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Interview with Dr. Alejandra Coll Agudelo, Lawyer, on the limits of the Colombian criminal justice system in addressing sexual violence



« Justice still expects victims to adapt to a system that was not designed for them » — Alejandra Coll Agudelo

Discover our interview conducted by María Leticia Mariño von Hildebrand with Alejandra Coll Agudelo, a feminist lawyer specialized in criminal law, gender, and sexual violence.

In this conversation, Dr. Coll Agudelo reflects on her professional journey, the limitations of the judicial system in addressing sexual violence, and the changes needed to ensure more equitable access to justice. She offers a critical and clear-eyed view of Colombian criminal law, grounded in her field experience. Through her research and on-the-ground work, Dr. Coll Agudelo presents a powerful reading of the reality faced by survivors of sexual violence and calls for a systemic transformation that goes far beyond the judicial framework—placing victims truly at the center of the solution.

This is the English translation of the interview conducted in Spanish.

1. To begin, could you briefly tell us about your professional background? How did you come to specialize in criminal law and, in particular, in sexual violence?

I am a feminist lawyer with a master's degree in gender studies. I have primarily worked on women's rights, peace, and reproductive rights. Currently, I serve as a public officer in Colombia, but I have previously worked in organizations defending sexual rights, such as *Women's Link*, the *Center for Reproductive Rights* (LAC Program), and *the Ruta Pacifica de las Mujeres*.

Issues of sexual violence have cut across all the positions I have held throughout my career, which convinced me that this problem is widespread and constitutes a public health issue present in all kinds of contexts. I also worked as an investigator for the Truth Commission, where I was involved in the investigation of sexual crimes.

2. Your work has addressed key issues in Colombian criminal law. What are the main findings of your most recent research on sexual violence?

My most recent research on these topics focused on sexual violence within the context of armed conflict. It was conducted as part of Colombia's Truth Commission. One of the main findings was that sexual violence forms part of armed actors' territorial control strategies and is also used against women who are part of the armed group. This violence has been used to intimidate, control, extract information, and instill terror.

In these specific investigations, I drew on the concepts of transitional justice developed in Colombia rather than relying solely on criminal law. However, it was necessary to review the case files from a criminal law perspective, to understand its methods and tools, in order to conduct a comprehensive investigation.

I also had the opportunity to practice criminal law by representing women who had experienced various forms of violence. That experience led me to conclude that economic dependence, lack of knowledge about available legal tools, and social and emotional pressures are factors that contribute to the high incidence of violence against women in Colombia. This phenomenon affects women from all backgrounds and socio-economic levels, of all ages and levels of education, among other factors. The three elements mentioned (economic dependence, lack of knowledge of existing legal tools, and social and emotional pressure) appear as a common denominator in these cases.

At the same time, I observed that the judicial system has limited tools to grasp the uniqueness of each case and, above all, to recognize that contexts vary and each victim has different needs. Rigid care protocols are one of the main obstacles for women victims,

who are forced to fit into structures that were not designed for them. It becomes more complex because victims must comply with these imposed frameworks in an atmosphere of violence, and even under threat to their own lives.

3. In recent years, there have been debates in different countries about the need to reform laws on sexual violence. Based on your experience, how do you assess the evolution of Colombian criminal law in this area?

Colombia has seen legal progress, particularly regarding sexual violence in armed conflict. A specific law (Law 1719 of 2014) established a special care protocol and recognized the particular needs of women affected by this form of violence. Outside the armed conflict context, advances have been made in defining previously unrecognized forms of sexual violence, such as sexual harassment, which has only been a formal criminal offense in Colombia since 2008.

The Colombian Constitutional Court has made strides in criminal law, notably by establishing a special, differentiated evidentiary system, by defining consent as a central element when analyzing such crimes, and by creating special measures for the investigation of cases involving minors, among other contributions.

However, we remain far from effectively implementing the standards set out by the Constitutional Court. Colombia is a signatory to the Belém do Pará Convention on the elimination of violence against women. Nevertheless, despite these commitments, the high investigative standards required for sexual violence cases are still not being met, and impunity remains above 90%.

4. Consent has been a key focus of legal reforms in other countries, such as Spain with its “Only Yes Means Yes” law. Do you think Colombia should adopt a similar approach, and what would the impact be on the judicial system and victim protection?

In Colombia, there is substantial case law on consent in criminal law. In my opinion, this means that new legislation is not immediately necessary, given that the standards set by courts like the Constitutional Court and the Supreme Court of Justice should suffice if they are observed.

It is true that Colombian criminal law is highly legalistic; however, jurisprudence has managed to secure an essential position in the Colombian judicial system, especially given congressional delays in updating criminal law in line with societal developments.

Moreover, the Colombian Congress does not seem, of late, to align with the debates taking place in Colombian society. A reform to broaden euthanasia possibilities in the country was rejected, so the regulation set by the Constitutional Court through its rulings remains in force. One could say that Colombia's high courts have filled the gaps left by Congress regarding the adaptation of criminal law to evolving social realities.

5. Despite legislative progress, many victims encounter barriers in judicial proceedings. In the Colombian context, what are the main obstacles to accessing justice in cases of sexual violence?

Women's organizations in Colombia have documented numerous barriers:

- Lack of adequate guarantees for victims' safety once they have filed a complaint. Some victims struggle to obtain protection because of limited institutional resources and, in some cases (though not mandatory), they find themselves facing their aggressors during legal proceedings. This deters many women from coming forward, as they fear for their lives. Although Law 1257 of 2008 provides a wide range of protective measures, these measures are rarely applied and often limited to police interventions.
- Procedural shortcomings that fail to prevent revictimization.
- Failures in comprehensive reparations.
- Failures in providing social support services for women who are economically dependent on their aggressors, including employability strategies that consider different circumstances.
- Shortcomings in psychosocial support services.
- Lack of training in the media on how to cover such legal cases appