genetic potential with the maternal potential. Likewise, other positions highlight that life would begin when the nervous system develops.*
>
> *The Court notes that, while some articles state that the embryo is a human being, other articles emphasize that fertilization occurs in one minute but that the embryo is formed seven days later, which is why the concept of 'pre-embryo'. Some positions associate the concept of pre-embryo to the first fourteen days because after these it is known if there is a child or more*".

115. In sum, in interpreting the protection derived from Article 4(1) of the American Convention on Human Rights, it specified:

> *"The Court considers that it is appropriate to define, in accordance with the American Convention, how the term 'conception' should be interpreted. In this regard, the Court emphasizes that the scientific evidence agrees in differentiating between two complementary and essential moments in embryonic development: fertilization and implantation. The Court observes the cycle of conception only fulfills when the second moment is finalized. Taking into account the scientific evidence presented by the parties in the present case, the Court finds that, although the fertilization of the egg gives way to a different cell and with the sufficient genetic information for the possible development of a 'human being', the fact is that if the embryo is not implanted in the woman's body its developmental possibilities are nil. If an embryo never managed to implant in the uterus, it would*

not be able to develop because it would not receive the necessary nutrients, nor would it be in a suitable environment for its development (supra par. 180).

"*187. In this sense, the Court understands that the term 'conception' cannot be understood as a moment or process excluding the woman's body, given that an embryo has no chance of survival if implantation does not happen. Proof of the above is that it is only possible to establish whether or not a pregnancy has occurred once the fertilized egg has been implanted in the uterus, when the hormone called 'Chorionic Gonodatropin' is produced, which is only detectable in the woman who has an embryo attached to her. Prior to this it is impossible to determine whether the union between the egg and sperm occurred inside the body and whether this union was lost before implantation.*

"(…) Taking into account the above, the Court understands the term 'conception' from the moment in which implantation occurs, which is why it considers that before this event, Article 4 of the Convention does not apply. Likewise, the expression 'in general' allows inferring exceptions to a rule, but the interpretation according to the ordinary meaning does not allow specifying the scope of such exceptions" (emphasis added).

116. From the foregoing, the IACHR Court Concluded that:

"264. The Court has used the various methods of interpretation, which have led to coinciding results in the sense that the embryo cannot be understood as a person for the purposes of Article 4(1) of the American Convention. Likewise, after an analysis of the available scientific bases, the Court concluded that 'conception' in the sense of Article 4(1) takes place from the moment that the embryo implants in the uterus, which is why prior to this event there would not be the right to life under Article 4 of the Convention. Moreover, it is possible to conclude from the words 'in general' that the protection of the right to life under that provision is not absolute, but is gradual and incremental as it develops, due to that it does not constitute an absolute and unconditional duty, but rather implies an understanding of the applicability of exceptions to the general rule".

117. From the considerations made by the Inter-American Court of Human Rights in the case of *Artavia Murillo et al (In Vitro Fertilization) v. Costa Rica,* the following conclusions can be drawn, which I share in their entirety:

"(i) there is no doubt that the unborn child is entitled to the right to life protected by the American Convection and is so at least from the moment of implantation, i.e. between 6 and 7 days after the fertilization of the egg; (ii) the protection of the

> *right to life is -according to the Court- gradual and incremental, which may admit 'exceptions', but never the suspension, annulment or derogation of the right, as the Inter-American Court has repeatedly established, since the right to life is a part of a non-derogable nucleus that cannot be suspended and, according to what has established by the Inter-American court, does not admit restrictive approaches and (iii) the recognition of this ownership of the right to life requires the State to adopt all appropriate measures to protect and preserve it, and to adopt the necessary measures to create an adequate normative framework to dissuade any threat to the right to life, under penalty of incurring international responsibility. To reinforce this point, it is important to clarify that the ownership of the rights of the unborn also has been recognized by the European Court of Human Rights"713.*

118. Thus, by virtue of its nature as a human right and a fundamental right, it is possible to understand that there is a mandate to protect life from the moment the embryo is implanted in the uterus, since the existence of the human being from gestation is a superior good that must be guaranteed. Without prejudice to the reasonable limitations that may occur, what is certain is that any weighing that is carried out must start from the fact that **there is no higher good more important than human life as the foundation and presupposition of all other rights**.

119. It is clear from the foregoing that, both at the international and regional levels, life before birth also enjoys protection, and States have the duty to ensure that it is guaranteed. This is also justified on the understanding that **the unborn child is a sentient being and is a subject of rights.**

120. There is medical research that suggests that the unborn child is capable of feeling pain from early stages of gestation. In this regard, Professor Juanita Acosta, in her intervention brief in case D-13.956, indicated:

> *"Indeed, according to Flores Muñóz714 here are anatomical, physiological and behavioral studies that prove the above. Likewise, the literature explains that from week 16 there are changes in the circulation of the middle cerebral artery715,, and from the 20-22 weeks of gestation, painful sensations could be transmitted from the skin to the spinal cord and the brain716. Coherently, as pointed out in the literature, and reinforced by the intervention of Professor Kemel A.*

[713] Acosta, Juanita. Intervention presented in this process.
[714] Flores Muñóz, María Antonieta. Interventions in the fetus, pain and its bioethical dilemmas. Perinatol. Reprod. Hum. [online]. 2014, vol. 28, n.2 [cited 2020-10-31], pp.114-118. Available from: <http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0187-53372014000200008&lng=es&nrm=iso>. ISSN 0187-5337.
[715] Teixeira JM, Glover V, Fisk NM, Acute cerebral redistribution in response to invasive procedures in the human fetus. Am J Obstet Gynecol. 1999; 181: 1018-25.
[716] Arina O. Grossu. What Science Reveals About Fetal Pain. 2017. Issue Analysis. https://downloads.frc.org/EF/EF15A104.pdf.

Ghotme717, in the embryo, the nervous system starts to develop from the neural tube from the 26th day of gestation, i.e. before the woman detects her first menstrual delay. By the seventh week of gestation, the child has completed the first stage of development of the pain pathways in which the peripheral nerve structures capture and carry the painful stimulus from the skin to the spinal cord718. In this sense, studies indicate that in order to experience pain, full consciousness is not required from this level of the cerebral cortex, but also to ensure that the structures capable of capturing it and transmitting it to the rest of the nervous system are present719.

"Because of studies demonstrating the fetus's capacity to feel pain and the high stress response to surgical interventions720, the instructions in medical textbooks and common practice, recommends fetal anesthesia when performing surgery721 (either on the mother or directly on the fetus). (…)".

121. In accordance with the above, it should be added that a study by the University College of London states that "research has observed that preterm infants -even those born around 26 weeks- experience this sensation [of pain], and that their brain registers certain activity from 22 weeks"[722]. For its part, an analysis of published scientific studies on fetal pain made by Venezuelan doctors Saul Krizer[723] and Horacio Vanegas[724] regarding this matter, states:

"1. It should be kept in mind that responses to internal and external stimuli may be reflexive expressions, which would begin as early as week 8 of pregnancy.

"2. The development of the central nervous system of the fetus is progressive in organicity and functioning. It is not likely, because of this, that the fetus will feel pain before the week 20 and could perhaps, given the more advanced development of its physiology, begin to feel pain between weeks 22 and 26.

"3. It is necessary to know and differentiate whether what we call pain has the same characteristics of being felt and manifesting itself in fetuses, neonates, children and adults. The fetus at 37 weeks has a degree of maturity similar to that

[717] Filed before the Constitutional Court in the framework of the present proceeding.
[718] Derbyshire, S.W. (2008). Fetal pain: do we know enough to do the right thing. Reproductive health matters, 16(31), 117-126.
[719] Derbyshire, S.W., & Bockmann, J.C. (2020). Reconsidering fetal pain. Journal of Medical Ethics, 46(1), 3-6.
[720] "Invasive fetal procedures clearly elicit a stress response…" "Studies of neonates who received deep anesthesia with sufentanil had significantly reduced stress responses, complications, and mortality rates to surgery compared to neonates who received lighter anesthesia." Arina O. Grossu. What science Reveals About Fetal Pain. 2017. Issue Analysis. https://downloads.frc.org/EF/EF15A104.pdf
[721] Drs. Sau_l Kizer, Horacio Vanegas ¿Siente dolor el feto? 2016.
[722] Escuela de Medicina de la Pontificia Universidad Católica de Chile, ¿Desde cuándo siente dolor el feto?
[723] Corresponding Member of the National Academy of Medicine of Venezuela.
[724] Corresponding Member of the National Academy of Medicine of the Venezuelan Institute of Scientific Research (IVIC).

of a neonate a few days old. However, it is difficult to verify in both if what we define as pain is what they feel.

"4. Even if there is reasonable doubt that the fetus feels pain, it is best to use analgesia or anesthesia, very judiciously, when the fetus is to undergo procedures that are known to cause pain in extrauterine life"725.

122. From the foregoing it is clear that in life in gestation from conception there is a member of the human species that has been shown to be a sentient being and, consequently, is a subject of rights that receives special protection by the State and the international legal system.

123. In line with international instruments and bodies, it is possible to understand that the Constitution also establishes a special protection for the life and dignity of the human species, by virtue of which the State must ensure it guarantees life from the moment of conception. Our Constitution also recognizes that life and human dignity are essential elements that have a special guarantee, which, necessarily also extends to human beings from before birth, since their existence is the supposition for the recognition of the right to life.

124. Regarding the special protection that is recognized and granted at a national level, the 1991 Constitution, in addition to protecting the right to life, it states that human dignity is one of the cardinal values that support the entire legal system.[726][726] Article 1 of the Colombian Constitution states that Colombia as a Social State governed by the rule of law shall be "founded on the respect for human dignity, on the work and solidarity of the people who are a part of it, and on the prevalence of the general interest." In turn, the Constitution also states that the right to life is the foundation for the exercise of all the other constitutional guarantees, by establishing it as the first of the rights in the extensive bill of rights.

125. Likewise, the Constitution establishes a reinforced guarantee of rights with respect to defenseless population in circumstances of weakness or lack of protection. This requires special obligations on the part of the State to protect these groups and therefore, materialize their rights. For this reason, the Constitution expressly includes specific protection for pregnant women and children,

[725] Kizer Saul and Vanegas Horacio, ¿Siente dolor el feto?, Revista de Obstetricia y Ginecología de Venezuela, Volume 76, no. 2, Caracas, jun, 2016.

[726] According to Ruling C-143 of 2015, "[t]he constitutional recognition of the principle of human dignity, indicates that there must be special treatment for the individual since the person is an end for the State and therefore for all public authorities, especially for the judges, since this principle must be the interpretative parameter of all the rules of the legal system, this principle imposes a positive burden of action with regard to the other rights (...). In this sense, human dignity is conceived as "a founding principle of the Colombian State" of which an absolute value is derived from, this implies that it cannot be limited by other rights under any circumstances. "Therefore, respect for human dignity is a legal rule binding on all authorities without exception, it is also the raison d'être, the principle and the ultimate goal of the constitutional and democratic rule of law and of its organization, as indicated by the jurisprudence of this Court."

and in this same sense, constitutional jurisprudence has established special protection for pregnant women and children, and in this same sense, constitutional jurisprudence has expressed itself regarding the right to health and the right to life of this population. In particular, the most recent jurisprudence has specified that the authorities and individuals who provide public health services have the obligation by constitutional mandate to protect in a special way those who are part of these two groups, without distinguishing between the rights of the fetus and those of children.

126. In addition, different rulings of high courts, such as the Colombian Constitutional Court [727][727] and the Supreme Court of Justice[728] [728], have already recognized the rights of the fetus and have developed, on their behalf, a series of protections[729] [729]. For example, constitutional jurisprudence in relation to maternity protection in labor matters, "*has recognized that women in a state of pregnancy are entitled to a preferential treatment, due to their condition as a subject of special protection, as well as the need to ensure the guarantee of the rights of the fetus or the newborn* "[730][730] (emphasis added). In the same sense, the fetus has been recognized the rights to judicial protection, to health,[731][731] to the minimum vital conditions,[732] to social security,[733] to a life in dignified conditions,[734] and even to the home.[735] Likewise, the *nasciturus* have been recognized the right that the nursing personnel respects and protect their life, dignity and genetic, physical, spiritual and psychic integrity.

127. It should also be noted that, from the earliest stages of constitutional jurisprudence, this Corporation has defended that the fetus is a subject of rights entitled to fundamental rights. In particular this Court has pointed out that the Constitution protects the unborn in the Preamble and Article 11 (of the right to life) directly, and indirectly in Article 43 with the protection of the pregnant woman. In addition, it has pointed out that "[t]he obligation to protect the life of the unborn child does not respond to a simple obligation to provide food, since the mother requires permanent care and constant medical surveillance to guarantee at least the care of the childbirth and the first care of the child. (...)"[737] Thus, the reinforced labor stability of the parents is not simply intended to guarantee decent living conditions at the time of birth, but also implies a special protection in favor of the

[727]Constitutional Court. Court rulings T-805 de 2006; T-406 de 2012; T-256 de 2016; T-030 de 2018.
[728] Supreme Court. Court ruling STL 5168-2019, Filing Number 84071; Court ruling STC 9617-2015; Court ruling STC 1086-2018, Filing Number 76001-22-21-000-2017-00126-01; Court ruling STC 20982-2017, Filing Number 05001-22-03-000-2017-00830-01.
[729] Concept Doctor Juana Acosta, File D- 13956 Law 599 de 2000, Article 122, p. 22.
[730] Constitutional Court. Court ruling T-438 of 2020; T-550 of 2017; T-222 of 2017; T-350 of 2016; T-102 of 2016; T-138 of 2015.
[731] Constitutional Court ruling T- 030-2018; Constitutional Court ruling. STC 20982-2017: Filing Number. 05001-22-03-000-2017-00830-01, Civil Chamber. Also see STP 12247-2014.Filing No.: 75.440. Criminal Chamber; Supreme Court. STC1086-2018, Filing No.76001-22-21-000-2017-00126-01, Civil Chamber.
[732] Constitutional Court. Decision T-805 of 2006.
[733] Constitutional Court. Judgments T-406 of 2012; judgment T-256 of 2016; judgment T-030 of 2018; Supreme Court of Justice. STL 5168-2019, Filing Number 84071; Labor Chamber.
[734] Supreme Court of Justice. STC1086-2018, Filing Number.76001-22-21-000-2017-00126-01, Civil Chamber.
[735] Supreme Court of Justice. Ref. Case No. 0069-01; 2001. Civil Chamber.
[736] Law 911 of 2004. Article 9.
[737] Constitutional Court, Decision SU-491 of 1993.

pregnant woman to ensure that she receives the necessary medical care, before and after the birth. This has the clear objective of protecting the life of the human being who is about to be born, granting from that moment on the right to health and dignity.

128. The Constitutional court has been emphatic in pointing out that the unborn child "is protected by the spectrum of privileges that the Constitution reserves for children. [This is because] he or she is a subject of rights as he or she is an individual of human species."[738] Thus, the Constitutional court has specified that several constitutional provisions are responsible for their protection, in as much as "Article 43, when referring to the protection of pregnant women, and Article 44, when it guarantees children the right to life, do nothing but strengthen the premise that individuals who have not yet born, by the mere fact of being human beings, are guaranteed from the very moment of conception the protection of their fundamental rights (…) (emphasis added).

129. In line with the above, this court has also been clear in pointing out that, in any case, the constitutional judge must analyze in each specific case the fundamental rights alleged, to determine which can and which cannot be demanded before birth.[739] This is because, according to jurisprudence, the economic rights of a legal nature that hang over the *nasciturus* only become effective if the birth of the fetus occurs, while, on the contrary, the fundamental rights under the abovementioned conditions, can be enforceable from the moment the individual has been conceived.[740][732]

130. From long ago, this Corporation has expressed the centrality of the right to life, in connection with the principle of human dignity, as a defining principle of the Constitution. In Court ruling T-499 of 1992, the Constitutional court stated that human dignity is established as an essential part of our constitutional paradigm:

"*Man is an end in himself (...) The authorities are precisely established to protect every person in his life, understood in a broad sense as "full life". Physical, psychological and spiritual integrity, health, the minimum of material conditions necessary for a dignified existence, are constitutive elements of a person's life. A bureaucratized administration, insensitive to the needs of citizens, or of its own*

[738] Constitutional Court, Court ruling T-223 of 1998.
[739] Constitutional Court, Court ruling T-223 of 1998.
[740] Constitutional Court, Court rulings T-223 of 1998 and T-588 of 2004.

employees, is not in keeping with the essential purposes of the State, but on the contrary, objectifies the individual and betrays the founding values of the Social State." (Constitution art. 1°)".

131. In line with the above, the Constitutional court stated that the basis for the prohibition of abortion lies in the Colombian State's duty to protect life in gestation and not in the human nature of human person of the *nasciturus* [741]. In this sense, Constitutional Court ruling C-133 of 1994, the Constitutional Court mentioned:

> "It is true that our Constitution expressly recognizes the right to life cannot be breach to those who are persons belonging to the human race; but it does not mention that human life underlying in the unborn child lacks constitutional protection. As a result, if the essential value protected by the Constitution is human life, it must necessarily be inferred that wherever there is life, there must be the consequent protection of the State.
>
> "In other words, the Constitution not only protects the product of conceiving that takes shape at birth, which determines the existence of a person, under the terms of the legal regulations, but also the very process of life itself.
>
> The human being, which begins at conception, develops and perfects with the fetus, and acquires individuality at birth.
>
> "The life that the Constitution protects begins from the moment of gestation, given that the protection of life in the stage of its process in the mother's body is a necessarycondition for the independent life of the human being outside the mother's womb. On the other hand, the conception generates a third being that is existentially different from the mother, and whose development and improvement in order to acquire the viability of independent life, materializes with birth and cannot be left to the free decision of the pregnant woman.
>
> "By virtue of the foregoing, the State has the obligation to establish, for the defense of the life that begins at conception, a system of effective legal protection (...)" (emphasis outside the original text)." [742]

[741] Constitutional Court ruling C-355 of 2016.
[742] Constitutional Court ruling C-133 of 1994.

132. When dealing again with the analysis of the constitutionality of the criminal offense of abortion, in **Contitutional Ruling C-013 of 1997**, the Court did not expressly recognize the human nature of the *nasciturus*, but it did use more specific language on the protection of life. Specifically, the Court stated:

> "From the formation of the zygote there is life. A life that, obviously, needs a natural biological process that ends with the full formation of the zygote, but a life,after all, that is not inferior or less important than the one after childbirth. Its human nature is not acquired from one moment to the next through the rupture of the umbilical cord but accompanies the conception from the beginning. It wouldbe artificial and lacking in any scientific support the theory that, prior to birth, that which developed inside the womb was not life or that it did not correspond to ahuman being. From which it follows that always, from the moment of fertilization, it was and continues to be worthy of respect and legal protection".

133. Now, in **Court ruling C-355 of 2006,** the Constitutional court clarified that:

> "Beyond the discussion of whether the unborn child is a person and in that sense has the capacity of being a holder of fundamental rights, it **is a human life in gestation, and as such the Colombian State has a clear duty of protection that derives, as previously stated, of numerous constitutional provisions**. Duty of protection that has a broad scope since it not only means the assumption by the State of measures of a benefit nature, taken in favor of the pregnant mother but ultimately aimed at protecting the life of the one who is in the process of formation, but also because the necessary rules must be adopted to prohibit the direct intervention of both the State and third parties in the life that is being developed".[743]

134. Thus, determining in each specific case the extent, type and modality of the protection of the life of the *nasciturus* is up to the Legislator, who must establish the appropriate measures to ensure that such protection is effective, and in exceptional cases, especially

[743] Constitutional Court ruling C-355 of 2006
[744] Constitutional Court ruling C-355 of 2006.

when the protection offered by the Constitution cannot be achieved by other means, introduce the elements of criminal law to protect the life of the unborn child.[744]

135. In Court ruling T-223 of 1998, this Corporation analyzed the *tutela* action filed by a woman, on behalf of her minor daughter, in which she requested the protection of her fundamental rights to equality and child protection allegedly violated by the Chief of the Social Benefits Section of the Premiums and Allowances Unit of the National Police. The plaintiff was pregnant when her husband, a National Police officer, died in the line of duty. When the child was born, the plaintiff requested the recognition of the family allowance from the National Police. The entity denied the subsidy under the argument that at the time of the death there was only life expectancy for the daughter of the policeman. In the Court ruling on the rights of the unborn, the Court indicated that the *nasciturus* is a subject of rights that belongs to the human species, and that it has a protection that derives from the "spectrum of privileges that the Constitution reserved for children". This Court clarified that the Constitution protects children from the moment of the child conception with those rights that are connatural to the *nasciturus*, such as life, health, and the right to life, and physical integrity, while there are other rights such as the right to personal liberty or freedom of worship that cannot be subject to prenatal protection because the very nature of their exercise is not compatible with the being that has not yet left the womb. By virtue of the foregoing, the Court decided to grant the protection requested, since it found that the National Police had disregarded the rights of the newborn that had been suspended since conception, in particular, the right to the family allowance. Contrary to the claims of the defendant, the right to the family allowance was acquired from the moment of conception, even though it could only become effective after birth.

136. In Ruling T-171 of 1999, the Court studied and decided a tutela action filed by a woman, on her own behalf and on behalf of her unborn child, seeking protection of her fundamental rights to life and health, allegedly violated by EPS Coomeva. The plaintiff was pregnant and suffered from AIDS virus, for which a doctor assigned to EPS Coomeva prescribed her a daily dose of the drug AZT. According to the plaintiff, the drug was intended not only to protect her, but also to prevent the transmission of the virus to her unborn child. However, EPS Coomeva refused to deliver the medication because the plaintiff did not have 100 weeks required by Decree 806 of 1998, which regulates Law 100 of 1993. The plaintiff stated that she did not have the economic means to directly assume the cost of

medicine. The Constitutional Court, when referring to the special protection that the State must provide to pregnant women and to the unborn child, repeated that the unborn child "is protected by the spectrum of privileges that the Constitution reserves for the children", and affirmed that the unborn children are holders of fundamental rights that can be protected through the *tutela* action. In this case, the Constitutional Court granted protection of the right to health of the unborn child. Consequently, it ordered EPS Coomeva to deliver the medication ordered by the treating physician.

137. After Ruling C-355 of 2006, the constitutional jurisprudence understood that the life of the unborn child is a "legally relevant asset", with respect to which a special constitutional protection is established, which implies that the State must protect the unborn child. In this ruling, the Constitutional Court stated that various constitutional mandates[745] and international human rights law that are part of the (*bloque de constitucionalidad*) (*i.e.* rules and principles that are not expressly included in the Constitution but are part of it)[746] protect life at different stages, includes, of course, life in gestation, which has the status of a constitutionally protected good. Thus, in Colombia, "**the life of the unborn child is a constitutionally protected good and for that reason the legislator is obliged to adopt measures for its protection**" (bold and underlining outside the original text). [747][736]

138. As has been expressed, human life passes through different stages and manifests itself in different forms, which in turn have different legal protection. The national legal system, as well as the Inter-American system, while it is true that it grants protection to the unborn child, it does not grant the same level of protection of the human person. This position was also adopted in Ruling C-327 of 2016.

139. In Ruling T-010 of 2019, the Court indicated that the right to health "must be interpreted broadly, so that its exercise is not only predicated when life as mere existence is endangered, but on the contrary, the jurisprudence itself has considered that "(...) health entails the enjoyment of

[745] The Preamble contemplates life as one of the values that the constitutional order seeks to ensure, Article 2 states that the authorities of the Republic are instituted to protect the life of all persons residing in Colombia, and Article 11 states that "the right to life is inviolable", in addition to other constitutional references. From this multiple normative consecration, the functional plurality of life in the 1991 Constitution can also be deduced, since it has the status of a value and a fundamental right. From this plurinormative and plurifunctional perspective, a distinction must be made between life as a constitutionally protected good and the right to life as a subjective right of a fundamental nature. In this regard, see Ruling C-355 of 2006.

[746] The first paragraph of Article 6 of the International Covenant on Civil and Political Rights stipulates: "
The right to life is inherent to the human person. This right shall be protected by law. No one shall be arbitrarily deprived of his life". For its part, Article 4.1 of the American Convention on Human Rights, provides that: "Every person has the right to have his life respected. This right shall be protected by law and,in general, from the moment of conception. No one shall be arbitrarily deprived of his life". In this regard, see Ruling C-355 of 2006.

[747] Constitutional Court, Ruling C-355 of 2006.

different rights, especially the right to life and dignity". This right, according to the Court, "acquires particular relevance in the case of children and adolescents", for whom, by virtue of Article 44 of the Constitution and several international instruments, prevail over the rights to life and dignity.[748] Likewise, in Rulings T-705 of 2017, T- 178 of 2019, T-090of 2021 and T-450 of 2021 this Corporation has understood that the guarantying the right to health in children and adolescents (nationals or migrants) has special characteristics derived from the reinforced guarantee of their rights and the principle of the best interests of the child.[749]

140. The jurisprudential recount presented shows that the recognition of the protection of life in gestation has been a constant line of ruling. Although on some occasions an attempt has been made to distinguish between the guarantee of the right to life and the rights of the unborn child, the Colombian constitutional legal system -as well as the international and regional- have highlighted the need to protect the life that is in the process of formation in the mother's womb, and have referred to the obligation of protection of the State in these scenarios. The truth is that the right to life is protected from conception, since the legal system protects the human being in general, and the embryo is a member of the human species *per se*, or from its implantation in the terms of the jurisprudence of the Inter-American Court of HumanRights.

141. Thus, the right to life in gestation, like any other right, may be subject to reasonable and proportionate restrictions when in conflict with other guarantees. For this reason, the Inter-American Court of Human Rights has understood that protection is gradual and incremental. Without prejudice to the foregoing, any type of decision cannot annul or suspend in any of its states the protection of the human being, as a prior element for the existence and recognition of rights. Hence, it cannot be ignored that life in gestation enjoys a special level of protection, derived from the circumstances of vulnerability in which it is found, and given its quality of **a being able to feel and holder of rights**.

142. In addition to the above, it should be noted that such is the importance that has been recognized in our legal system to life during pregnancy, that the protection of the unborn child can be seen in different areas of the legal system, namely: (*i)* in the reinforced guarantee that falls on the pregnant woman; *(ii)* in the priority health care that must be provided to her at all stagesof her

[748] On these grounds, in this decision, the fundamental rights of a girl who required a surgical procedure, and who had been denied because it was considered to be for aesthetic purposes, were protected.
[749] In these rulings, the Constitutional Court protected the fundamental rights of migrant children who, for various reasons, had been subject to disproportionate barriers to the guarantee of their right to health, among other constitutional guarantees.

gestational process; and *(iii)* in the health services and specific protection in favor of the fetus or embryo in its development process that conceive it as a patient.

143. In first place, it should be noted that Article 43 of the Constitution provides that women, "[d]uring pregnancy and after childbirth shall enjoy special assistance and protection from the State and shall receive from the State food subsidy if they are then unemployed or forsaken". In Law 823 of 2003[750], Article 7 develops the above-mentioned constitutional mandate, and provides that "[f]or the fulfillment of this obligation, the National Government will design special plans of care for women not affiliated to a social security regime (...)".[751]

144. The jurisprudence of the Constitutional Court has repeatedly mentioned that the pregnant woman is a subject of special constitutional protection, with respect to whom specific guarantees are derived during gestation and after childbirth. One of these protection scenarios is found in the labor sphere, with the purpose of ensuring that the woman has the necessary resources to guarantee her basic needs and those of her child, that there is no lack of food or the basic supplies required by both during this process of life.[752] So much so, that even Article 43 of the Constitution provides for the obligation to grant a pregnant woman a food subsidy in case of unemployment or helplessness.

145. For example, in Ruling SU-075 of 2018, this Corporation recalled that the reinforced labor protection of women during gestation and breast feeding "*is a superior mandate that derives mainly from four constitutional foundations*": *(i)* the right that all women in general have to receive special maternity protection; *(ii)* the protection of pregnant or breast feeding women from the discrimination they may suffer in the workplace; *(iii)* the protection of the right to the minimum vital minimum and the life of both the women and the unborn child *(iv)* the relevance of the family in the constitutional order. From these assumptions, it has been justified figures such as the maternity leave, the general prohibition of dismissal of women due to pregnancy or breastfeeding, among others.[753]

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[750] "Whereby norms on equal opportunities for women are issued."

[751] Resolution 2003 of 2014 issued by the Ministry of Health and Social Protection establishes the priority processes that must be guaranteed to the pregnant woman during the gestation process and the moment of delivery within the framework of the provision of health services. This is even specifically developed in the Technical Norms of the Ministry of Health on childbirth care, for the early detection of pregnancy disorders and newborn care. To consult these regulations, you can access them through the following portal of the Ministry of Health and Social Protection: https://www.minsalud.gov.co/salud/publica/ssr/Paginas/salud-materna.aspx

[752] Constitutional Court, Rulings SU-070 of 2013 and C-005 of 2017.

[753] Constitutional Court, Rulings C-005 of 2017, T-670 of 2017, T-030 of 2018 and T-438 of 2020.

146. In Ruling T-088 of 2008, the Constitutional Court review the case of a woman who, eight months pregnant, was disaffiliated from the social security system. Notwithstanding the fact that during the constitutional proceedings the case resulted in a current lack of subject matter because the birth of the child had already taken place, the Court stated that the social security system in Colombia has the obligation to guarantee continuity in the provision of health services when the rights of subjects of special constitutional protection are involved, such as pregnant women and children. It was noted that the action of the EPS of "disaffiliating two subjects of special constitutional protection, not only violated the rights of pregnant women and children, but also violated the right to health care and social security of the plaintiff and of her son's right to due process, but in addition to violating the right to due process of Mrs (...), threatened the right to life of both her and the unborn child."

147. In this ruling, in addition to the special guarantee in favor of pregnant women derived from Article 43 of the Constitution, the special duty of the family, society and the State to assist and protect children in order to ensure their harmonious and comprehensive development, as well as "to ensure appropriate prenatal and postnatal care for mothers", which is protected in the Convention on the Rights of the Child, is brought up.

148. From the above, it is clear that health care for pregnant women implies a protection that also stems from the importance of protecting the health of the unborn child, given the impact that pregnancy can have on the rights to health,life, integrity and dignity of the unborn child, as a subject of special constitutional protection, with respect to whom the same spectrum of rights that the legal system recognizes in favor of children and adolescents is guaranteed. Certainly, what happens during gestation has a direct impact on what will be the child's integral development process.

149. In terms of health, during gestational life, the *unborn child* may be the object of surgical interventions or the beneficiary of specific medications to be taken by the mother so that she can recover from certain diagnosed diseases. For example, in cases of diagnosis of the fetus with spina bifida, there is the possibility of prenatal surgery to reduce the mobility limitations that may be generated for the child during its development process after birth. Most of these surgeries must be performed before the 26th week of pregnancy.

150. Thus, in line with what has been stated, it is possible to affirm that the fetus or embryo is entitled to the exercise of rights such as health and human dignity, given its condition as a being capable of feelings of the human species. Especially when it is a viable fetus capable to live independently of the woman's body, in which case it can be considered as a patient. The viability of the fetus has been

defined as the capacity to survive outside the mother's womb with the corresponding medical support and use of technologies. In some studies, it has been understood that this can occur as early as the 22nd week of pregnancy.

151.Thus, the *nasciturus* as part of the human species has specific protection in the legal system, so that it is the holder of rights such as health and life with dignity, and for whom, in addition to protection through the pregnant woman, it is possible to provide health services directly. From the above, it is possible to affirm that the unborn child can be conceived as a patient of the health system. What has been explained up to this point explains why, within the scope of prepaid medicine agreements, parents are required to enroll the unborn child between the 12th and 22nd week of pregnancy. This is so that the agreement's coverage is full, and no restrictions are generated in the provision of any type of service due to possible pre-existing conditions or exclusions.

152. Also regarding the priority health care provided to pregnant women, it is necessary to refer to the line of ruling that has been developed by the Court with regard to the guarantee of pregnant women in an irregular migratory situation. In this regard, it should be recalled that, according to this Corporation, health care for the migratory illegal population is limited to basic care and emergency cases.[754] Regarding pregnant women who are in an irregular situation, the Court understood that without considering the fact of not regularizing their situation, the pregnant woman was entitled to the right to health care, given the need to guarantee prenatal controls, effective care during the labor process and postpartum, given the connection of this process with the right to life with dignity, "which may be closely linked to the requirement of rendering e basic and emergency services to those affected."[755]

153. Indeed, in Court ruling SU-677 of 2017, it was considered that the accused Hospital had violated the fundamental rights of a woman in an irregular migratory situation who was pregnant, when it refused to perform prenatal checkups and not to attend the delivery free of charge. The woman was also in a situation of extreme poverty.

154.This type of guarantees provided in the legal system necessarily implies the protection of the rights to life and human dignity of the *nasciturus* and the life in gestation, which derives in the guarantee of the rights to health, among others, of the fetus and the embryo, hence the right of life

[754] *Cf.* Constitutional Court, Rulings T-314 of 2016, SU-677 of 2017, T-705 of 2017, T-210 of 2018, T-348of 2018, T-197 of 2019 and T-452 of 2019.

[755] *Cf.* Constitutional Court, Ruling SU-677 of 2017.

as from the conception. From what has been established so far, it can be concluded that from the constitutional legal framework, the unborn child, boy or girl, is in any case part of the human species. In general, under international human rights law, from the existence of a human right the State immediately has respect and guarantee obligations [756]. A similar matter has been recognized by this Court in its jurisprudence[757]. Therefore, Colombia -including its constitutional judges- has the obligation to respect and guarantee the right to life, personal integrity, equalityand all other rights of the unborn. The guarantee of these rights implies,among other actions, promoting them [758] and preventing, investigating, prosecuting and punishing their violations.[759]

155. Finally, if this Constitutional Court or the national authorities decided to omit the overwhelming evidence that the unborn child, boy or girl, is a member of the human species and, therefore is a subject of rights, there is no doubt that in accordance with the constitutional jurisprudence, it is a being capable of feeling. Thus, this Court in Ruling C-467 of 2016 established that from the relationship of human beings with wildlife derive a series of duties of protection and care:

> "a duty to protect animals against suffering, mistreatment and cruelty. From the relationship between nature and human beings we can infer the moral status of animal life and grant them with the capacity to suffer, **therefore, it is understood that they are beings capable of feeling which entails a series of obligations for human beings, of care and protection**".[760]

156. This recognition of rights and correlative obligations for human beings has even been extended to parts of the environment such as the Atrato River[761] and the Amazon[762]. In recent jurisprudence, this Court has established that animals deserve protection as " beings capable of feeling, individually considered",[763] and that even in case of doubt about their status -in the case

[756] IACHR Court. Case of Velásquez Rodríguez v. Honduras, Para. 164; Case of Kawas Fernández v. Honduras, Para 31; Case of Claude Reyes et al. v. Chile; United Nations Human Rights Committee. General Comment No.31, General Comments adopted by the Human Rights Committee, *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 80.*

[757] Constitutional Court. Ruling T-690 of 2017; Constitutional Court. Decision C-579 of 2013.

[758] IACHR. Compendium on the obligation of States to adapt their domestic legislation to Inter-AmericanHuman Rights Standards.

[759] Constitutional Court, Ruling T-690 of 2017; Ruling T-553 of 1995; T-406 of 2002; T-1051 of 2002.

[760] Constitutional Court, Ruling T-095 of 2016.

[761] Constitutional Court, Ruling T-622 of 2016.

[762] Supreme Court of Justice, Sentence STC 4360-2018. Filing n.° 11001-22-03-000-2018-00319-01(2018).

[763] Constitutional Court, Decision SU016 of 2020.

of fish-, by virtue of the principle of activities that could potentially cause damage to the environment should be prohibited.

157. The scientific literature has established that there is evidence of fetal pain from at least the 20th week of gestation.[764] In the previous weeks, there is no evidence of non-existence of fetal pain, but rather no evidence of its occurrence. Even in earlier weeks there is evidence of physiological reactions to pain.[765] Some scientific articles that were contributed to the constitutional process indicate that there is evidence of this pain as early as week 7 of gestation.[766] This implies that, long before the limit established by the Constitutional Court of 24 weeks, there is evidence of fetal pain. Thus, human beings in gestation must be considered beings capable of feelings and are generated forall other duties of care and protection.

158.In sum, a systematic interpretation of the constitutional legal framework establishes that unborn children are members of the human species, and that the State must respect and promote their rights, and prevent, investigate, prosecute, and punish violations against them. Additionally, according with constitutional jurisprudence, they must be recognized at least as sentient beings, and that such condition generates obligations of protection and care with respect to them.

On weighing the rights of the unborn child

159. Considering what has been presented up to this point, it is very clear that life in gestation has a special protection by the State, insofar as it is part of the human species that is a being capable of feeling and is a holder of rights. Notwithstanding this, the jurisprudence of the Court has also understood that the duty to protect the *unborn child* must be weighed when it conflicts with other rights and principles, such as, for example, the rights of women.

[764] "Invasive fetal procedures clearly elicit a stress response..." "Studies of neonates who received deep anesthesia with sufentanil had significantly reduced stress responses, complications, and mortality rates to surgery compared to neonates who received lighter anesthesia." Arina O. Grossu. What Science Reveals About Fetal Pain. 2017. Issue Analysis. https://downloads.frc.org/EF/EF15A104.pdf ; Flores Muñoz, Fetal interventions, pain and its bioethical dilemmas (2014). Retrieved from: http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0187-53372014000200008 ; Venegas and Kizer, Does the fetus feel pain (2016). Retrieved from http://ve.scielo.org/scielo.php?pid=S0048-77322016000200008&script=sci_abstract

[765] Flores Muñoz, Interventions on the fetus, pain and its bioethical dilemmas (2014). Retrieved from: http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0187-53372014000200008; Derbyshire, S.W. Fetal Pain: Do we know enough to do the right thing? (2008) Reproductive Health Matters, 16(31), 117-126.

[766] Kemel A. Ghotme and Eduardo Cortés S. Citizen's intervention before the Constitutional Court in November 12 of 2020. File 13.956. Retrieved from: https://www.corteconstitucional.gov.co/secretaria/archivo.php?id=22186.

160. In fact, by virtue of a weighing process carried out by the Constitutional Court between the duty to protect the *nasciturus* and the rights, principles and values of the pregnant woman, such as human dignity, in Ruling C-355 of 2006 abortion was decriminalized on three specific grounds.[767][742] In that decision, the Court concluded that the primacy of the protection of the life of the *unborn child*, through the threat of criminal sanction, was excessive and disproportionate to the fundamental rights of the pregnant woman, when: *(i)* the pregnancy was the result of a conduct constituting carnal abuse, or sexual act without consent, abusive, artificial insemination, non-consensual fertilized egg transfer or incest; *(ii)* there is a threat against the health and life of the pregnant woman; and *(iii)* there are malformations in the fetus of such gravity that make its life unviable.[768]

161. Under this scenario, under the context of the tension that arises between the sexual and reproductive rights of women and the obligation to protect the right to life and the guarantee of the rights of the unborn, the **solution adopted in Ruling C-055 of 2022 results in the total prevalence of one right over the other, in which any type of value or importance is subtracted from embryonic life from the moment of conception, in the terms indicated by the jurisprudence of the Inter-American Court of Human Rights and accepted by the constitutional jurisprudence.**

162. Notwithstanding the need of guaranteeing the rights of women to life, to life with dignity, to equality, to the free development of their personality, to sexual and reproductive freedom, to health, to education, to free development of their personality and other related rights of which they are holders, the decriminalization of abortion based on a system of time limits up to 24 weeks of gestation without any reason of unconstitutionality, unreasonably and disproportionately affects the constitutional and conventional obligation to protect the life of the unborn child in that term and hence their rights to life, human dignity and health, among others.

163. Moreover, the respectable arguments invoked in the judgment to that effect do not constitute grounds of unconstitutionality and, therefore, could not be addressed by the Court in order to base a judicial decision on them in the exercise of an abstract control of constitutionality, which is why they do not resolve the tension between the aforementioned obligations to protect the right to life and the

[767]("i) When continuing with the pregnancy constitutes a danger to the life or health of the woman, certified by a physician; (ii) When there is a serious malformation of the fetus that makes its life unviable, certified by a physician; and, (iii) When the pregnancy is the result of conduct, duly reported, constituting carnal abuse or sexual act without consent, abusive or non-consensual artificial insemination or transfer of fertilized egg, or incest". Cf. Constitutional Court, Ruling C-355 of 2006.
[768] Ibid. This assumption refers to the provisions of Article 124 of the Criminal Code, and two things should be clarified in this regard. The first is that the Court considers it necessary to include the case of incest. This is because, on the one hand, it is also a pregnancy resulting from punishable conduct; on the other hand, "even when it does not involve physical violence, incest generally seriously compromises the autonomy of the woman and is a behavior that by destabilizing the family institution is an attack not only on it (...), but also on another axial principle of the Charter: solidarity."

above mentioned fundamental rights.

164. Ruling C-055 of 2022, mentions that the guarantee of human life in gestation is completely disregarded, to give way only to the protection of fetal life from the 24th week of gestation. This means that, beyond the guarantee that the reproductive and sexual rights of women deserve, as well as the rest of their constitutional guarantees, the guarantees that the national and international law establishes in favor of life in gestation have been completely voided. The Ruling debated and voted on February 21, 2022 does not give any reason to infer why the life of the unborn is protected from the first day of the 24th week, but the life of the unborn previously to the 24th week is not protected.

165. Although the decision advises on the need to protect the legal right of life in gestation as an imperative constitutional purpose (articles 11 of the Constitution and 4.1 of the ACHR), with the decision contained in the resolutive part, the protection that falls on the embryo, that is, on the human being after conception, is ignored. Hence, what is said in the reasoning on the protection of life in gestation then becomes mere rhetoric that does not serve to justify the decision adopted. This also ignores the international protection and the Inter-American System with respect to life from conception, since it completely suppresses the protection of one of the stages of life in gestation, generating a total prevalence of the rights of woman.

166. This creates particular doubts when the weighing of the right to life as a fundamental and widely protected human right is carried out with respect to the possibility that women would have to perform the abortion, which initiates in the reproductive right to decide the number of children and the spacing between them, which does not necessarily have a fundamental content.

167. Without a doubt, the decision adopted in Ruling C-055 of 2022 implies **a regression in the protection of the unborn child´s rights**, as well as against the obligation to protect life from conception provided for in Article 4.1 of the American Convention on Human Rights, in the terms indicated by the Inter-American Court of Human Rights and in Articles 1, 11 and 44 of the Colombian Constitution, as established by the reaffirmed jurisprudence of the Constitutional Court since 1993.

There is no constitutional basis for decriminalizing abortion up to 24 weeks.

168. Now, without disregarding the rights of women who are impacted by a critical pregnancy, the decision adopted by the "majority" of the Court does not show an argument for considering that criminalization of abortion is unconstitutional as of the 24th week of gestation, and how this measure guarantees the rights allegedly violated by the criminal type. Therefore, the decision of

the Court, far from securing the Constitution, violates it. In order to support this point, in the following: (i) I will demonstrate the absence of a basis for the 24-week gestation period, (ii) I will address the gaps in the analysis of the rights allegedly violated, and (iii) I will demonstrate the lack of rigorousness in the proportionality test developed by the Court.

The 24-week gestation period is unfounded

169. Section 13.2 of the decision establishes that the measure adopted to solve the tension of rights is the decriminalization of abortion up to 24 weeks of gestation, based on the concept of autonomy. However, this concept, and therefore the time limit, is not legally or scientifically supported in the decision. Thus, the majority position starts from **three false premises** to adopt the 24 weeks gestation term.

170. First, the majority of the Court considers that the concept of gradual and incremental protection developed by the Inter-American Court of Human Rights (IACHR) implies that there must be a system of time limits for the performance of abortion. Thus, the ruling states that the IACHR Court, when establishing a system of gradual and incremental protection of the right to life, recognizes that the right to life is not absolute, and therefore to achieve the constitutional ideal solution, abortion must be decriminalized until the 24th week of gestation.

171. This premise is deeply problematic. While it is true that the IACHR Court referred to gradual and incremental protection, it included this concept in a decision that had nothing to do with abortion, but rather with *in vitro* fertilization, for which the relevant moments of gestation are fertilization and implantation. [769] Therefore, it cannot be argued from that ruling that a system of time limits on abortion is a constitutional ideal for protecting the rights in tension, including the right to life of the unborn. Additionally, the very concept of gradual and incremental requires constant protection of life. A system that leaves the unborn unprotected until six months of gestation will not be gradual. This is a system that for more than half of the gestation period leaves the unborn child with an absolute lack of protection. Nothing could be more contrary to the concept of gradualism.

172. It could be argued that gradualness lies in the use of criminal law only in advanced stages of pregnancy. However, gradualness requires the existence of protective measures, and the truth is that without the criminal definition of abortion there is not a single measure in the Colombian

[769] IHR Court. Case of Artavia Murillo et al. v. Costa Rica. Ruling of November 28, 2012, Preliminary Objections, Merits, reparations and Costs.

legal system that protects the unborn from arbitrary abortions. Although international bodies have called attention to the risk of selective abortions based on gender[770] or disability[771], nothing at this time prevents such procedures from being carried out in Colombia. The majority of the Court accepted the wording of the petition according to which it is the mother who decides whether a human being is a person, at least up to 24 weeks of gestation.

173. Additionally, the ruling states:

> "*This term is also consistent with the information provided with the constitutionality process, widely referred to, according to which the practice of consensual abortions has a lower percentage incidence at that time, which implies, a greater protection in genere of life in gestation, even by criminal law. In this sense, according to Profamilia in the technical concept provided in the process, based on comparative data,* ***most abortions are performed in the first trimester."***(Bolding outside the original text)

174. This argument evidences the contradiction of the figure adopted by the majority of the Court, and the obligation to protect life in a gradual and incremental manner. According to Profamilia data, 93.77% of abortions are performed in the first trimester, which means that it is at this stage that the life of the unborn is most affected.[772] In this sense, if the measure in effect seeks to resolve the tension of rights, without restricting any of them, it is a contradiction to decriminalize, without any other protection measure, the practice of abortions in the gestational stage in which they occur to a greater extent.

175. Second, the majority of the Court considers that the concept of autonomy is better than that of existence, as it "*has its own problem of indefiniteness* "[773]. This premise has several argumentative problems. First, it assumes that human gestation is divided into two moments: existence and autonomy, an issue that it ignores important moments such as the appearance of fetal capacity to feel pain. The second is that it considers that with respect to the term of autonomy

770 Office of the United Nations High Commissioner for Human Rights, UNICEF, World Health Organization and UN Women. "Preventing gender-biased sex selection: an interagency statement". At: https://www.unfpa.org/sites/default/files/resource-pdf/Preventing_gender-biased_sex_selection.pdf. ; World Bank"Gender Discrimination in Sex Selective Abortions and its Transition in South Korea". At: https://openknowledge.worldbank.org/handle/10986/5205; The United Nations Fourth World Conference on Women. Parr. 155.At: https://www.un.org/womenwatch/daw/beijing/platform/violence.htm.
771ONU. Rights of persons with disabilities. Report of the Special Rapporteur on the rights of persons with disabilities. Párrafos 21 y 32. 17 de diciembre de 2019. Recuperado de: https://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/43/41&Lang=E; The elimination of restrictions on abortion leads to eugenic practices in people with Down syndrome. At: https://www.asdra.org.ar/destacados/la-eliminacion-de-restricciones-al-aborto-deriva-en-practicas-eugenesicas-en-personas-con-sindrome-de-down/
772 Profamilia, Technical concept in response to the invitation made through order 19 of October, 2020
773 Parr. 611.

there is consensus on 24 weeks, which is a term that does not suffer from the problem of indefiniteness, a matter that is false from the scientific point of view.

176. Thus, the majority of the Court sustains that autonomy, a concept derived from extrauterine viability, occurs at 24 weeks of gestation, and the basis for determining this term is, according to footnote 609 of the judgment:

> "*This gestational limit for the practice of voluntary abortion has been adopted, among others, in the Netherlands, in several states of the United States, in several of the provinces and territories of Canada, in Singapore and in some states of Australia. This concept, also associated with the term "viability", was decisive in defining the limit at which the state interest in protecting life in gestation was considered justified and, therefore, allowing states to prohibit the practice of voluntary abortion, in the cases of Roe v. Wade (1973) and Planned Parenthood v. Casey (1992), of the Supreme Court of the United States. In the former, given* ***the state of the art at the time, the term "viability" was set at 28 weeks gestation; in the second, as a consequence of the advance in medical techniques, said term was considered to occur sometime between 23 and 24 weeks of gestation***". (Bolding outside the original text)

177. The time limit selected by the decision was not based on scientific studies -which in fact were provided to the process[745] -, nor on medical reports,but on comparative legislation of States that: *(i)* have very different contexts from Colombia, *(ii)* in their own legislations the time of viability has varied (United States), and *(iii)* Article 4.1 of the American Convention on Human Rights, which establishes the right to life from conception, is not binding on them. The judgment does not even carry out a serious study of comparative law, in which it could have established that most of the countries that have time limit systems define decriminalization well below 24 weeks of gestation.[775]

178. The lack of definition of the 24-week period can be seen in the text of the ruling itself, which indicated, for example, that "*the Colombian Federation of Obstetrics and Gynecology mentioned that the viability of the fetus depends on the technology available to assist it artificially in order to bring it to a point where its life can be truly autonomous*". Next, it is pointed out that the Royal College of Obstetrics and Gynecology of the United Kingdom establishes that viability occurs at 22 weeks of gestation, the Society of Surgery of Bogota at 24-26 weeks, the Pontificia Universidad

774 Kemel A. Ghotme y Eduardo Cortés S. Citizen Intervention before the Constitutional Court in November, 12 2020. File 13.956. AT: https://www.corteconstitucional.gov.co/secretaria/archivo.php?id=22186; Fundación Colombiana de Ética y Bioética. Citizen Intervention before the Constitutional Court in November, 12 2020. File 13.956. At: https://www.corteconstitucional.gov.co/secretaria/archivo.php?id=25699

775 Center for Reproductive Rights. "The World´s Abortion Laws" At: https://reproductiverights.org/maps/worlds-abortion-laws/.

Javeriana of Bogotá explained that this viability actually occurs at 37 weeks of gestation[776][746]. This, without taking into consideration other studies that indicate that viability occurs at 22 weeks of gestation[777].

179. As can be seen in the concept of the Colombian Federation of Obstetrics and Gynecology, the lack of definition is directly related to the concept of viability, since this is derived from multiple factors [778], among others: the quality of the medical services, the weight of the fetus, the health of the fetus and the mother. This is one of the reasons included in the draft of the Dobbs case of the U.S. Supreme Court, to express that the 24-week gestational line does not make constitutional sense. This draft could leave without effect the two rulings that serve as a basis for the majority of the Court to establish the limit.[779] And, in this regard, I would like to call attention to the fact that it is not admissible that the methodology used by a Constitutional Court to determine the limit according to which a human being will be protected, is a quick review of comparative legislations. In the process of drafting legislation in the United States, there have been profound discussions on the limitation of abortions even before the 24th week, for example in the 20th week due to evidence of fetal pain.[780]

180. If the support of the majority of the Court was to use comparative legislation, there are many doubts about the choice of this legislation, as I expressly stated in the debate in the Plenary Chamber: why not the 20th week because of fetal pain? or the 12th week as in Uruguay? [781], or the general prohibition as in El Salvador?[782] The absence of due justification can be interpreted as the need to accept the broader limit that has been given in comparative legislations, a matter that does not support a judgment of constitutionality. But in addition, as I mentioned before, the majority of the Court does not make a rigorous analysis of the compatibility of this legislation with the

776 See 617 a 619.
777 Keith Barrington, Active intervention at 22 weeks' gestation, is it futile?, Neonatal Research Blog (Oct. 29, 2018), At: https://neonatalresearch.org/2018/10/29/active-intervention-at-22-weeks-gestation-isit-futile/. Cited in: Amici Curiae Dobbs V. Jackson Women´s HEalth Organization; P. Watkins, J. Dagle, et al., Outcomes at 18 to 22 Months of Corrected Age for Infants Born at 22 to 25 Weeks of Gestation in a Center Practicing Active Management, 217 J. Pediatrics 52 (Feb 2020), Citado en: Amici Curiae Dobbs V. Jackson Women´s HEalth Organization.
778 See: Supreme Court of the United States of America: Colautti v. Franklin, 439 U.S. 379 (1979); See also: Fost , Chidwin and Wikler, "The limited Moral significance of 'Fetal Viability'"(1980); Cerezo Mulet, "Fetal viability limit: a moral, ethical, legal and professional responsibility problem". At: https://docs.bvsalud.org/biblioref/2019/03/981164/01.pdf.
779 Thomas E, Dobbs, State Health Officer of the Mississippi Department of Health, et al.., v. Jackson Women's Health Organization.
780 Amongst the States that have based their legislation in the pre-natal pain: Nebraska, Kentucky, Distrito de Columbia, Kansas, Idaho, Alabama, Mississippi, Oklahoma. From: Flórez, M. A. (2014). *Implicaciones bioéticas del dolor y el feto*. Universidad Nacional Autónoma de México; Graham, L. (2021, enero 27). *S.61 - 117th Congress (2021-2022): Pain-Capable Unborn Child Protection Act* (2021/2022) [Legislation]. https://www.congress.gov/bill/117th-congress/senate-bill/61
781 Republic of Uruguay. Law No. 18987. Law on voluntary termination of pregnancy. Abortion law. Art. 6. UNFPA. The process of decriminalization of abortion in Uruguay. Law of Voluntary Interruption of Pregnancy. November 2019. Available at: https://uruguay.unfpa.org/sites/default/files/pub-pdf/unfpa-ive_2020-02-10-webo.pdf; Ley 18426 de 2008 de la República de Uruguay.
782 Criminal Code of El Salvador. Decreto legislativo 1040 de 1997. Arts. 133-137.

Colombian legal system and the Colombian context. Therefore, in my opinion, this time limit is completely arbitrary.

181. The issue is even more problematic, in the understanding that the National Academy of Medicine of Colombia itself points out that it was not consulted for the definition of the time limit, and in any case, they find this limit is inadequate [783][747].

182. Third, the majority position of the Court seems to start from an unproven basis according to which feasibility is a concept with constitutional relevance. This is the most problematic premise, since we are dealing with a trial of constitutionality, and therefore the concepts that must be applied to resolve the legal problem must have constitutional relevance. The gestational stages, as well as the concept of viability may have an impact on the determination of a legal regulation of abortion, where questions of convenience are analyzed. But the constitutional result of the Court's choice of the 24-week limit is that before 23 weeks the unborn is constitutionally "irrelevant", or at least the unborn "unwanted by its mother".

183. Thus, here there is a fundamental issue that was not analyzed by the majority of the Court, that the unborn as a person in light of the ACHR, as a child in light of the Convention on the Rights of the Child and as a member of the human species, **has the right to equality**. Thus, Ruling C-055 of 2022 includes an evident differentiated treatment between the unborn from 0-23 weeks of gestation, and those from 24 weeks of gestation onwards, then some may be aborted without any consideration, their life may be terminated freely under the protection of the State, and for the others one of the grounds of Ruling C-355 of 2006 must be certified. In this sense, the majority position of the Court should have: (i) proven that there is no unequal treatment because they are subjects with a difference that is relevant to the discussion (which has not been demonstrated due to the scientific lack of definition of viability and the total absence of medical sources to define it); or (ii) carried out an integrated judgment of equality [784] to demonstrate that the differentiated treatment is justified (which also did not occur).

783 EPICRISIS: Official Communications Organ of the Colombian Medical Association, “Declaration of the national academy of medicine regarding the decriminalization of abortion”. At: https://epicrisis.org/2022/03/12/declaracion-de-la-academia-nacional-de-medicina-respecto-a-la-despenalizacion-del-aborto/.
784 The Constitutional Court has understood that the integrated trial of equality “allows us to establish whether the reasons that support a measure that leads to differential treatment are constitutionally admissible. This method is based on the use of the proportionality judgment with different intensities, according to the area in which the controversial decision has been adopted, and specifically, it proposes to maintain an inversely proportional relationship between the power of configuration of the legislator and the power of review of the constitutional judge, in order to protect the democratic principle to the maximum". (Sentence C-220 of2017); See also, Constitutional Court. Sentence C-038 of 2021; C-084 of 2020; C-015 of 2014; C-104 of 2016.

184. Thus, in my opinion, we are faced with the arbitrary choice of a term that leaves human beings in an absolute deficit of protection up to six months of gestation. A term that does not find scientific support and that does not seem to have constitutional relevance. Even if it were accepted that viability occurs at 24 weeks of gestation, which is not true, it is not clear why that gestational moment is constitutionally relevant, why that moment allows for the "constitutional ideal" of which the majority position speaks less worthy a human being at 23 weeks of gestation than one at 25 weeks? Is it less worthy a human being who cannot survive outside the womb? It is then a concept of independence or full capacity, if this is so, we are going down a very risky road in which those who have limited capacities or independence are less worthy and deserve less protection. As a Magistrate of the Court, a Corporation in charge of the guardianship and integrity of the Constitution, with all due respect, I must state my profound disagreement with this type of reasoning.

The majority's position does not adequately support the alleged violations of the rights to health, equality, freedom of conscience and the constitutional principles of criminal law.

185. As mentioned at the beginning, the "majority" of the Court starts from a false premise which is that the arguments presented in the lawsuit include possible violations to constitutional rights. However, in my opinion, each and every one of the issues that support the alleged violations have no constitutional basis, as I will develop below.

186. In a transversal manner, I make emphasis on the inadequate use of constitutional sources to justify the alleged constitutional violation, without being rigorous enough to exclude arguments that openly violate theconstitutional res judicata, although the lawsuit includes them. Thus, due to the absence of rigorous evaluation, it is the Court itself which, in order to support its arguments, evaluates the constitutional regulation in the light of the rights to free development of the personality[785], the right to choose the number and spacing of children[786], and personal autonomy. All issues that were extensively evaluated in Ruling C-355 of 2006.[787][748]

187. The majority position states:

[785] See paragraph 312.
[786] See paragraph 312.
[787] Constitutional Court. Decision C-355 of 2006.

"*Based on this characterization, constitutional jurisprudence has specified that the voluntary interruption of the pregnancy 'is not limited to the performance of a medical procedure, but also involves basic components of information, accessibility and availability of services by the EPS' 253 and, therefore, given that 'it is not limited to the materialization of a medical procedure that puts an end to the gestation process, in the three cases provided for in* Ruling C-*355 of 2006 [...] its understanding is closely linked to the rights to human dignity and individual autonomy (Art. 1 C. Pol.); to life with dignity (Art. 11 C. Pol.);to not be subjected to torture or cruel treatment or punishment, the right to personal and family privacy (Art. 15 C. Pol.); to the free development of personality (Art. 16 C. Pol.); to freedom of conscience and religion (Art. 18 and 19 C.Pol.); to social security (Art. 48 C. Pol.), to health (Art. 48 and 49 C. Pol.) and to education (Art. 67 C. Pol.)'. It is for this reason that it has been specified that 'the VIP protects the autonomy and the freedom of decision of the woman who, being in any of the three causes of death, is in any of the of decriminalization provided for in* Ruling C-*355 of 2006, resolves to put an end tothe process of human gestation*".

188. Based on this concept, the majority position considers that the current regulation of abortion prevents women from accessing health services, exposing them to unsafe abortions, in contravention of a series of **recommendations** of international bodies. In my opinion, two problems arise from this argumentation of the ruling: *(i)* the only health service in Colombia related to abortion is the VIP in the three decriminalized cases, and *(ii)* there is no binding provision in Colombia that requires the decriminalization of abortion up to 24 weeks of gestation.

189. Thus, the majority position in this section makes an argumentative leap from considering abortion on all three grounds as a health service to considering that all abortions are a health service, without explaining why it is the Constitutional Court's task to establish that abortion is a health service. This type of question is undoubtedly a matter for the legislator or the executive - within the framework of their respective competencies - in the definition of public policies, and the Court should only intervene if there is a medical procedure that is evidently related to health that is not being recognized.

190. In this sense, given that pregnancy is not a disease, and that the cases in which life and health of the mother are in danger were already decriminalized, there is no **constitutional** reason for the Court to create a new health service through jurisprudence. The question asked to the Court is whether the crime of abortion is constitutional, and not whether the public health policy is effective. Now then, an additional element contemplated by the Court to determine the alleged violation of

the right to health, is the risk to women's health in the practice of unsafe abortions. However, this issue, although of the utmost relevance, is again a matter of public policy, and it is in the face of a **social problem**, that should be the response of the State. Faced with this social problem, the State can envisage ways such as greater criminal prosecution of illegal abortion clinics, control of medicines, or even decriminalization, all matters that correspond to the legislature and the executive, but not to the Court in a judgment of constitutionality.

Absence of constitutional grounds in relation to the charge of "the right to equality of women in vulnerable situations and in irregular migratory situations".

191. This charge is based on indirect discrimination, in which, according to the majority position of the Court, abortion "impacts -evidently more disproportionate- on the most vulnerable women due to their socioeconomic condition, their rural origin, their age, or their migratory situation, among other factors"[749]. Therefore, according to the two jurisprudential criteria for establishing indirect discrimination - (i) the existence of a measure or practice that applies to all in an apparently neutral manner, and (ii) the fact that this measure or practice places a protected group of people at a disadvantage - the Court found that the crime of abortion generates a greater impact on vulnerable women, constituting discrimination. Thus, for the Court:

> "*The criminalization of abortion with consent, however, does not have a significant impact on its reduction or, therefore, on greater protection of life during pregnancy. On the contrary,* ***it encourages the irregular practice of the abortion procedure****, which results in serious harm to women, girls and pregnant women, not only as a discriminated group exposed to multiple factors of violence, but also individually considered,* ***with special incidence on the most vulnerable****, including those who are in an irregular migratory situation. These women, girls and pregnant women* ***face a public health problem that exposes them to suffer complications from the procedure and even to lose their lives"*** [7]

192. In this sense, the majority concluded that the most vulnerable women not only face more difficulties in accessing the health system but are also the most affected by the criminal sanction. The above, "*without taking into account the disadvantages that socioeconomic precariousness brings to women whose conditions of vulnerability have prevented them from accessing quality education on the responsible exercise of their sexual and reproductive rights or from accessing abortion in the cases referred to in* Ruling C-*355 of 2006*"[790] .

[788] Constitutional Court, Ruling C-055 of 2022. Par. 349.
[789] Constitutional Court, Ruling C-055 of 2022. Par. 353.

193. However, as will be demonstrated below, the arguments set forth above do not originate from the unconstitutionality of a norm, but from the absence of a comprehensive public policy to guarantee the sexual and reproductive rights of women, particularly in relation to the right to equality of the most vulnerable people.

194. Although the crime of abortion was criminalized in 1837, a time when women's rights were not yet recognized, the law was not intended - nor is it now - to subordinate women. On the contrary, since its issuance it has sought to protect the life of the unborn. Although the majority affirms that there is no evidence that this crime has a relevant impact on the reduction of abortion practices, there is no proof of this. In fact, there are societies in which there is evidence of a gradual increase in the number of abortions since decriminalization[751]. In the Colombian context, since the decriminalization of abortion on three grounds, there has been a growing increase in the practice of this procedure[752].

195. The substantive magistrate began his argument by recognizing that the unconstitutionality of the norm is presented by the policy of subjecting women, "***without offering alternatives for the exercise of their rights****, to imprisonment*"[793]. In other words, it is not the crime of abortion that establishes a discriminatory regime, but the lack of additional measures to guarantee women's rights. Thus, the majority position fails to demonstrate that the crime of abortion causes migrant women, rural women, and all other women in vulnerable situations to have limited access to health services.

196. What is evident from the allegations in the petition and the Court's analysis is that there are several rights that are not recognized by a failed public policy in relation to vulnerable women, which in no case are remedied with the decriminalization of abortion. It is worth asking: with decriminalization up to 24 weeks of gestation, will vulnerable women have greater access to health care, sex education or social programs of the State? The majority position of the Court starts from a fallacious argument regarding the causes. Although the consequences are fully demonstrated, that is, the social effects on this vulnerable population, there is a total absence of demonstration that the efficient cause of these consequences is the criminalization of abortion.

197. In this same sense, the crime of abortion as a norm is not the cause of a greater number of criminal proceedings against rural women, as expressed by the majority position. On the contrary, this differentiated application of criminal law with respect to the vulnerable population, which occurs

790 Constitutional Court, Ruling C-055 of 2022. Par. 364.
791 For example, this is the case of Greenland (See https://www.bbc.com/mundo/noticias-48295587) and England (See https://oneofus.eu/es/cifra-record-de-aborto-en-inglaterra-y-gales-una-tragedia-nacional/).
792 This is evidenced in the Technical Concept of the District of Bogota sent through the Secretariat of Women's Affairs by virtue of Official Letter 4056 of October 28, 2020.
793 Constitutional Court, Ruling C-055 of 2022. Par. 349.

in general with respect to all types of crimes[794], is related to an inadequate implementation of criminal policy in Colombia, an issue that is not for the Court to analyze in a constitutionality judgment.

198. The Court's argument refers to indirect discrimination in those cases where:

> "*Formally non-discriminatory treatments, derive unequal factual consequences for some people, which harm their rights or limit their effective enjoyment of them. In such cases, neutral measures that in principle do not imply differentiating factors between people, may produce factual inequalities between some and others, due to their exclusive adverse effect, constituting an indirect type of discrimination*"[794].

199. Thus, the Constitutional Court had to demonstrate in this section that: (i) there is an apparently neutral norm, (ii) there are differentiated effects in relation to a population, and (iii) that such effects are generated by the challenged norm. Therefore, it is not enough to demonstrate that there is a structural condition of inequality in society, or that there are differentiated effects with respect to vulnerable women, but it must be demonstrated that the cause of such "effects" is the accused norm, in this case the criminal offense of abortion. The Court fails in this demonstration, so it cannot be established that the very painful circumstances of vulnerable women are an "effect" of the criminalization of abortion. Therefore, although it is a worrisome situation, it is not possible for the Court to affect the constitutionality of a norm that is not the cause of these social inequalities.

200. Of course, I am no stranger to and am in solidarity with the unequal treatment of thousands of vulnerable women in Colombia. However, I am also in solidarity with the thousands of lives that are in the womb and that despite not having a voice, must be protected. Pregnant human beings who are children of rural women or women in an irregular migratory situation are no less valuable; they are equally worthy and deserve equal protection. That is why under a thorough analysis of the right to equality, in my opinion, the majority position does not show how the criminal law generates indirect discrimination.

Absence of constitutional grounds in relation to the charge of "freedom of conscience of women, girls and pregnant women, especially with regard to the possibility of acting in accordance with their convictions in relation to their reproductive autonomy".

201. The "majority" decision establishes that the affectation to the right to freedom of conscience is given for the following reason:

> "*This tension is evident, since the rule being challenged* ***implies a state imposition of a decision that is not necessarily shared and that may go against the intimate and***

[794] Zaffaroni, Eugenio R. Derecho Penal Parte General. Part Two. Teoría del delito. 2nd ed. Buenos Aires: Ediar, 2002, p. 654.
[794] Constitutional Court, Ruling C-055 of 2022. Par. 344.

> ***deep convictions of a woman****, girl, adolescent or pregnant person, even of the couples, and partly replaces* ***their right to choose how they want to live and define their life plan****. Ultimately, it restricts, with those characters -excess and supra inclusion-* , ***the power of these people to discern between what turns out to be the moral good or evil*** *in or in front of the decision to continue or not with the pregnancy, based on a state imposition that does not weigh the knowledge of women about her condition or the progress of the gestational process or, much less, that the protection of life in gestation is a duty of gradual and incremental fulfillment*." (Bolding outside the original text)

202. As I expressed in the section on the ineptitude of the charges, in my opinion here the Court confuses reproductive autonomy (an issue that was analyzed in C-355) with freedom of conscience. Additionally, the majority position derives from Article 18 of the Constitution, a sort of test were penal norms must be evaluated - in the abstract - with respect to all the personal convictions of citizens. Thus, the conclusion reached by the judgment does not have constitutional support for at least three reasons.

203. First, the elements of freedom of conscience are: (i) no one shall be subjected to harassment or persecution on account of his convictions or beliefs; (ii) no one shall be compelled to disclose his convictions; and (iii) no one shall be compelled to act against their conscience[796].

204. The Court seems to derive from the last element that the crime of abortion impacts freedom of conscience because it does not consider women's considerations of moral right and wrong. However, this position has no constitutional support because it ignores the scope of the right to freedom of conscience. Thus, although people cannot be compelled, in principle[797], to act against their conscience, this is a judgment that is made in the concrete case and not in the abstract. Otherwise, neither the Criminal Code, nor state legislation in general, should exist. The conscience of a person may imply that they do not believe in private property, and not for that reason the criminal type of theft is unconstitutional. Likewise, some people may consider that the carrying of firearms is a fundamental right, and for that reason the regulation of the use of firearms is not unconstitutional because it affects their freedom of conscience. All these possible personal configurations of the system of values, if they could generate the unconstitutionality of a norm in the abstract, would make a system of law unviable. That is why these discussions on the reproachability of a conduct are made in the legislative body, where there is representation. In this sense, the separation of powers is fundamental, otherwise, based on particular cases, the Courts end up legislating, as in this case, where the cases are also hypothetical.

[796] Constitutional Court, Ruling SU-108 of 2016.
[797] Constitutional Court, Ruling SU – 214 of 2016; Ruling SU – 096 of 2018 and Ruling SU – 108 of 2016.

205. Second, the Court's interpretation results in unconstitutional consequences. Thus, the position of the majority carries an implicit message: maternity and paternity are matters that only fall within the internal jurisdiction of the parents, and therefore the reproachability of abortion must be defined by them. This message is based on two unconstitutional assumptions, the first, completely ignores the existence of the human being in gestation who is entitled to rights, whether their parents recognize it. Human nature cannot depend, as the lawsuit intended and the Court seems to endorse, on the consideration of a third party. In this way, some could consider people belonging to a certain ethnicity, sex, or with a certain sexual orientation as non-human, and the State should endorse that position because it belongs to its internal forum. And although people may think whatever they consider, in no way should the fact that an individual considers certain human beings less human imply the modification of the Criminal Code in relation to the crimes that protect such population. Otherwise, this Court must ask itself whether the crime of genocide makes any sense, precisely because it seeks to protect groups that have been dehumanized by other social groups[798] -based on their belief system.

206. In addition, the same argumentation can be applied to paternity, and in that sense, it will be up to the father to define whether paternity is properly inserted in his value system. This implies that there is no reason to impose on fathers a burden of paying child support, which the law rightly requires even before the birth of the son or daughter[799]. In the majority's way of arguing, this results in a disproportionate affectation of the father's freedom of conscience, and therefore, it will be up to the father, in accordance with his value system, to define whether it is good or bad to pay child support for his unborn children, and even to assume paternity.

207. The ruling states that "*the decision to assume maternity or not to do so is a very personal, individual and non-transferable matter*", an argument that could be transferred to paternity. These positions openly violate the rights of children and adolescents, and I must strongly express my opposition, since paternity and maternity imply the existence of another, who is worthy and with respect to whom there are duties on the head of society, the State and the family[800], regardless of whether the value system of a person considers them non-human or not subject to rights.

208. Finally, the Court contravenes its tendency to limit conscientious objection when it comes into tension with the rights of others. Thus, the Court has been limiting the freedom of conscience of public

[798] UN. Resolution 96(i) "The Crime of Genocide". December 11, 1946; Ruling C-578 of 2002: "After the United Nations General Assembly declared in 1946 that genocide was an international crime, work began on the drafting of a conventional instrument that would definitively outlaw it, a task that concluded with the Convention on the Prevention and Punishment of the Crime of Genocide, whose main purpose was to prevent the impunity of the perpetrators and executors of extermination policies against specific communities, identifiable by relatively immutable and stable attributes, such as race, national or ethnic origin and religion, which would facilitate their individualization from the rest of the population, as happened during World War II".
[799] Law 1908 of 2006. Article 24.
[800] Colombian Political Constitution. Article 44.

officials[801], notaries[802], legal persons[803], medical personnel[804] and administrative personnel working in medical fields[805]. These limitations have been based on the tension between the right to freedom of conscience and, for example, sexual and reproductive rights. Notwithstanding this tendency, in this case the majority considers that freedom of conscience has such a broad scope that it can even result in the unconstitutionality of a general and abstract criminal norm, which protects an imperative legal right, the life of a human being in gestation. This broad scope of freedom of conscience should imply a new evaluation of the scope of conscientious objection in certain scenarios, because according to this jurisprudence, freedom of conscience can even affect the essential nucleus of the right to life to such an extent that the life of a human being can be terminated for reasons of conscience.

209. In my opinion, this charge should have been excluded from the analysis of the merits, because it is not only based on an erroneous conception of freedom of conscience, but also implies a profoundly unconstitutional interpretation. I am surprised that the "majority" of the Court has endorsed such a position, which undoubtedly affects the axial shafts of the Political Constitution. If there is a scenario of substitution of the Constitution, it is this interpretation of the Court, in which human dignity and the value of his life are defined by third parties. This also contravenes the entire theory of international human rights law, and therefore, I must emphatically distance myself from this analysis of the Court.

Absence of constitutional grounds in relation to the charge of "preventive purpose of punishment and the constitutional requirements attached to the last resource character of criminal law".

210. The "majority" position of the Court, in the first place, establishes that the criminalization of abortion is in tension with the preventive function of penalty, insofar as this principle, which is constitutional, implies that penal measures should tend to prevent proscribed conducts[806]. But in no way does it imply that the Court should be an evaluative body of the public policies of the State, and of the criminal policy. Decision C-055 of 2022 establishes that the reasons for violating the constitutional principle of prevention of punishment are: (i) the alleged low incidence of the criminal type in the prevention of abortion[807], (ii) that the crime generates an intense affectation to the rights to health, reproductive rights, equality and freedom of conscience[808]; and (iii) that there is a low level of success of criminal proceedings, because there is a low conviction rate[809].

[801] Constitutional Court, Ruling SU – 108 of 2016.
[802] Constitutional Court, Ruling SU – 214 of 2016.
[803] Constitutional Court, Ruling SU – 096 of 2018, Ruling T – 388 of 2009 and C – 355 of 2006.
[804] Constitutional Court, Ruling T – 388 of 2009; Ruling C – 274 of 2016 and SU – 096 of 2018.
[805] Constitutional Court, Ruling SU – 096 of 2018.
[806] Constitutional Court, Ruling T-265 of 2017: "The general prevention function of punishment is aimed at preventing the commission of criminal conduct, i.e., it acts before the occurrence of the same. In this meaning, the penalty is understood as a means to an end and is justified because its application makes citizens desist or refrain from committing punishable acts."
[807] Section 12.3.2.
[808] Paragraph 434.
[809] Paragrah 439.

211. In relation to this point, the "majority" position assumes a competence that it lacks, that is, the evaluation of criminal policy in Colombia. The rulings cited by the Constitutional Court where elements of effectiveness of criminal types are included, to support the competence of the Court to refer to the effectiveness of criminal types, included other reasons in their *ratio decidendi* to declare unconstitutionality. For example, in the case of the rule that criminalized the payment of extortion, the Court stated that "*a rule that criminalizes the reasonable conduct of individuals aimed at protecting their own life and liberty or that of a fellow human being does not comply with the Constitution*[810], as highlighted in the sentence itself. This shows that what is at stake is the reproachability of the conduct, and not the effectiveness of the criminal offense.

212. It is an evident overreach of the Court's functions to evaluate the effectiveness of the criminal policy, with the purpose of establishing or eliminating criminal offenses. Colombia's criminal policy is the responsibility of the legislature, and its implementation is the responsibility of the executive, so that the assessment of its effectiveness cannot rest with the Constitutional Court. The jurisdiction of the Court is reduced to defining the constitutionality of a criminal type and not its effectiveness. The argument raised here intends to include evaluative elements of public policy, in order to create a jurisdiction for the Court. This, in addition to not implying an argument of constitutionality but of convenience, results in an evident affectation of the principle of separation of powers on which Colombian democracy rests.

213. On the other hand, in section 12.4, the majority position adds that criminalization of abortion affects the constitutional characteristic of the criminal law of last resource, inasmuch as less burdensome controls than criminalization could be used to prevent abortion. However, this Court itself has established that the existence of other mechanisms is not enough, but that they must be equally suitable[811]. To demonstrate the violation of the constitutional principle, the Court establishes that: (i) there has been an omission of the legislator to address abortion[812] in a positive and comprehensive manner, especially accentuated after Ruling C-355 of 2006[813], (ii) since the configuration of Colombia the crime has been used as a first resource mechanism to regulate the problem of abortion[814], (iii) there is a "***pressing need for a comprehensive regulation of the phenomenon of consensual abortion***"[815], and (iv) there are less harmful mechanisms to protect the legal right of life in gestation[816].

214. Regarding the existence of other measures, the judgment includes: the legislative orientation to include measures for the protection of life in gestation without resorting to criminal law, the existence

[810] Constitutional Court, Ruling C – 542 of 1993.
[811] Constitutional Court, Ruling C – 070 of 1996.
[812] See 12.4.1.
[813] See 12.4.2.
[814] 12.4.1.1.
[815] See 12.4.2.
[816] See paragraph 543.

of public policies related to sex education, social assistance measures, and the international tendency to approach the problem from other perspectives.

215. From the foregoing, a clear conclusion can be drawn: **there are currently no other measures in the Colombian legal system that protect the life of the human being in gestation, in relation to the practice of abortions.** The penal type is the only measure that specifically prevents the practice of consensual abortions, so it is not true that there are other measures that are equally suitable to prevent the phenomenon, because there are simply no other measures.

216. In addition, the judgment does not even briefly address the adequacy of these other "measures," which in any case are hypothetical, to prevent abortions. The only measures that are in fact applied in Colombia, and which are not directly aimed at preventing abortion, are sex education and social support policies. However, the ruling does not provide figures on the suitability of the measure, and given the argument presented in paragraph 441 in which, according to the Guttmacher Institute, abortion has not decreased in Colombia, just as the lack of suitability of the criminal type is predicated, the lack of suitability of these other "measures" to prevent abortion can also be predicated. These argumentative gaps and contradictions occur because the Constitutional Court has neither the jurisdiction nor the capacity to evaluate public policies.

217. It is not true, as the judgment establishes, that the constitutional protection deficit left by the decriminalization of abortion up to the 24th week of gestation is remedied through the exhortation to Congress. Although the judgment on numerous occasions expressly emphasizes that the protection of life in gestation is an imperative purpose of the State, not even one of its orders exhorts Congress or the Executive to promote actions for the protection of the unborn. The only order that relates to the human being in gestation is: "*measures that guarantee the rights **of those born** in circumstances of pregnant women who wish to have an abortion*" (emphasis outside the original text). Thus, the judgment not only starts from a false premise, which is that there were measures to protect the unborn, but also perpetuates such protection deficit by not establishing a single order to protect their rights. In this case, it is true that criminal law is not a last resource, because it is neither the last nor the first measure, it is the only measure that currently protects the unborn, and with this ruling human beings in gestation up to the sixth month were left completely unprotected. There is no constitutional basis to support this position.

The proportionality test carried out by the majority of the Court completely eliminates one of the rights analyzed and does not demonstrate the necessity and proportionality in the strict sense of the measure.

218. Up to this point I have sufficiently demonstrated that the arguments presented do not include reasons for the unconstitutionality of the challenged norm, so it is not true that the rights to freedom of conscience, equality, and health (in the terms set forth) of women and the criminal norm that

protects the legal right to life in gestation are in tension. In this section I will discuss why in any case, if so considered, the measure adopted by the Constitutional Court does not pass any test of proportionality and is not constitutionally optimal. Thus, the measure adopted by the ruling has three elements:

- The decriminalization of abortion up to 24 weeks of gestation, without any conditions.
- The decriminalization of the grounds of Ruling C-355 of 2006 until the day of delivery.
- The exhortation to Congress and the executive to regulate: "(i) the clear disclosure of the options available to pregnant women during and after pregnancy, (ii) the elimination of any obstacle to the exercise of sexual and reproductive rights recognized in this judgment, (iii) the existence of instruments for pregnancy prevention and planning, (iv) the development of education programs on sexual and reproductive education for all people, (v) measures to accompany pregnant mothers that include adoption options, among others, and (vi) measures that guarantee the rights of those born in circumstances of pregnant women who wished to have an abortion."

219. Regarding the alleged tension, the ruling establishes that:

> "*578. Therefore, this constitutional tension cannot be resolved by means of the preference of any of these guarantees, because it would imply the absolute sacrifice of the other. In other words, the preference of any of them generates the absolute sacrifice of the other, which undoubtedly detracts from the material effectiveness of the Constitution -as a whole-, regardless of the preference."*
>
> *"579. If preference is given to life in gestation -and, therefore, it is resolved to declare the simple executory nature of the law-, the important reasons given when examining the charges analyzed in this decision, which show the intensity in which the current classification of the crime of voluntary abortion -in accordance with the conditioning of which it was the object in 2006- affects the constitutional values, principles and rights that each one of them implies, are not taken into consideration. If preference is given to the latter, for the very powerful reasons developed in analyzing each of these charges - and, therefore, it is resolved to declare the provision unenforceable with immediate effect - a protective measure that has been considered relevant to discourage the practice of consensual abortion, which, ultimately, frustrates the expectation of the birth of a new being, is eliminated."*

220. Contrary to the majority position, I consider that this three-element formula is not a constitutional optimum, and in fact it completely sacrifices one of the legal rights analyzed: the right to life of the human being in gestation. This for the following six reasons:

221. First, the right to life of the human being up to the 24th week of gestation was left in an absolute deficit of protection since nothing prevents arbitrary abortions up to that week. Constitutional legal rights belong to human beings and are not abstract concepts. As was evidenced above, human beings in gestation have the right to life, equality and personal integrity. In this sense, life in gestation does not exist as an abstract concept that can be limited, without being eliminated, by establishing a system of weeks. The Constitutional Court constructs a fallacious argument because it does not start from the reality that life in gestation is eliminated if arbitrary abortions are allowed at any week of gestation. The termination of life is no less burdensome at 23 weeks than at 25 weeks, and the existence of a concrete human being is truncated. Thus, this formula does not harmonize rights, but favors arguments of convenience over a specific fundamental right: the life of the human being in gestation.

222. Second, as has been widely developed, the arguments of the majority position have no relevance in a judgment of constitutionality but are arguments of convenience. This prevents a solution that gives prevalence to these reasons of convenience over fundamental rights from being fair.

223. Third, the sentence maintains the system of grounds until the day of delivery, which in no way can be proportional because: (i) if indeed the criterion adopted by the Court is that of autonomy, which includes extrauterine viability, after that moment it is clear that the most burdensome measure is abortion, because it eliminates the existence of a "viable" human being, and (ii) one of the reasons expressed by the judgment to support the absolute decriminalization in the first 24 weeks is the elimination of barriers to access to the VIP, so that once the barriers are eliminated there is no reason to allow abortions to be performed in advanced stages.

224. Fourth, this formula completely ignores fetal pain. In addition to curtailing the right to life, the majority position fails to address even briefly the fetal pain that implies that the human being in gestation is suffering excruciating pain that can be compared to torture. As noted above, there is abundant scientific evidence of the existence of fetal pain well before 24 weeks gestation, and the Court does not acknowledge this reality or include formulas to limit it. The procedures currently used to perform abortions at advanced weeks are potassium chloride injection[817], and dilation and evacuation[818], both of which are profoundly painful. Human Rights Watch has advocated that potassium chloride injection not be used on human beings because of the excruciating pain it

[817] Ministry of Health. Prevention of Unsafe Abortion in Colombia: Protocol for the Health Sector, p. 63. Retrieved from: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/PP/SM-Protocolo-IVE-ajustado-.pdf .
[818] Ministry of Health. Prevention of Unsafe Abortion in Colombia: Protocol for the Health Sector, pgs 39 and 49. Retrieved from: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/PP/SM-Protocolo-IVE-ajustado-.pdf .

generates[819]. Not only does the Court's exhortation make no mention of this, but it does not include any obligation to promote policies to protect the unborn, is this a constitutional optimum?

225. Fifth, there is no scientific basis or serious comparative law study to support the 24-week limit. Viability or autonomy is a limit that by nature is indefinite, variable and questionable. These reasons do not allow a constitutional decision based on this limit, which has such serious consequences for the human being in gestation, to be considered a constitutional optimum. The judgment does not support why this is the concept that should be taken into consideration to change the legal status of the unborn child, and which implies that until the 23rd week of gestation it is completely unprotected in the Colombian legal system.

226. Sixth, the Court does not discuss other measures to address the concerns of women experiencing a crisis pregnancy, such as adoption or maternity support. It seems that the only option women should have are motherhood or abortion. It is not explained why in a serious analysis of weighting, the Court did not analyze other measures other than abortion, undoubtedly less harmful to the human being in gestation, which allow women to face a maternity with difficulties, or definitely not to face it through adoption. I do not mean to say that these are the only or the best measures, but it is strange that the Court did not consider them.

227. These reasons make it evident that, if the measure taken by the Court were analyzed through the weighing test, it would not pass it because it would be extremely burdensome for the rights of the human being in gestation, unnecessary and in any case not proportional.

Ruling C-055 of 2022 leaves a gap in its text that cannot be interpreted as the existence of a right to free access to abortion up to the 24th week.

228. In this last section, I consider it important to highlight that the decision of the "majority" does not specify the scope of the ruling in relation to the health system and access to abortion, which implies a deep void in the judgment because it can be misinterpreted. However, it is essential to make clear that the object of the Court's decision is the constitutionality of Article 122 of the Criminal Code, not the establishment of public policies on health.

229. In this sense, nothing in the ruling can be interpreted as: (i) the creation of a fundamental right to abortion up to 24 weeks of gestation, (ii) the obligation of the State, through the EPS, to provide free abortions up to 24 weeks of gestation, nor (iii) the duty of doctors or health professionals to

[819] Human Rights Watch. USA: Negligence in the use of lethal injections. Method of execution can cause excruciating death. Retrieved from: https://www.hrw.org/es/news/2006/04/23/eeuu-negligenciaen-el-empleo-de-inyecciones-letales ; Human Rights Watch. Florida, California: Lethal injection under attack. Retrieved from: https://www.hrw.org/legacy/spanish/docs/2006/12/18/usdom14895_txt.htm .

perform these procedures. This ruling, although questionable, is about the decriminalization of a conduct and not about the creation of a fundamental right.

230. Since the judgment does not establish anything in this regard, I must also distance myself from this omission of the Court, which implies a fundamental legal uncertainty in the national legal system. Which, according to the majority position, what was contrary to the constitution was the criminalization of abortion up to 24 weeks. It is therefore important to remember a basic legal element, the decriminalization of a conduct does not imply the existence of a fundamental right.

231. As well as other procedures that are not criminalized, such as in vitro fertilization or aesthetic medical procedures, but are not part of the services that must be provided free of charge by the State. With this ruling, abortion becomes part of this category of procedures, its execution does not entail a penalty, but neither is an obligation of the State to provide it, and in this sense it may be limited by non-criminal means, without this constituting a violation of the Constitution or the constitutional ruling.

232. On the competence of the Legislative Branch to define this matter.

233. Also on the merits, I believe that the **provision of a time limit system for the crime of abortion is part of the Legislator's freedom of configuration**, in accordance with the reiterated jurisprudential line that this Corporation has developed regarding the competence and autonomy of the Legislator to regulate criminal policy.

234. As the Constitutional Court has stated, "*[c]riminal policy comprises the set of responses that "a State deems necessary to adopt to deal with conduct considered reprehensible or causing social harm in order to ensure the protection of the essential interests of the State and the rights of the residents of the territory under its jurisdiction. One of the means for its realization is the exercise of legislative competence to define what conduct constitutes a crime and what the applicable penalties should be, as a suitable, necessary and proportional measure to protect certain legal interests*"[820].

235. Thus, in the adopted decisions, the recognition of the essential role of the Legislature in the definition of criminal policy has been reiterated. Specifically, the jurisprudence has provided that it is the Legislative Branch that is called upon to decide on the criminalization of conducts and the penalties to be imposed. This idea has been expressed in various rulings, such as the Rulings C-237 of 1997, C-636 of 2009, C-442 of 2011, C-241 of 2012, C-191 of 206 and C.091 of 2017. In this regard, in the Ruling C-233 of 2019, the Court indicated that:

> *"(...) the legislature's decisions to increase penalties or criminalize new conducts, even in scenarios in which the State has other mechanisms to address the criminal phenomenon, have been vested with a legal presumption of validity, precisely because*

[820] Constitutional Court, Ruling C-093 of 2021.

of the power granted to the legislature by the constituent assembly to define criminal policy. Under this premise, the Court has declared the constitutionality of norms that criminalize conducts, practices and phenomena that can be prevented, combated or punished through other mechanisms, as has happened, for example, with the crimes of harassment, incest, slander and libel, domestic violence, smuggling, favoring smuggling and money laundering, inducement to prostitution and food abuse, among many others".

236. In view of a reiterated jurisprudential line regarding the competence and autonomy of the Legislator to establish criminal policy, the Constitutional Court was not competent to rule on a system of time limits in the framework of the regulation of the crime of abortion, since this implies a policy determination that should be assessed by the Legislative Branch.

For the reasons I have stated, I separate myself from the decision and its grounds contained in Ruling C-055 of 2022.

Date *ut supra.*

Jorge Enrique Ibañez Najar

Judge

DISSENTING OPINION OF JUSTICE

GLORIA STELLA ORTIZ DELGADO

TO SENTENCE C-055 OF 2022

Reference: Case D-13956

ANTONIO JOSÉ LIZARAZO OCAMPO

ALBERTO ROJAS RÍOS

With the customary respect for the decisions of the Constitutional Court, I present below the reasons that lead me to save my vote in Ruling C-055 of 2022, adopted by the majority of the Full Chamber, in session of February 21 of this year.

1. My disagreement consists in the fact that the majority of the Chamber did not recognize that the phenomenon of constitutional *res judicata* had operated. Specifically, I consider that the Court was not competent to rule again on the constitutionality of Article 122 of the Criminal Code, which was subject to control and decision in Ruling C-355 of 2006.

For the sake of clarity, I will develop this dissent around four thematic axes: (**i**) the identity of charges between the lawsuit that was the object of study by the Chamber and Ruling C-355 of 2006; (**ii**) the reasons why I believe that it was not proven that the phenomenon of *res judicata* had operated; (**iii**) the ineptitude of the charge of violation of the right to equality of irregular migrant women, and (**iv**) the lack of discussion and scientific certainty to set the 24-week term to decriminalize abortion. In analyzing each of the aforementioned issues, I will explain the constitutionality study carried out by the Full Chamber and indicate the reasons for my objections.

Identity of charges between the lawsuit that was the object of the study by the Plenary Chamber and Ruling C-355 of 2006.

2. The judgment argues that there is no identity between the charges proposed in the lawsuit that was the subject of analysis of the Chamber and those studied in Ruling C-355 of 2006. To argue this point, it refers to each of the charges and concludes that the understanding of each right has changed in the jurisprudence. For that reason, it argues that the charges are not the same and, consequently, that there is no identity between the two lawsuits. I disagree with this analysis for four reasons:

3. **First**: because the charges analyzed in this opportunity are identical to those analyzed by the Full Chamber in 2006. Let us see:

In Ruling C-355 this Corporation studied: (i) the fundamental rights of women vis-à-vis international human rights law (in legal ground 7); (ii) the limits to the Legislator's freedom of configuration in criminal matters (in legal ground 8); (iii) human dignity (in legal grounds 5 and 8. 1.); (iv) the free development of personality and freedom of conscience (in legal grounds 5 and 8.2); (v) the right to equality (in legal ground 7), and (vi) the right to health (in legal ground 8.3).

On this occasion, Ruling C-055 of 2022, analyzed the censures for violation: (i) of the fundamental right to VIP, (ii) of equality in access to reproductive health, (iii) of the right to freedom of conscience, and (iv) of the various minimum constitutional standards for the use of criminal law and criminal policy (criminal law as a last resort).

4. The simple comparison above shows that the charges on which the Plenary Chamber ruled substantially coincide with those that gave rise to the 2006 decision. Despite the fact that, on some occasions, in order to avoid *res judicata*, they were given different names, the truth is that the constitutionality charges are, in essence, the same. To analyze reproductive health is to speak of women's rights in international human rights law and to study the limits to the Legislator's freedom of configuration in criminal matters is to address the use of this right and criminal policy and its international standards.

Precisely the task of the Constitutional Court when it is charged with protecting the constitutional *res judicata*, is to unravel the essence of the arguments in order to preserve the materiality of the judicial decision, since simple modifications, different expressions or different approaches to the legal problems cannot be valid justifications to leave without effect the *res judicata*. This would imply that the mere passage of time or a better exposition of arguments is sufficient cause to leave without legal force the judicial decision that resolved a social, economic or cultural controversy. It would not be a final decision, nor would there be a way to end the conflict by institutional means, which is absolutely contrary to the values and principles protected by the 1991 Political Constitution.

5. **Second**: The lawsuit also argued that Ruling C-355 of 2006 did not compare the norm with respect to (vii) the right to VIP. Undoubtedly, said judgment did not compare the accused norm with said right, for the simple reason that, after weighing constitutional rights and interests that are in tension with the criminalization of abortion, the Court concluded that an unnamed right authorized by article 94 superior was the one it called the right to VIP. Therefore, it was contrary to logic to pretend to confront the norm with the new right that the Court inferred from the interpretation of the constitutional norms it analyzed. This charge supposed, then, that this

Corporation should judge the validity of the challenged norm against the Court's decision. It was proposed the confrontation of the norm not with respect to the Constitution, but with respect to the sentence adopted in 2006. Consequently, it was clear that this charge did not meet the requirements to generate the constitutional debate or to support its suitability.

6. **Third**: because the reason given by the Full Chamber to argue that the charges are different openly ignores the institution of *res judicata*. Article 243 of the Political Constitution provides that *"[t]he rulings issued by the Court in the exercise of jurisdictional control become res judicata*." This means that the Constitutional Court loses jurisdiction and cannot rule again on the constitutionality or unconstitutionality of a norm, when it has previously issued a substantive ruling on the same.

The characteristic element of *res judicata* is that when the competent judge decides a matter, it cannot be judged again, since the Rulings definitively resolve the disputed issue. Therefore, it can no longer be raised again because any subsequent decision that is contrary to it is absolutely null and void. In this sense, constitutional jurisprudence has uniformly recognized that the institution of *res judicata* is indispensable for the security and coherence of the legal system, responds to the need for pacification and for conflicts to be definitively resolved, makes possible the maintenance of a just order and provides certainty to social relations.[821]

7. The analysis of *res judicata* in processes of abstract control of constitutionality imposes the duty to contrast the charges of one lawsuit and the other and verify their identity. In the judgment from which I am dissenting, this was not done. The argument accepted by the majority of the Full Chamber is artificial, since it assumes that the jurisprudential evolution on the scope of rights distorts the identity of charges that are identical. I disagree with this position, since I consider that the evolution of the scope of rights will always be predictable from the constitutional jurisprudence and, to that extent, according to this novel position of the Court, *res judicata* would be inoperative, since in all cases the argument that the scope of rights evolves and expands would be imposed and, thus, *res judicata* would never be predicated of two identical lawsuits.

8. **Fourth**: in my opinion, it was evident that the study that the Court carried out in 2006 was the same as the one carried out in 2022, the point is that the current Justices did not share the result of the weighing exercise carried out in 2006. It is so true that the unconstitutionality arguments were the same that the conclusion reached by the Court on this occasion is also the result of weighing the same rights in tension. The problem is that this argumentative exercise seriously undermines the legal certainty that the rulings of the Constitutional Court

[821] Ruling C-387 of 2017 M.P. Gloria Stella Ortiz Delgado, C-007 of 2016 M.P. Alejandro Linares Cantillo and, C-228 of 2015 M.P. Gloria Stella Ortíz Delgado.

must have. Due to the complexity of our legal and social system, this Corporation has to resolve very sensitive aspects of society, of the guarantees of the rights of minorities and of the continuity of public policies that are materialized in laws of the Republic or even in Legislative Acts. What institutional stability, legal confidence and security in the definition of controversies are we going to provide, if all our decisions can be modified, in such a short time, because the magistrates of the Court change and have different visions of the weighing of the constitutional rights that they interpret?

The reasons why *res judicata* was not denied.

9. The majority of the Full Chamber considered that, in addition to the fact that the charges were not the same, the plaintiffs demonstrated the weakening of the *res judicata*. Specifically, it indicated that it was accredited: first, a modification in the material meaning of the Constitution, and second, a change in the normative context in which Article 122 of the Criminal Code is inserted.

To justify these two circumstances that, according to the majority of the Chamber, weakened the *res judicata*, very similar arguments are presented. Specifically, the judgment finds accredited: (i) the profound jurisprudential transformation regarding the right to health as an autonomous fundamental right, (ii) the jurisprudential evolution on gender violence against women, (iii) the broadening of the understanding of abortion and the consequent imposition of multiple barriers to the exercise of this fundamental right, and (iv) the existence of various international instruments without binding force, but with hermeneutic value that recommend the decriminalization of abortion.

10. Contrary to what the Full Chamber held; I believe the aforementioned circumstances do not entail a change in the material meaning of the Constitution nor a change in the normative context in which Article 122 of the Criminal Code is inserted. Specifically, I must respond to each of the above arguments, as follows:

First, I believe that the jurisprudential evolution on the scope of the right to health (as an autonomous fundamental right) or the special protection of women in the face of gender violence, did not change the control parameter to evaluate the criminal offense of abortion. The conception of the fundamental right to health as susceptible of being protected through a protection action (tutela) did not have any incidence on the reason for the decision of Decision C-355 of 2006. The charge of violation of the right to health and sexual and reproductive rights was studied by the Full Chamber without the fact that at that time the jurisprudence still upheld the theory of connection having affected the analysis of the violation of this right. Likewise, the evolution in the adoption of a clearer gender approach in judicial decisions in recent times does not detract from the operation of *res judicata*. It should be recalled that Ruling C-355 of 2006

made an extensive analysis of women's rights and explicitly rejected the objectification of pregnant women in general and, with more emphasis, of those who are in that state as the product of sexual violence. For this reason, it was not demonstrated that the jurisprudential or normative evolution had entailed a change in the control parameter, capable of undermining the *res judicata*.

Second, the existence of various non-binding international instruments recommending the decriminalization of abortion is not sufficient to invalidate *res judicata*. It is clear that the fact that some international organizations recommend decriminalizing abortion (others had already done so by 2006) does not demonstrate a change in the international normative context that could weaken *res judicata*. On this point, it is very important to emphasize that the control of constitutionality carried out in Decision C-355 of 2006 took into account the block of constitutionality as a parameter of control and precisely the international instruments that are part of the block of constitutionality in the strict sense, served as a basis for the Court to establish in which cases the criminalization of abortion would imply the annulment of the fundamental rights of women and the disregard of their dignity by reducing them to a mere receptacle of life in gestation.

In my opinion, it is a serious matter to infer the weakening of *res judicata* with soft law, since it not only ignores the system of sources in which only binding legal norms are enforceable by judicial means, but also modifies the constitutional parameter to evaluate the validity of the law. But, in addition, it seems to me dangerous to maintain that the Court leaves without effect the *res judicata* by international recommendations that are not unanimous either, since there are multiple articles with seriousness and academic rigor, many expert opinions and world views that do not share this assessment on whether abortion is advisable.

Third, I believe that it is wrong to understand that the barriers imposed on the three grounds for criminalization impose the need to re-examine the constitutionality of the law. This position implies modifying the judgment of constitutionality control from one of validity to one of efficacy. In other words, if the Court were to analyze the constitutionality of a rule on the basis of its compliance, application or practical enforceability, it would have to carry out more of an empirical than constitutional analysis, which completely blurs constitutional control. I do not mean by this that, on some occasions, the study of the validity of the norm cannot be impacted by its practical application, but what cannot be accepted is that such a study be inverted in the study of the constitutionality of a provision.

In fact, if we conclude that the existence of barriers to the exercise of rights authorizes us to withdraw a rule from the legal system, or to modify the law through conditional or additive

rulings, we turn the constitutional judge into an organ of control of compliance with the law, which modifies the logic of constitutional control and disregards the democratic principle.

The ineptitude of the charge of violation of the right to equality of irregular migrant women.

11. One of the six charges proposed by the plaintiffs involves the violation of the right to equality of women in an irregular migratory situation, insofar as it generates indirect discrimination, since the conditions of access to the VIP procedure for them, especially Venezuelan migrant women, become disproportionate. This, according to the plaintiffs, occurs not only because of their migratory situation, but also because the system does not provide for VIP as an emergency procedure. The Plenary Chamber declared this charge admissible.

12. I consider that the charge complies with the requirements established by the jurisprudence to admit a charge of unconstitutionality. It is clear that the argument of the lawsuits is not specific, relevant or sufficient. This occurs because the barriers to access to health services for women of Venezuelan nationality come from other factors directly related, among others, with difficulties in providing non-basic health services to irregular foreigners that generate a strong economic impact or with the problems to develop public policies for the care of migrants in the context of a humanitarian crisis. I do not believe that these barriers arise from the law criminalizing VIP. In fact, the paper itself contradicts itself by warning that Colombian women also face barriers to access to VIP, which is why it undermines *res judicata*. So, what is the scenario of discrimination in which Venezuelan migrants find themselves if the report itself recognizes that national women also face difficulties?

13. It is evident that the charge did not comply with any of the requirements established by the jurisprudence of this Corporation to formulate a charge for violation of the right to equality, since it was not even clear what was the term of comparison chosen to evaluate the confrontation, nor what were the criteria to conclude that two groups in idem were being compared.

The 24-week limit was not sufficiently discussed and has no scientific support.

14. In analyzing the proportionality of the measure, the majority of the Full Chamber determined that, due to the incremental nature of the protection of the fundamental right to life, it was not possible to give prevalence to life over the fundamental rights of the mother or vice versa. Then, it designed a "constitutional optimum" with 3 elements, namely: (i) the total decriminalization in the three grounds foreseen in Decision C-355 of 2006, (ii) the need to condition the rule with a broad vision of autonomy. This means, when there is a greater

probability of life of the fetus separated from the mother. According to the sentence, this occurs at 24 weeks, and (iii) there must be a comprehensive public policy on the matter.

Therefore, the Plenary Chamber declared the rule constitutional, with the understanding that "*the conduct of abortion provided therein shall only be punishable when it is performed after the twenty-fourth (24) week of gestation and, in any case, this time limit shall not apply to the three cases in which* Ruling C-*355 of 2006 provided that the crime of abortion is not incurred*".

15. I do not agree with the approach on the constitutional non-enforceability to protect life in the making, nor the gestational limit chosen by the majority of the Full Chamber. I consider that this decision: (i) was not sufficiently discussed by the Magistrates at the time of making the decision, (ii) has no scientific basis, and (iii) should have been adopted by Congress with more elements of judgment to make the decision.

16. In the first place, the number of weeks of gestation within which the abortion could be performed was not sufficiently discussed within the Plenary Chamber. This is evidenced by the fact that the text of the sentence arbitrarily fixes this period. It simply indicates that the probability of extrauterine autonomous life at 24 weeks is close to 50% (legal basis 607 of the sentence) and this statement has no citation to support it. Similarly, throughout the sentence it is stated that this 24-week limit has been adopted in some countries.

I consider that the setting of that term was arbitrary (it does not even have a bibliographic citation to support it). Only a superficial reference is made to an intervention provided by the Colombian Federation of Obstetrics and Gynecology in the proceedings that gave rise to Ruling SU-096 of 2018, since there is no evidence to support it in this process.

17. Second, the ruling is not transparent about the state of the art on abortion in the world. The decision merely states that several countries have set limits of 22, 24 and even 28 weeks. It omits to say that most countries in the world have imposed lower limits. According to the Center for Reproductive Rights[753], the most common gestational limit in the world is within the first 12 weeks calculated from the first day of the last menstrual period. Likewise, the Working Group on the issue of discrimination against women in law and practice of the United Nations Human Rights Council recommends that States allow women to terminate a pregnancy in all cases during the first trimester of gestation and thereafter in cases of incest and danger to the mother's life[823]. This is without taking into account the number of countries in the world where abortion is still not permitted in any case.

[822] https://reproductiverights.org/maps/worlds-abortion-laws/?category[1352]=1352

[823] Human Rights Council, (32nd Sess., 2016), *Report of the Working Group on the issue of discrimination against women in law and in practice*, paragraph 107(c), U.N. Doc. A/HRC/32/44 (2016).

Thus, the Plenary Chamber chose to decriminalize abortion up to 24 weeks of gestation: (i) without having clear scientific sources on the probability of extrauterine life, (ii) without comparing this measure with the rest of the world, and (iii) without paying attention to international recommendations, which curiously it does take into account to invalidate the *res judicata* but ignores in order to set gestational limits.

18. Thirdly, in Ruling C-355 of 2006, with respect to which *res judicata* operated, the Court warned that the Legislature may determine that the crime of abortion is not incurred in other additional cases. This is a matter of public policy that must be comprehensively regulated by the Congress of the Republic. In that sense, it is clear to me that it is up to the Legislature to decide on the total decriminalization of abortion, as well as to determine the number of weeks allowed to practice it. This occurs because it is the organs of democratic representation who, under the protection of science, must regulate the matter in its entirety.

19. In summary, I consider that the Plenary Chamber should have followed the decision in Ruling C-355 of 2006. In this way, I state the reasons that lead me to save my vote with respect to the decision adopted by the majority of the Full Chamber in Ruling C-055 of 2022.

Date ut supra

GLORIA STELLA ORTIZ DELGADO

Judge

"107. In relation to reproductive and sexual health care, the Working Group recommends that States:
(a) Abolish bans on contraception, including emergency contraceptives, and provide access to affordable modern contraceptives;
(b) Repeal restrictive laws and policies in relation to termination of pregnancy, especially in cases of risk to the life or health, including the mental health, of the pregnant woman, rape, incest and fatal impairment of the fetus, recognizing that such laws and policies in any case primarily affect women living in poverty in a highly discriminatory way;
(c) Recognize women's right to be free from unwanted pregnancies and ensure access to affordable and effective family planning measures. Noting that many countries where women have the right to abortion on request supported by affordable and effective family planning measures have the lowest abortion rates in the world, States should allow women to terminate a pregnancy on request during the first trimester or later in the specific cases listed above;
(…)"

CLARIFYING VOTE OF THE CO-JUDGE JULIO ANDRES OSSA SANTAMARIA TO THE COURT RULING C-055-2022.

Reference: File D-13956

ANTONIO JOSÉ LIZARAZO OCAMPO
ALBERTO ROJAS RIOS

With all due respect for the decision of the Court, I want to point out the reasons that led me to clarify the vote in Court Ruling C-055 of 2022 and to clarify the reasons why I supported the majority decision.

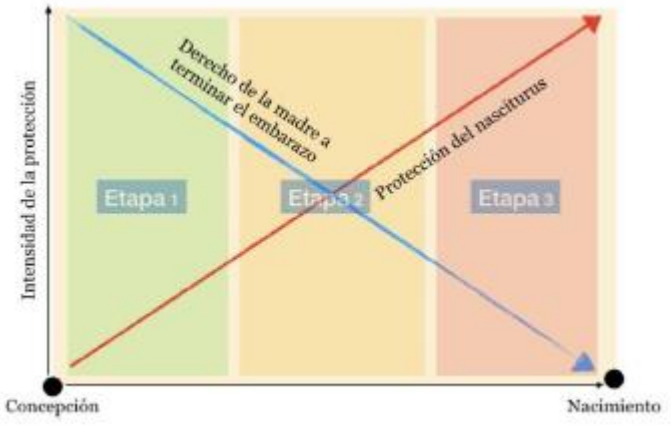
The Constitutional Court declared article 122 of the Criminal Code as conditionally enforceable for considering unconstitutional the criminalization of consented abortion before week 24. I share this decision and I share the legal and constitutional grounds that were exposed to justify it. As I will explain later, I believe that the criminalization of consented abortion from the moment of conception and up to week 24 was unaware of the fundamental rights of women and the condition of *ultima ratio* of criminal law.

However, as I will explain below, I believe that the ruling could have delimited the scope of constitutional protection of the yet to be born in a rigorous manner, without distorting the fact that the criminal sanction of abortion consented before the 24th week is unconstitutional in the regulatory context under study.

1. Incremental protection for the unborn.

1. The thesis that I presented on February 21, of 2022 to the judges on an alternative solution to the claim against article 122 of the Criminal Code rested on the idea that, from the conception, the State is obliged to recognize a scheme of incremental protection for the life of the unborn. Ruling C-355 of 2006 had already emphasized that "*the life of the unborn is a good constitutionally protected and for that reason the legislator is obliged to adopt measures for their protection*".

This protection is incremental. Thus, while the protection of the life of the unborn ascends gradually from conception to the birth, the autonomy of the mother is proportionally reduced as the pregnancy progresses. The scheme is better understood if it is illustrated graphically in a Cartesian plane in which the two magnitudes, that of the protection of the life of the unborn and the right of the mother to interrupt the pregnancy, they cross in the form of a symmetrical X.



According to this logic, during the first weeks of pregnancy the mother enjoys full autonomy to voluntarily decide the termination of the pregnancy, while its right gradually declines until it is minimized in the last weeks, when the protection of the life of the unborn must reach its maximum degree of protection.

2. This proposal had two objectives: first, to adopt a clear and definitive position on the impossibility of accompanying the proposal that advocated for the declaration of enforceability of the norm in question or, even, the one that sought to retreat into constitutional res judicata.

In my opinion, the proposal to penalize the woman who aborts, regardless of the stage of pregnancy, that is, without taking into account the gradualness (except for the three grounds provided for in ruling C-355 of 2006) is unconstitutional. Hence my final decision to support the position that got the most votes.

On the other hand, the decision to cling to the constitutional res judicata that, according to some, emanates from ruling C-355, was unaware of the ostensible normative, jurisprudential and doctrinal evolution - national and international transformed during the last 16 years the legal framework of reference of the debate -including the block of constitutionality, and deteriorated the binding force of the 2006 judgment. I consider that the arguments presented by the judges to demonstrate that the change in the framework of ruling C-355 of 2006 downgraded the binding force of res judicata, are reliable proof that maintaining that decision in the legal system was openly regressive.

2. Administrative Protection of the unborn.

3. The second objective of my proposal was to invite the court to adopt a system of deadlines that would guarantee the right of the mother to voluntarily terminate the pregnancy without ignoring the

protection of the unborn. This was consistent with what was stated in the presentation in the sense that the law can find a practical and legal solution to the unresolved question of when life begins[824].

4. This is precisely one of the main reasons why I took the proposal to the Court, given the complexity of the issue surrounding the decriminalization of abortion and the fact that this reality implores the adoption of a public policy that minimizes the social conditions that lead so many women to abort, the legislator should be able to adopt

> specific protection measures for the unborn, without this implying affecting the free choice of women.

5. The clarification of my vote is then directed to point out that the ruling would have been able to identify with greater rigor the moment in which, without affecting the free choice of women, the State can activate an administrative protection of the unborn. The deadline system I proposed would have allowed accurately to reflect the progressive interbreeding between the woman's freedom to decide about the continuity of her pregnancy and the administrative protection of the life of the unborn.

> Now, I understand that the second numeral of the court ruling includes a series of administrative measures of protection not only for the mother, but for the life in gestation, a decision that I fully support. I also voted in favor of this decision. However, I repeat, the delimitation by stages might have provided greater clarity to the legislator on the moment and intensity of its intervention. As my proposal was not accepted, I finally supported the decision that is reflected in the ruling, since the option of maintaining the challenged norm as it was seemed untenable to me.

6. I insist that this clarification does not affect, in any way, my decision to follow the majority position according to which it is unconstitutional for the legislator to penalize consented abortion before the first 24 gestation weeks. This decision is clear and reflects my adherence to the legal problem proposed in the lawsuit and resolved in the sentence. My clarification is -better- the manifestation of

[824] The proposal suggested that a system of deadlines incorporating a Cartesian plan scheme such as the one explained above could be legally more sensitive to the evolution of the two interests involved, since it would make it possible to recognize the existence of an initial stage of free decision by the mother (up to 13 weeks), a final stage reserved to criminal law (from 24 weeks) and an intermediate stage in which the State could intervene more intensely to protect the life of the unborn child by means of administrative, not criminal, tools. administrative, not criminal, tools.
By dividing pregnancy into three stages, the Court would have been able to reflect the legal characteristics of the gestation process in increasing and incremental tension with the mother's right to voluntarily terminate the pregnancy. A three-stage system would have made it possible to materialize with greater precision and clarity the existence of an initial period of full freedom for the mother, without state intervention, but also of a subsequent stage in which the State, sensitive to the existence of a life in the making, would have been able to deploy its administrative - not criminal - tools to protect the unborn without disregarding the mother's freedom of decision. Finally, the tripartite scheme would also have given room for the criminal sanction for the last weeks of pregnancy, as reflected in the sentence.
Thus, the existence of an intermediate stage in the proposed scheme -which could range from the 13th to the 24th week- would have enabled more clearly the development of a concept that could be called "Administrative Protection of the Unborn Child" and that the legislator would have applied in view of the incremental protection of the unborn child.

the need to include an element that would have specified the scope of the mother's right to interrupt the pregnancy and the commencement of the duty of State intervention to protect the life of the unborn.

This would have avoided a certain overlap between the free exercise of the right of women and the protection of the fetus, which may be legally problematic when implementing the corresponding public policies.

The fact that I miss this possible conditioning is not incompatible with my decision to support the central decision of the judgment according to which in the context studied abortion cannot be subject to criminal sanction during the first 24 weeks of pregnancy. My agreement with the decision of the majority does not conflict with having claimed that the Court should indicate to the legislator how to act before the 24th week. This is what the press release indicates, the fact that the legislator maintains a margin of maneuver to determine what should be the legal -not criminal- treatment of the miscarriage between week 14 and 23.

3. Reasons for the unconstitutionality of the accused regulation.

7. I agree with the majority position that the penalty does not have a definitive effect in deterrence of the crime, since women who decide to terminate the pregnancy do so under the pressure of circumstances which, in the most cases, reduce their margin of freedom and, therefore, the autonomous character of their decision.

In this sense, I consider that women who decided to abort did not feel constrained by criminal law to make the decision. In other words, the criminal sanction did not prevent women from aborting, but it did force them to hide it.

As I stated in the plenary session in which the matter was discussed, I believe that -except for pathological cases- no woman aborts as a hobby and that while women with economic opportunities may find alternatives and definitive support to face maternity in principle unwanted, they can evade criminal prosecution (by aborting in countries where it is lawful to do so), or may decrease the medical risk of a bad practice (taking advantage of private access to discreet health services), the population discriminated against by crime, that of women immersed in conditions of marginality and discrimination, rural women, displaced, migrants, in conditions of disability, etc., lacks real alternatives and materials to deal with it.

This is without considering that this population is usually the one with the least access to contraceptive methods, the less likely to receive a sexual education with emphasis on personal responsibility, and is more subjected to the pressures of a classist, sexist, violent and crossed society in all its dimensions due to religious prejudices.

It was, in truth, a discriminatory provision whose impact social and economic could not be left aside.

8. There is nothing in ruling C-055 of 2022 that promotes abortion. Nothing that encourages or sponsors it.

The legal debate focused essentially on analyzing whether it was constitutional to criminalize a woman who voluntarily terminated her pregnancy, not if it was desirable for her to do so.

On the contrary, the Court had in their hands the decision of a constitutional problem that is, in turn, a human drama whose protagonists are all losers. The one who is about to be born, for obvious reasons, and the mother who makes the tragic decision to terminate her pregnancy because, in addition to risking her life in the secrecy of the abortion industry or, at least, threaten her with treatments of precarious suitability, the Criminal Code legitimized the State to persecute, judge, condemn, stigmatize and also deprive her of her liberty. To the difficult experience of abortion -whose pain it would be foolish to ignore-, it was added the social ridicule and the State persecution, with the subsequent loss of the personal freedom of women.

But if, facing adversity, some mothers had the courage to carry the pregnancy to term, then they found themselves helpless and lacking support before the burden of bringing a new human being into the world, a newly arrived that would have to be fed, cared for, clothed, educated and integrated the society, with all that this implies for the other members of the family and their economic and emotional stability.

The foregoing, if, confronted by the material impossibility of attending a new life, a woman did not finally make the decision to give him up for adoption and resign yourself for the rest of your life to carrying the weight of a motherhood tantalized, daily impracticable. Those who speak soften the controversy of unwanted pregnancy when, in reality, what many women face is an unwanted maternity, forced by the sanctioning apparatus of the State that arrogates the power to decide over her body and her life.

This state power, even for women who decide to opt for maternity, is a form of instrumentalization as a consequence of a biological conditioning, since motherhood cannot be an imposition

heteronomous, but rather the result of an existential option that arises from one's own freedom and human rationality.

9. Therefore, the judgment of the Court is a vote of respect for women and due to the very personal nature of their decision; for the defense of their autonomy and their right to privacy, which translates into their right to decide to have your child, or not to have it.

My vote of respect, which is based on the democratic principle of Constitution, is a limitation to the power of decision of the State, and a resignation to the legislative arrogance that judges the behavior of women from the privileges of those who would never -among them men- be in conditions or would be pushed to commit the crime. The ruling is the recognition that no one but the pregnant woman understands fully its reality, the dimension of its responsibility and the scope of its freedom, and that the State can only reserve its interference when the unborn has acquired a specific development that has gradually opposed to the right of the mother.

The Court's decision is a vote of respect for the woman's decision: the one who decides to have her child, a woman subjected to other vulnerabilities, a woman surprised by the chance of a failed contraceptive method, the confronted by an untimely and frustrating pregnancy; the victim of the irresponsibility of her partner, the victim of a macho relationship, the one who has been deceived... in short, of all the women who see motherhood as a reality incompatible with their autonomy; but in a very special way, of the women, girls and adolescents that life subjugates with a unworthy place in the descent of the Stairs.

I have no doubt that the challenged norm was a decisive factor in the deepening of inequality gaps that overwhelm Colombia, when it was not logically one of its many and saddest consequences. In the third quarter of 2021 alone, births of girls under the age of 14 years increased 31.5% compared to the same quarter of 2020, according to figures of the DANE.

How much dedication, how much effort, how many years of sacrifice, that can be represented in economic terms, of autonomy and of a dignified life, demands parenting! It was up to the constitutional judge to become sensitized, to perceive the material unconstitutionality of this inequality and pronounce technically on what in sight was unjustified.

10. In my opinion, ruling C-055 of 2022 did not abolish the protection of the unborn, not only because, as the ruling explains, the deterrent power of the criminal type was not decisive, but because the criminal regime continues protecting the life of the unborn with respect to all subjects of the right, with the exception of only one person in the world: the mother. So it testifies to the subsistence of the crime of abortion without consent (art. 123 C.P.). In addition, because in the current context the

criminal sanction is preserved from week 24, which also relativizes the right to autonomy and privacy of the pregnant woman according to the degree of fetal development.

This perspective demonstrates that the protection of the unborn continues to be very high, almost absolute. As I explained in the debate in the Plenary Chamber, the existence of an absolute protection of the life that is in formation does not has a place in our constitutional regime because the dimension externalization of any right always implies confrontation with third party rights.

That is why the Court has repeatedly indicated that there are no absolute rights, and this is the reason why, despite the fact that the Article 11 of the Political Constitution establishes that life is inviolable, the national legal regime has recognized certain behaviors as atypical (what occurs with mercy killing and assisted suicide), anti-juridical (death to another person in legitimate defense) or has provided for the reduction of the quantum of the penalty (as occurs with the culpable modality of the crime of homicide).

The "inviolable" nature of life referred to in such article of the Constitution implies the condition of illegitimacy of the aggressive conduct, so that, for the constituent, life cannot be seen affected by anti-juridical actions, but by legitimate actions, which is precisely what the abortion debate is about. Since life is not an absolute right, certain behaviors that affect it - even, to the extent of suppressing it – can be considered legitimate, that is, not in violation of that right.

In fact, if the protection of life were absolute -as claimed by the opposite doctrine-, the crime of abortion would itself be unconstitutional, since there would be no coherence in claiming that life is inviolable from conception, but simultaneously accept the existence of a penal regime to protect the life of the unborn (abortion) and another more rigorous for the one who was already born (homicide). The concept of abortion implies a relativization of the protection of the right to life.

With a similar logic, civil law would have to guarantee the embryo or fetus the same rights as the newborn, because from the interpretation absolutist, there would be no justification for unprotecting those who is about to be born.

The absolutist position of the right to life does not allow the weighting of the rights at stake, the central methodology of our ius fundamental system. Moreover, through the absolutization of the right to life, any regulatory provision that falls below the sanctioning standards for homicide would be unconstitutional. With this logic, abortion would have to be penalized even more severely than simple homicide, due to the concurrence of causes of aggravation such as state of helplessness or inferiority of the victim.

The thesis of the absolute protection of the life of the unborn implies, in the practice, to interpret the Constitution from only one of its articles, not from the integrity of the constitutional text, as imposed by the method of comprehensive interpretation of the Charter. The absolutist position denies in this case that the Constitution should be interpreted as a whole, as a unit harmonious and coherent, and renounces to maximize the effectiveness of all the constitutional provisions involved, which is precisely what makes the constitutional judge.

This is one more reason to support the decision that was reflected in the sentence, since only in a scheme of partial decriminalization of abortion is it possible to talk about the protection of women's rights without ignoring the incremental protection of the life of the unborn. Only there is possible talk about weighting of the constitutional right. Only in this model, one's rights are gradually reduced or increased in function of the increase or reduction of the rights of the other.

4. The 24 weeks term.

11. I consider the decision to decriminalize abortion before 24 weeks to be appropriate, necessary and proportionate because, often, a woman knows of her pregnancy status weeks after conception usually between the middle and the end of the first trimester, so it is necessary to give her a prudent time for reflection. Likewise, it is necessary to give her time to access medical services in case she decides to terminate her pregnancy. Finally, this period of reflection can be used to weigh her material conditions, present and future, and to seek a support network to help her make the decision, whatever it may be. It would not make sense to decriminalize abortion only up to the weeks in which a woman usually learns that she is pregnant, because the narrow window of time would surprise her back into the territories of crime.

This margin for reflection and preparation, of course, is not necessarily there to be exhausted. The maximum limit of 24 weeks works synchronously with the exhortation to Congress and the Government to design a public policy that, when implemented, will reduce waiting times as much as possible.

The 24-week limit is an extreme limit from which the Court considers it reasonable for the legislator to penalize a woman, but it is expected that, as statistics show that very few women make the decision and access the legal abortion service after 20 weeks.

Another factor that supports the 24-week decision, is the local difficulty in accessing abortion services after a woman finds out that she is pregnant. The precariousness of health services in many regions of the country works against women's rights, because it is an external event that takes time away from the woman's will. This circumstance should be included in the calculation of the number of weeks

of decriminalization, since the exercise of the right to decriminalization, cannot be subordinated to the insufficiency of the institutional offer. In this sense, the 24-week time limit can also be a factor that works in the context of the reality of national public health.

Thus, it is expected that to the extent that the health system becomes technically suitable, abortions will occur as close as possible to the date of the conception. Also, that sex education and pregnancy tests allow early notification of pregnancy so that the decision is not extended.

In any case, it is repeated that the sentence does not require a woman to wait for week 24 to abort. This is a deadline by which the Court considered that it was legally permissible to abort without penalizing women with the loss of their freedom.

In short, it is understood that 24 weeks is a fair time for women to mature their decision, not only for the brief reasons that I have just exposed, but because of those widely described and developed in the rulling.

5. Effects of the ruling.

12. I think it is coherent to recognize that the decriminalization until week 24 will not automatically reduce the number of abortions. Instead, the decision if it should have a noticeable and early effect on the decrease of the number of women victims of malpractice abortions who die or become infertile or experience serious medical complications or dramatic emotional experiences. Abortion was until two years ago the fourth cause of maternal death in the country, according to DANE.[825]

On the other hand, it is expected that the partial abolition of the criminal sanction will free women from the burden of moving the bureaucratic apparatus to have an abortion.

Decriminalization also opens a space of legitimacy for society and the state to advise women who have doubts about their decision, offering alternatives to face personal reasons that have made them incline to abort. This is feasible when said reasons have to do with insufficient material conditions to care for a life in conditions of dignity or with situations of violence to which women do not want to subdue her defenseless son.

This option was unthinkable in the penalization regime because - in force the crime without temporal limit-, the State, its doctors, health personnel, ran the risk of becoming accomplices or concealers of

[825] DANE (20201). Cifras definitivas 2019 – Cifras del 1 de enero a 31 de diciembre de 2019 (publicadas el 23 de diciembre de 2020). Cuadro 7 – Defunciones maternas, por grupos de edad, según departamento de residencia y grupos de causas de defunción. Disponible en: ttps://www.dane.gov.co/index.php/estadisticas–por–tema/salud/nacimientos–y–defunciones/defunciones–no–fetales/defunciones–no– fetales–2019.

a woman who aborted, which explains why a large number of the complaints presented fairly by the health institutions themselves, as pointed out in the ruling. Hence the paranoid abuse of conscientious objection - even for the three grounds provided for in jurisprudence-, object of analysis by the Court in the study of the barriers created by ruling C-355 of 2006.

Thus, state counseling and accompaniment should assist the mother to prevent an unwanted pregnancy. The ruling restores her freedom in the exercise of her motherhood, that is, the ability to define herself and thus to shape the form of her own existence.

13. This ruling carries the implicit and sad acknowledgment that always there have been abortions, even despite the existence of the crime. On the other hand the resolutive part of the ruling is a call to the State to face the causes of some unwanted pregnancies, which are the reason why so many women end up sinking into the logic of poverty and hopelessness, when not in the terrible alternative of suicide.

It is also the way to shorten the bleak lines of unwanted children, not loved ones and poorly cared for who are given up for adoption and who will not find a family that welcomes them, since it is evident that the number of people willing to adopt is far fewer than the number of children who would come into the world if all unwanted pregnancies culminated in the birth. The State would not be able to care for, educate or love all children born from unwanted pregnancies and it would be foolish and insensitive to ignore this reality; with the aggravating circumstance that each day that passes by, is harder for a homeless child to find an adoptive family, because it usually happens that the intended parents are more inclined to adopt babies and not older children.

The ruling is also a way to reduce the number of women sterilized, mutilated or who would die from domestic "surgeries", drinks, potions or medicines, or of this illegal industry that commercializes off this tragedy.

With the design and implementation of a responsible and complete public policy, the State should be able to reduce unplanned pregnancies from now on. Decriminalization will allow then to take out of the dark the real numbers of abortions in Colombia, contributing data to the statistics required to design correct lines of action and to allocate the necessary resources to minimize this problematic.

14. This was perhaps the biggest flaw in the challenged rule because, crouching behind the penalty, the State and society had forgotten to find the true causes of the problem and to find the possible and best solutions. Nothing simpler and no worst alternative than putting women in jail. In the end, those who considered – as made the ruling - that under the conditions criminal law had betrayed its last ratio vocation of sanctioning law were right.

The decision embodied in the ruling does not declare winners or losers. Abortion is a human drama in which the Court - faced with the inexcusable inactivity of Congress - had to intervene to minimize its effects. There are occasions in which the correct decision is the one that opts for the lesser evil.

Years will pass before the results of its implementation offer a more optimistic scenario, with a background scenario in which abortions are reduced to their minimum expression and in which those that are practiced are made safe and in a technical way.

This will happen when sexual education is translucent, it is imparted free of prejudices and dogmas and produces sexually responsible young people; when contraceptives and pregnancy tests are an affordable option – if not free-, omnipresent and informed for all; when poverty backs up and women can face their motherhood with dignity, even without male dependency; when the State offers legal solutions and viable materials to women who face a maternity incapable of endure; when health services accompany and advise the pregnant mother to make the best possible decision; when the violence macho give in... anyway!

Although the reality of the facts is stubbornly opposed to the materialization of these ideals, if the legal system does not mark on the horizon the goals that dignify human life, society will never move in this direction. I prefer that these paths are there, illuminating the future that I want for my daughters, and not that ignorance, dogmatism and fear continue uttering condemnations against women of this country.

Date ut supra

JULIO ANDRES OSSA SANTAMARIA

CLARIFYING VOTE OF THE CO-JUDGE DIANA FAJARDO RIVERA TO THE COURT RULING C-055-2022.

Reference: File D-13956

ANTONIO JOSÉ LIZARAZO OCAMPO
ALBERTO ROJAS RIOS

1. With the customary respect for the decisions of the Constitutional Court, I present below the reasons for my clarification of vote to ruling C-055 of 2022, in the sense that the conduct cannot be penalized if it materializes before the 24th week of the gestation period. This decision constitutes an important advance in the protection of the fundamental rights of girls, adolescents, women and, in general, pregnant women, given that the exceptional decriminalization of abortion in three grounds, in force since the adoption of ruling C-355 of 2006, to a mixed system of causes and deadlines.

2. The Full Chamber, prior to the study of the grounds -which were reduced from six objections formulated in the lawsuit to four to be analyzed[826]- and to the verification that no constitutional *res judicata* took place[827], concluded while addressing the substantive examination of the matter that the definition of the crime of consented abortion in the terms of article 122 of the Criminal Code, in the absence of a health policy comprehensive public service on the matter, entered into a strong constitutional tension with (i) the obligation to respect the right to health and reproductive rights; and (ii) the principle of equality, particularly of women in a situation of vulnerability and irregular migratory status, due to the fact that it was proven that these are the ones who most frequently faced clandestine and insecure abortions -one of the main causes of maternal death- and, in addition, on whom the exercise of criminal action falls mainly.

3. It was also indicated that the typification analyzed was in strong constitutional tension with (iii) the right to freedom of conscience, in particular to the reproductive autonomy, while the interference of the State -despite the regime of causals - is still intense, regarding a very personal, individual and non-transferable that, presently and in the future, impacts various spheres of personal, family and

[826] The Full Chamber considered that (i) some of the charges, especially two, had the principle of equality as a control parameter, therefore, it decided to treat them as one, and (ii) considered that the objection based on the infringement of the right to the freedom of profession of the health personnel did not meet the minimum requirements for an in-depth study. Hence, (iii) the Full Chamber studied four objections: (iii.1) violation of the obligation to respect the right to health and the reproductive rights of girls, women and, in general, pregnant people; (iii.2) ignorance of the right to equality of women in a situation of vulnerability and in an irregular migratory situation; (iii.3) violation of the freedom of conscience of girls, women and, in general, pregnant people, especially in relation to their reproductive autonomy; and, (iii.4) incompatibility with the preventive purpose of a penalty and the satisfaction of the constitutional requirements attached to criminal law as *ultima ratio*.
[827] Although the Court concluded that the apt charges, with the scope alluded to in this lawsuit, had not been the object of study in Ruling C-355 of 2006 and, consequently, constitutional *res judicata* was not configured, it affirmed that, even if sustained it was presented, there were two main reasons to weaken the constitutional *res judicata* and proceed to its consideration, on the one hand, a change in the material meaning of the Constitution and, on the other hand, a change in the normative context in which Article 122 of the Criminal Code was written.

social life of the girl, adolescent, woman and, in general, pregnant person; and, (iv) the preventive purpose of punishment and, in addition, the characteristic of criminal law as *ultima ratio*, since, first, the criminal type does not adequately protect the legal right that it seeks to protect and nor does it dissuade, and secondly, because, in the absence of a comprehensive policy with a public health approach, the State has resorted to criminal law as *prima ratio*.

4. Based on the foregoing, the Court considered that it should seek a remedy in the sense that, on the one hand, it would protect the value of life, in accordance with articles 11 of the Political Constitution and 4.1. of the American Convention on Human Rights and, on the other, will protect the maximum possible rights of girls, adolescents, women and, in general, pregnant people. To do this, after indicating that the value of life in gestation was gradual and incremental, and an imperious constitutional purpose, it was estimated that the following were relevant criteria: (i) guarantee the causal regime provided for in Ruling C-355 of 2006, and (ii) maximize assets in tension, finding in the 24th week of gestation a medical criterion, with a high scientific evidence, decisive for the possibility of autonomous extrauterine life.

5. Under these conditions, ruling C-055 of 2022 is transcendental for Colombian constitutionalism and, especially, decisive towards the construction of a fairer society, an unavoidable step in the elimination of discrimination against women, a minimum condition of respect for the freedom and autonomy of thousands of girls, adolescents, women and, in general, pregnant people in the country.

6. I share in general terms the lines of argument accepted by the Court to reach the aforementioned conclusion, however, I clarified my vote for two reasons. First, to highlight a few points of the judgment which, in my opinion, are fundamental and, furthermore, contribute strongly to sustaining why, second, despite accompanying the majority, article 122 of the Criminal Code should have been declared unenforceable. Regarding this first matter, I will refer below to (i) the direct and indirect discrimination of the penal type of abortion, issues that were mentioned by the Court when referring to the ignorance of the principle of equality and the violation of the characteristic of criminal law as *ultima ratio*; and (ii) the proven ineffectiveness of the criminal offense of abortion and the damage it produces in the lives of girls, adolescents, women and, in general, pregnant people, a matter addressed in Ruling C-055 of 2022 when studying the violation of the preventive purpose of the punishment.

7. Regarding the second reason for this clarification, that is, why I supported the decriminalization of the voluntary interruption of abortion if it is performed before the 24th week of gestation despite the fact that I estimate that the penalization in general is unconstitutional, I will refer to two aspects: (iii) the problems caused by the grounds system defined in ruling C-355 of 2006 and (iv) the need for a

definitive transition from criminal law towards a public health policy around pregnancy, childbirth and/or voluntary termination thereof.

(i) Direct and indirect discrimination of the criminal type of abortion

8. The criminal type of abortion persecutes women. Therefore, it reflects a discriminatory use of policy and criminal law. This foresees as active subject of the conduct to "a woman", in its first paragraph, and to whoever performs the conduct with the consent of the woman, in its second paragraph (usually medical staff).

9. The existence of a criminal type that since its drafting sets its sights on the half of the population and, furthermore, in that half that has been subjected to historical phenomena of discrimination and oppression should touch the legal conscience of a constitutional state of law.

10. To state that such difference in treatment is reasonable because it derives from biological reasons does not improve things, since it would put the biological configuration of the bodies at the base of the decision to punish;[829] and attribute the definition of the type to a control of an irresponsible exercise of sexuality implies taking gender stereotypes as a foundation. In both cases, the decision to punish would be based on suspicious criteria of unconstitutionality.

11. Thus, the criminal type of abortion directly discriminates against women in comparison with men; and more intensely to women who face various conditions of vulnerability.

- *The damage caused by the criminal type of abortion is more intense as which increases the vulnerability of some girls, adolescents, women and, in general, of pregnant people.*

12. Indirect discrimination occurs when a rule, apparently neutral, generates negative effects for a sector of the population. This concept is very important to understand and combat structural discrimination, that is usually hidden precisely in social practices that are considered neutral.[830] The criminal type of abortion affects with special intensity women who face various conditions of vulnerability: girls, adolescents, women and young pregnant people are the main recipients of criminal prosecution, women with limited resources or in condition of economic vulnerability, sex workers are investigated in a greater proportion than the rest of society, as well as migrant women.[831]

[829] In regards of the inadequacy of the biological argument to justify the difference in treatment, see, among others Sentence C-117 of 2018 (Justice Gloria Stella Ortiz Delgado), about the VAT imposition to sanitary towels.
[830] *Ibidem.*
[831] This is amply discussed in Sentence C-055 of 2022.

13. The relationships between criminal prohibition and access to health cause additional problems. Thus, those who need the most physical and mental health services are criminally prosecuted; and those who already face problems accessing the Social Security System, for example, because of their profession or their immigration status, they see themselves practically in the impossibility of exercising their right to voluntary interrupt their pregnancy: the fear that medical personnel will report them is combined with the risks of morbidity and death.

(ii) The ineffectiveness of the criminal type of abortion and the damage it produces in the life of girls, adolescents, women and, in general, of pregnant people.

14. Constitutional jurisprudence has defended in a resolutely and constant manner the Congress´ power of configuration in penal matters, and political bodies in the design, implementation, and execution of crime policy. Respect for such principles implies that a generic argument statement on the ineffectiveness of a penal law would be insufficient to overthrow its presumption of constitutional validity; however, an argument capable of demonstrating the absolute ineffectiveness of a criminal law actually questions the suitability of the measure to achieve a constitutional legitimate end; that is, its reasonableness and proportionality.

15. This has happened exceptionally, for example, when the Constitutional Court declared unenforceable the rule that penalized the payment of ransoms to combat kidnapping,[832] because they consider it ineffective considering the extreme circumstances in which families who have suffered a kidnapping were, or in the recent decision on life imprisonment, in which the ineffectiveness of this punishment operated as a support argument for the substitution of the Constitution.[833] In the case of the criminalization of abortion, once again, the suitability of the measure was distorted. The statistical information provided by the General Prosecutor's Office echoed the academic studies provided by the plaintiffs and interveners. Both sources agreed that this type of crime, in terms of the facts, does not reduce the number of abortions.

16. In addition, its ineffectiveness contrasts with the damage that the penalty causes in the lives of thousands of girls, adolescents, women and, in general, of the pregnant people, because as a result of the penal prohibition, those cases that do not lead to the initiation of criminal proceedings, are carried out in inadequate or insufficient medical and sanitary conditions.

[832] Ruling C-542 de 1993. Justice: Jorge Arango Mejía with Vladimiro Naranjo Mesa and Hernando Herrera Vergara.
[833] Ruling C-294 de 2021. Justice: Cristina Pardo Schlesinger with Antonio José Lizarazo Ocampo, Paola Andrea Meneses Mosquera, Gloria Stella Ortiz Delgado, Diana Fajardo Rivera, Jorge Enrique Ibáñez Najar, Alejando Linares Cantillo, José Fernando Reyes Cuartas.

17. Abortions performed at home, with risky methods or in clandestine clinics, whose quality is conditioned by the cost capacity of the person who attends the service, can lead to complications, infections that, in principle, cannot be treated in the institutions of the health system, without facing the risk of whistle-blowing. The number of cases that leads to criminal proceedings produces negative consequences in the lives of women, in their physical and emotional health, in the affective and professional plans; and impact their fundamental rights, for the possible deprivation of liberty, the suspension of political rights and a criminal record. In this line, people who require health services, receive instead a threat or the effects of the penal law.

18. Thus, the absolute ineffectiveness of this criminal offense and its negative impacts on the fundamental rights of girls, women and other pregnant women create a disproportionate injury to such constitutional goods, whose defense is imperative for the Constitutional Court.

19. In this sense, the tensions that the Court found between the definition of consented abortion in article 122 of the Criminal Code and the principles and rights that founded each of the charges of unconstitutionality studied by the Court and, in particular, the two issues highlighted here, realize that the penalty is not an adequate, reasonable and proportional state measure, to effectively protect life in gestation and, at the same time, to protect the rights involved of the girls, adolescents, women and, in general, pregnant people, in addition to be based on a suspect criterion -sex- and reproduce stereotypes of gender. Although the foregoing, in my opinion, should have determined the unenforceability of the criminalization of the VIP, the decision adopted constituted the best possible solution in the current state of constitutional construction and, for this reason, I signed it. Next, I highlight two elements of this position.

(iii) The problems that became evident over time in the grounds system defined in Ruling C*-355 of 2006*

20. In ruling C-355 of 2006, the Constitutional Court considered, for the first time, that absolutely penalizing the voluntary interruption of the pregnancy intensely affected human dignity, autonomy, life, personal integrity and health, and established specific hypotheses or causes in which penalty resulted extremely unfair. These were configured when (i) the pregnancy is the product, among other circumstances, of a rape, (ii) there is malformation of the fetus that makes its life unviable or (iii) the pregnancy constitutes a danger to the health and life of the woman.

21. Despite being a reasonable prima facie jurisprudential construction, during the years following ruling C-355 of 2006, the Constitutional Court found, based on the issues known through the claim[834], the multiple institutional barriers that frustrated the protection provided in the indicated terms and the criminal prosecution for the crime of voluntary abortion increased, in part, as a result of conflicts associated with the interpretation and the application requirements of the grounds. In practice, these conflicts were initially resolved by health professionals, institutions that provide health services and health companies promoters; only through the exercise of the *tutela action* were assumed by judges, despite the fact that the exercise of a fundamental right[835], such as the voluntary pregnancy interruption, was at risk. (sic)

22. Thus, with the absolute criminalization of abortion, access to quality health services is reserved for those who have sufficient conditions to circumvent the legal prohibition; whereas, with the system based only in exceptional cases, health professionals are faced with the dilemma of working for the welfare of women, adopting a broad interpretation of the causes; or to protect themselves against any complaint against them, embracing a restrictive approach and elevating (in occasions creating) the administrative and evidentiary requirements.

23. A dilemma that, traversed by criminal law, cannot be resolved only from science and medical ethics, but also from a calculation of the risks that professionals would be willing to assume. In these terms, the grounds system, despite being a reasonable construction, ended up fostering tensions between solidarity, care and exercise of the medical profession for the well-being of all women and the defense of own interests. In particular, to stay out of criminal investigations and trials.

24. Therefore, Ruling C-055 of 2022, by establishing a mixed system, based first on a deadline for the completion of procedures without penalty[836] and, only in the last stage, in the grounds system, is a relevant step in the construction of an inclusive Constitution for girls, adolescents, women and, in general, pregnant people; reason why, I supported the decision and, in this sense, the determination of week 24 of pregnancy as a relevant criterion, paying attention not only to the gradualness and the incremental value of life that is unfolding, but to the fact that, once again, there are women whose life is crossed by phenomena of intense and intersectional marginalization who confront the greatest obstacles or barriers within the health system, therefore, greater permission in time allows a greater spectrum of protection, evidencing, in addition, than in countries where voluntary interruption is more

[834] In Ruling C-055 of 2022, with respect of which I subscribe this particular opinion, a detailed account is given of the sentences issued between 2006 and 2022.
[835] On the justification of the voluntary interruption of pregnancy as a position of fundamental right, derived from reproductive rights, see judgement SU-096 of 2018. Justice: José Fernando Reyes Cuartas, with Carlos Bernal Pulido, Luis Guillermo Guerrero Pérez, Cristina Pardo Schlesinger, and Alejandro Linares Cantillo.
[836] In other words, a system in which the voluntary decision of the woman or the pregnant person must be respected, regardless of whether or not one of the causes described occurs.

widely allowed, those who resort to it in more advanced stages of pregnancy make up a very small percentage.

25. Despite the foregoing, the reasons that led to this decision (and which I have highlighted so far) should lead ultimately, in the future, to a transit from *punishment* to *public health*.

(iv) Punishment to public health

26. The criminal type of consensual abortion is part of a set of norms where the law has drawn a delicate line between the exercise of a fundamental right and the commission of a crime. So, to one side of the line, the voluntary termination of pregnancy is a valid manifestation (allowed and protected) of exercise of the right to health, autonomy and sexual and reproductive determination. On the other hand, it is a behavior prohibited and persecuted through a tool that can interfere severely with the rights of a person, criminal law. This line should have the clarity of criminality and the flexibility and breadth of the fundamental rights.[837]

27. In this case, article 122 of the Criminal Code opens an abyss in which they destroy relevant constitutional goods; where they are produced constant, year after year, clandestine abortions, risky for the health and life of girls, adolescents, women and, in general, pregnant people, in which the performance of the health system sometimes founders.

28. An abyss between punishment and the utmost respect for the autonomy of women about their body and destiny.

29. To overcome it, it is necessary to transfer the discussion about VIP from criminal law to public health. And, I consider it necessary to warn, that assuming this transition from crime to public health, as a necessary consequence of the social rule of law, not means to be in favor of or promote abortions. The decision to abort, the way and time to do it, are usually very complex, painful or challenging processes for the lives of women and other pregnant people. The context in which each case occurs is very diverse.

30. The definitive decriminalization of abortion implies enunciating a difficult fact for the constitutional State: in the scope of pregnancy, its voluntary interruption, or childbirth and lactation, the educational and health public policies owe a debt to women, adolescents, girls and, in general, pregnant people. Information about contraceptive methods, the morning after pill and the fundamental right to voluntary

[837] The Constitutional Court has issued various warnings about the approach to these types of crimes, for example, in relation to libel, slander (C-442 of 2011) or mercy killing (C-233 of 2021).

termination of pregnancy should make part of a system that offers the highest level of well-being to all women who have interests related to pregnancy; to those who have reasons to end it voluntarily, and those who hope to reach until the end of gestation through childbirth.

31. The penalization paradox appears then with special clarity. The total ban scenario leads to unsafe abortions, does not deter carrying out the behavior and generates additional social problems derived of the restriction of rights; the grounds system leads to interpretations that, in the end, lead to the late realization of the procedure, so that it affects the incremental value of life in gestation.

32. For all of the above, the way to simultaneously protect women's rights and the incremental value of life in gestation is to reach a constitutional state of affairs in which VIP is carried out in the first weeks of gestation, stage in which it is possible to do it with telephone support, through the use of medicines and without generating intense damage to the goods that have been claimed protect through criminal classification (life in gestation) and the partial decriminalization of the conduct (the sexual and reproductive autonomy of women, among other committed).

33. For the health system to provide the best care for all women, in a preventive stage, pedagogy, access to information, planning family, effective provision of sexual and reproductive health services is essential to abandon the focus of punishment and move to the satisfaction of rights and needs. Moving towards a State that does not judge some women while protecting others, for reasons that ultimately reflect gender stereotypes and discrimination based on sex, such as exercise of sexuality or capacity for pregnancy. In this way the system will also become more robust for the provision of services to women who aspire to give birth.

This path will guarantee that our Constitution can cover everyone: girls, adolescents, women and, in general, pregnant people.

Date ut supra

DIANA FAJARDO RIVERA
Justice

[The unofficial translation of pages 1-404 (above) was kindly organized and provided by Catalina Martinez of the **Center for Reproductive Rights**. Her translators did not include the following clarification by Judge Cuartas, which was later added to the Spanish judgment on pages 404-414. The following is a mechanical translation Dec. 1, 2023.]

CLARIFICATION OF THE JUDGE'S VOTE
JOSE FERNANDO REYES CUARTAS
JUDGMENT C-055/22

1. In judgment C-055 of 2022, the Full Chamber of the Constitutional Court decided, among other things, the following:

> **FIRST: To declare the CONDITIONAL ENFORCEABILITY** of Article 122 of Law 599 of 2000 "by means of which the Penal Code is issued", in the sense that the conduct of abortion provided for therein will only be punishable when it is carried out after the twenty-fourth (24) week of gestation and, in any case, this time limit will not be applicable to the three cases in which Judgment C-355 of 2006 provided that it is not the crime of abortion is committed, that is, "(i) When the continuation of the pregnancy constitutes a danger to the life or health of the woman, certified by a doctor; (ii) When there is a serious malformation of the fetus that makes its life unviable, certified by a doctor; and, (iii) When the pregnancy is the result of conduct, duly reported, constituting carnal access or sexual act without consent, abusive or non-consensual artificial insemination or transfer of fertilized egg, or incest."

2. After specifying the scope of the interests at stake – women's rights to sexual and reproductive health, equality and freedom of conscience and the duty to protect unborn life – the Court considered that the simple enforceability of the challenged provision or its immediate unenforceability did not offer an adequate constitutional response to resolve the issues raised by the lawsuit given that either of these options It would mean the absolute sacrifice of one of the interests. Instead, it identified an intermediate formula that gave "relevance to each of the guarantees in tension, in such a way that, unlike subtracting constitutional protection – due to the result that would follow from granting preference to any of these guarantees – a greater realization of the totality of values in tension is achieved." From this perspective, and in order to move forward with a formula that would concretely harmonize the relevant aspects, it ruled that before the twenty-fourth (24) week of gestation, the conduct described in article 122 of the Criminal Code would not be punishable.

3. While I supported the arguments set out in the majority decision, I consider it necessary to clarify my vote on two issues in particular. *First*, I will offer additional reasons justifying the twenty-four (24) week term set forth in the order. *Secondly*, I will refer to the scope of the duty to protect the life of the unborn.

I. Additional Considerations on the Correction of the Twenty-Four (24) Week Term for Voluntary Termination of Pregnancy

4. The judgment adopted the term of twenty-four (24) weeks of gestation based on a normative reference that would allow maximizing the legal assets in tension during the different stages of the gestation period: the concept of autonomy[1]. According to the ruling, autonomy "is associated with the moment from which it is possible to consider that the dependence of the life in formation on the pregnant person is broken, that is, when a greater probability of autonomous life outside the womb is accredited (close to 50%), a circumstance that has been evidenced with greater certainty from the 24th week of gestation. which corresponds to the most advanced stage of embryonic development[2]."[3]

5. Determining the time limit was not an easy task for the Full Chamber. I recognize that significant discussions may arise with respect to the Court's conclusion as it relates to the maximum period of time available to women to exercise the right recognized in the judgment. Scientific and moral opinions concur in this debate and each of them, based on its premises, has proposed alternative decisions that the Court must evaluate in detail. However, the term established by the judgment is not the result of the Court's discretion, as reflected in the grounds of judgment C-055 of 2022.

6. The balancing required the Court to address those empirical variables that, from a constitutional perspective, have an impact on the specific weight of the State's duty to protect human life and the right to sexual and reproductive self-determination of

[1] It corresponds to the moment in which there is a greater probability of autonomous extrauterine life of the fetus

[2] This gestational limit for the practice of voluntary abortion has been adopted, among others, in the Netherlands, in several states in the United States, in some provinces and territories of Canada, in Singapore and in some of the states of Australia. This concept, also associated with the word "viability", was decisive for the definition of the limit at which the state's interest in protecting unborn life was considered justified and, therefore, allowing states to prohibit the practice of voluntary abortion, in the cases of *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992), of the U.S. Supreme Court. In the first, in view of the state of the art at that time, the term "viability" was set at the 28th week of gestation; In the second, as a result of advances in medical technique, this term was considered to occur sometime between 23 and 24 weeks of gestation.

[3] The Chamber undertook the task of analyzing the concept of autonomy taking as a reference (i) the jurisprudence of this Court, (ii) *two emblematic pronouncements of the Supreme Court of the United States, and* (iii) some legislation that restricts abortion when the fetus is "viable" or, in other words, when its autonomous existence is probable, that is, regardless of the surrogate mother.

women. In this sense, (i) scientific approaches that attempt to establish the boundaries in which the weight of the aforementioned duty increases, as well as (ii) the greater or lesser institutional suitability to ensure the timely exercise of a right, constitute unavoidable references for the purpose of assessing the way in which the harmonization of the constitutional interests at stake should be carried out.

7. Therefore, I consider it important to highlight additional arguments that justify the term of twenty-four (24) weeks as a limit for the free exercise of this important and transcendental right of pregnant people.

- ***First reason.*** *The fetus's ability to feel pain or the fetus's awareness of feeling pain*

8. Although there is no scientific consensus on the exact week from which the fetus could feel pain, outstanding scientific evidence indicates that from the twenty-fourth (24) week onwards the chances of this occurring are greater. Experts in the field agree on the following conclusions. First, "the development of the central nervous system of the fetus is progressive in organicity and functioning" and "[i]t is not likely, because of this, that the fetus will feel pain before the 20th week and may, given the more advanced development of its physiology, begin to feel pain between the 22nd and 26th weeks."[4] Second, "[t]he presence of thalamocortical fibers is essential for the perception of pain, but, even if they are present, they are not sufficient since, in addition, they must be functional."[5] Third, "[i]n assuming that consciousness is located primarily in the cortex, consciousness cannot emerge before 24 weeks of gestation when the thalamocortical connections of the sense organs are established."[6]

9. There are several organizations that question the capacity for fetal pain before the presence of a developed cortex, based on the hypothesis of cortical need. For example, the report from the *Royal College of Obstetricians and Gynaecologists*[7] indicates that fetal pain is not structurally possible until 24 weeks of gestation and is

[4] Kizer, S., & Vanegas, H. (2016). Does the fetus feel pain?. Journal of Obstetrics and Gynecology of Venezuela, 76(2), 126-132. In the article "Lee, S. J., Ralston, H. J. P., Drey, E. A., Partridge, J. C., & Rosen, M. A. (2005). Fetal pain: a systematic multidisciplinary review of the evidence. *Jama*, *294*(8), 947-954", concludes that "Evidence regarding the capacity for fetal pain is limited but indicates that fetal perception of pain is unlikely before the third trimester".
[5] Idem.
[6] Lagercrantz, H. (2014, October). The emergence of consciousness: Science and ethics. In Seminars in Fetal and Neonatal Medicine (Vol. 19, No. 5, pp. 300-305). WB Saunders.
[7] It is a professional association based in London, UK. Founded in 1929, they are recognized nationally and abroad as leaders in women's health care. See https://www.rcog.org.uk/

unlikely to be functionally possible until after birth[8]. In the same vein, the American College of Obstetricians and Gynecologists[9] and the Society for Maternal-Fetal Medicine[10] state that fetal pain is not structurally possible until at least 24-25 weeks of gestation, that the fetus cannot be aware of pain "until the third trimester at the earliest," and that it cannot perceive pain as such until "late third trimester."

It is necessary to insist that the scientific texts cited do not constitute definitive evidence about the exact moment at which the fetus begins to feel pain[11]. However, they are additional references on which the Full Chamber was able to support its decision.

- ***Second reason.*** *The viability of the fetus*

10. Judgment C-055 of 2022 based its main consideration on the twenty-four (24) week term on the concept of autonomy. In support of this conclusion, I believe it is relevant to consider some scientific approaches that note the incremental survival of babies born after twenty-fourth week (24).

11. In the text *"Periviable birth and the shifting limit of* viability" it is concluded that studies published in the last decade show survival rates of 5% to 7% after birth at 22 weeks of gestation. From the 22nd week of gestation, survival rates are considerably higher – approximately 25% to 35%; chances of survival that increase from week 23 onwards[12]. For its part, the study called "Outcomes of infants born at 22 and 23 weeks' gestation*" concludes that those born at* 22 and 23 weeks of gestation[13] have a higher risk of death than babies born at 24 weeks. Finally, in the article "Morbidity and mortality in newborns at the limit of viability in Spain: a population-based study" it is pointed out that "survival without major morbidity in

[8] "In reviewing the neuroanatomical and physiological evidence in the fetus, it was apparent that connections from the periphery to the cortex are not intact before 24 weeks of gestation and, as most neuroscientists believe that the cortex is necessary for pain perception, it can be concluded that the fetus cannot experience pain in any sense prior to this gestation" See https://www.rcog.org.uk/media/xujjh2hj/rcogfetalawarenesswpr0610.pdf

[9] "The science conclusively establishes that a human fetus does not have the capacity to experience pain until after at least 24–25 weeks. Every major medical organization that has examined this issue and peer-reviewed studies on the matter have consistently reached the conclusion that abortion before this point does not result in the perception of pain in a fetus" See https://www.acog.org/advocacy/facts-are-important/gestational-development-capacity-for-pain#ref

[10] Ver https://www.ajog.org/article/S0002-9378(21)00965-0/fulltext

[11] In the text "Reconsidering fetal pain" the authors open the debate on the ability to feel pain before week 24. Although it is not concluded from which week this phenomenon occurs, the authors acknowledge that historically there was a consensus on the ability to feel pain from week 24. Derbyshire, S. W., & Bockmann, J. C. (2020). Reconsidering fetal pain. *Journal of Medical Ethics*, *46*(1), 3-6.

[12] Mercer, B. M. (2017). Periviable birth and the shifting limit of viability. Clinics in perinatology, 44(2), 283-286.

[13] See Ishii, N., Kono, Y., Yonemoto, N., Kusuda, S., Fujimura, M., & Neonatal Research Network, Japan. (2013). Outcomes of infants born at 22 and 23 weeks' gestation. Pediatrics, 132(1), 62-71.

children under 23 weeks of GD is exceptional, and in newborns of 23 and 24 weeks, very low. NBs ≥ 25 weeks of GA have a reasonable chance of survival and, in the absence of major malformations or other relevant complications, should be offered active resuscitation and intensive care."[14]

12. These studies, as evidenced by fetal pain analyses, do not provide certainty about an exact date of fetal viability. However, it is possible to draw from them a solid basis for the establishment of week 24 - a term accepted by the Full Chamber. It is at that moment that the fetus has the greatest chance of surviving outside the woman's womb and therefore the state's interest in protecting life increases.

- ***Third reason.*** *The obstacles women face in realizing their right to abortion*

13. Establishing a term of twenty-four (24) weeks also responds to the reasonable period of time for women to exercise their right, taking into account the different obstacles that are imposed on its practice by the private and state institutions that in some way intervene in this procedure.

14. Since the issuance of Judgment C-355 of 2006, the Court, through its various review chambers, has identified different obstacles that women encounter in the practice of IVI, in the terms authorized in that decision. The following are some of those identified in the Court's jurisprudence.

14.1. Lack of timely, sufficient and adequate reproductive information. In Judgment *T-731 of 2016*, the Court heard a tutela action filed by an official of the Ombudsman's Office, indicating that the ICBF tried to dissuade a 14-year-old girl from her intention to terminate the pregnancy, despite having a medical diagnosis of her serious mental health condition caused by the pregnancy. Finally, the IVI was performed at week 25. Then, in judgment *T-697 of 2016*, the Court resolved the case of a 14-year-old girl, a victim of sexual violence, whom ICBF officials also tried to persuade to continue with her pregnancy. In this case, the minor decided to continue with the pregnancy because after more than 20 weeks the procedure had not been performed.

[14] F. García-Muñoz Rodrigo, A. García-Alix Pérez, J.A. García Hernández, J. Figueras Aloy and Grupo SEN1500. "Morbidity and mortality in newborns at the limit of viability in Spain: a population-based study". An Pediatr 2014; 80(6):348---356.

14.2. Requirements not provided for in the case-law. In Judgment *T-988 of 2007*, the Court assessed the case of a woman with a disability, a victim of violent carnal access and, consequently, nine weeks pregnant. The child's mother requested that the IVI be performed. However, the EPS made the authorization of the procedure subject to the existence of a judicial interdiction sentence and a psychological examination to verify that the carnal access was not consensual. At the review venue, the mother of the minor reported that the pregnancy was interrupted in a particular way, since after more than 15 weeks of gestation the refusal of the EPS persisted. In Judgment *T-388 of 2009*, the Court heard the case of a woman at 23 weeks of gestation who requested the IVI for "serious malformation of the fetus incompatible with life", the attending doctor demanded a court order and, finally, the procedure was performed at approximately 26 weeks of gestation.

14.3. Lack of availability of the means to carry out the IVI throughout the territory, at different levels of complexity and at any stage of pregnancy. In Judgment *T-171 of 2007*, the Court heard the case of a woman who, at 20 weeks of pregnancy, learned that her fetus was incompatible with life. The woman requested the IVI but the recommendation of the medical board was to carry the pregnancy to term, due to the advanced stage of pregnancy. Indeed, at 30 weeks an emergency caesarean section was necessary, the newborn died within 5 minutes.

In a similar case, in Judgment *T-532 of 2014*, the Court analyzed the situation of a 31-year-old woman, 17 weeks pregnant, who requested the practice of the IVI due to serious effects on her mental health. When she managed to obtain the medical certificate certifying the cause, the EPS refused to perform the procedure due to the advanced state of the pregnancy -22 weeks-. The woman was then forced to continue the pregnancy.

Finally, in Judgment *T-301 of 2015, the* Court assessed the situation of a woman who was 28 weeks pregnant and who requested the IVI for "serious malformation of the fetus incompatible with life". The EPS refused to perform the procedure due to the lack of an IPS to perform the procedure as she was more than 22 weeks pregnant. Despite the legal actions taken by the plaintiff, it was not possible to access the IVI and, consequently, the woman continued with her pregnancy (*32 weeks*).

In all three cases , the Court declared the current lack of purpose.

14.4. **Deprivation of effects of certificates evidencing the cause of EVI by submitting them to consideration by medical boards or discarding them with**

another medical opinion. In Judgment *T-841 of 2011, the* Court assessed the case of a 12-year-old girl, who at 18 weeks of gestation requested the IVI after her treating physician certified the cause of serious affectation to her mental health. Despite this certification, the EPS subjected the minor to more medical opinions. Finally, he denied the IVE because he did not find the cause configured. The minor was forced to terminate her pregnancy. The Court declared that the present lack of purpose due to consummated damage.

In a similar case, in judgment *T-959 of 2011*, it heard the case of a woman at 24 weeks of gestation who requested the IVI for "serious malformation of the fetus incompatible with life" and for serious impact on the woman's mental health. After several medical meetings and having a certificate from Profamilia, it was concluded that despite the seriousness of the fetus's diagnosis, the cause was not established. In the end, the woman ended the pregnancy.

In judgment *SU-096 of 2018*, the Court heard the case of a woman who, at 21 weeks of gestation, was diagnosed with non-viability of the fetus. Her treating physician ordered her to perform the IVI. However, the EPS submitted the certificate to several medical boards. Finally, in the *26th week* of gestation, the procedure was performed.

In all three cases , the Court declared the current lack of purpose.

14.5. **Failure to perform the IVI due to conscientious objection on the part of the physician**. In Judgment *T-209 of 2008, the* Court resolved the case of a 13-year-old minor, a victim of violent carnal access, who requested the EPS to carry out the IVI ordered by the Center for Comprehensive Care for Victims of Sexual Assault (CAIVAS) of the Prosecutor's Office. The doctors refused to perform the procedure on the grounds of conscientious objection. In this case, despite not being certain whether or not the minor continued her pregnancy, the Court declared a current lack of purpose due to consummated damage, since on the date of the judgment the pregnancy had already been concluded.

In Judgment *T-946 of 2008*, the Court heard the case of a minor diagnosed with Down syndrome who became pregnant as a result of violent carnal access. The attending physician conscientiously objected. According to the medical records, the EPS attended the child's birth. The Court, among other things, ordered the EPS to compensate the plaintiff for the violation of her fundamental rights.

In the *T-585 judgment of 2010, a* 24-year-old woman, with three previous high-risk pregnancies – in two of them she was at risk of death and in the last one a miscarriage

– requested the IVI because she was "afraid of dying". The treating doctors refused to certify the cause, citing conscientious objection. In the absence of an institutional response, the woman decided not to continue with the pregnancy. The Court declared that the present lack of purpose due to consummated damage.

15. From the preceding synthesis it is possible to identify a set of institutional barriers that have prevented women from accessing their fundamental right to IVI. They are related to the practices of health institutions or health personnel. The obstacles imposed also particularly affected people who are in a situation of vulnerability due to their age, disability or the special difficulties of pregnancy in terms of their physical and mental health.

16. A dramatic conclusion is drawn from the cases presented. In some cases, after overcoming the barriers imposed by the system, abortions were carried out between twenty-fourth and twenty-sixth weeks of gestation. However, in most of the events known to the Court, the women were forced to carry the pregnancy to term, despite complying with the grounds set forth in Judgment C-355 of 2006. Such circumstances demonstrate the importance of having a sufficient term that, in accordance with institutional practices, allows women to exercise the right recognized in judgment C-055 of 2022.

- ***Fourth reason.*** *The International Standard*

17. At the international level, there are different formulas adopted by countries in order to guarantee the right to voluntary interruption of pregnancy. Judgment C-055 of 2022 concluded that even the most flexible legislations "restrict the voluntary termination of pregnancy when gestation is at an advanced stage and, in general, life outside the womb is considered viable (i.e., between 20 and 24 weeks of gestation)."

18. To justify this conclusion, the paper mentions the cases of the Netherlands, [15]Australia,[16] New York State and [17] Great Britain (free abortion up to the 24th week of gestation), Germany and Spain (free abortion up to the 22nd week of gestation [18]

[15] Official information from the Government of the Netherlands, available at: https://www.government.nl/topics/abortion/question-and-answer/what-is-the-time-limit-for-having-an-abortion

[16] *Abortion Law Reform Act* 2008. Available in: http://www5.austlii.edu.au/au/legis/vic/consol_act/alra2008209/s4.html

[17] Reproductive Health Act, article 25A, section 2599-BB. Available in: https://www.nysenate.gov/legislation/laws/PBH/2599-BB

[18] *Abortion Act* 1967. Available in: https://reproductiverights.org/sites/default/files/documents/Great%20Britain%20-%20Abortion%20Act.pdf

), South Africa (free abortion up to the 20th week of gestation[19]) and[20] [21] the case of Canada where abortion is allowed at any stage of pregnancy. in the State of Quebec, abortion services are offered up to the 23rd week; in the states of Alberta and Ontario up to 24 weeks, and British Columbia up to 24 weeks and 6 days gestation[22].

19. On this point, it is important to note that, according to the Center for Reproductive Rights,[23] the most common gestational limit in the world to allow IVI is 12 weeks of gestation. However, in view of the barriers to access to the right to abortion identified in the previous consideration, it is not possible to follow the global average. On the contrary, the empirical evidence allows the Chamber to accept the term that best guarantees the rights of women without disregarding the duty to protect the life of the unborn, that is, twenty-four (24) weeks.

II. The duty to protect the life of the unborn

20. Judgment C-355 of 2006 established that "the life of the unborn child is a constitutionally protected right and for that reason the legislator is obliged to adopt measures for its protection". The Court recognizes that this protection is incremental. This justifies the balancing that this court set out in judgment C-055 of 2022.

21. It is necessary to insist that the balancing exercise was not premised on the recognition of a right to life of the unborn child, but on the duty to protect unborn life. Neither the embryo nor the foetus are, from the constitutional point of view, persons entitled to the recognition of rights and duties. This, of course, does not imply that the State is indifferent to its safeguarding. Indeed, the reference to human life found in articles 2 and 95.2 of the Constitution, together with the objective dimension of article 11, imposes on the public authorities the responsibility to contribute to its protection.

22. This starting point, based on what I consider to be a secular perspective, takes note of the fact that human life does not always manifest itself in the same way or

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[19] German Penal Code, section 218. Available in: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p1816

[20] Organic Law 2/2010, of 3 March, on sexual and reproductive health and voluntary interruption of pregnancy. Available in: https://reproductiverights.org/sites/default/files/documents/Spanish%20Ley%20Organica%20in%20Spanish.pdf

[21] *Choice on Termination of Pregnancy Act*, 1996. Available in: https://reproductiverights.org/sites/default/files/documents/South%20Africa%20-%201996%20Choice%20on%20Termination%20of%20Pregnancy%20Act.pdf

[22] Information from the National Abortion Federation, available at https://nafcanada.org/abortion-coverage-region/

[23] https://reproductiverights.org/maps/worlds-abortion-laws/?category[1352]=1352

have the same characteristics. And precisely, the difficulties that arise around abortion require that this circumstance be taken into account in order to offer a constitutional response that is not only rationally controllable, but that adequately articulates all the interests at stake. What is at issue in this case is not whether human life deserves protection. What is being discussed is, in reality, under what conditions its protection should be ceded in order to guarantee the rights to sexual and reproductive self-determination of pregnant people. For this reason, and although it may seem very common to affirm it, the discussion of abortion is not an all-or-nothing question for constitutional law.

23. I fully understand the disagreements that will persist. The Court cannot pretend to avoid them. In any case, the duty to safeguard the integrity and supremacy of the Constitution made it necessary on this occasion to optimize the principles that underlie the Constitution and that are expressed in it. Protecting life, the rights of pregnant people and the democratic principle posed a challenge around which we discussed.

24. However, we should agree on one thing. Multiple responsibilities remain for the State. The duty to ensure access to sexual and reproductive education on a permanent basis, as well as the guarantee of minimum material conditions, would surely imply a reduction in the cases in which pregnant people must face the dilemma, admittedly difficult, of terminating pregnancy. Acknowledging the existence of a right to voluntary termination of pregnancy does not imply, in any way, ignoring the importance of protecting human life. But life is not the only thing at stake in the decision adopted on this occasion by the Court.

In the above terms, I would like to express my clarification of vote.

JOSE FERNANDO REYES CUARTAS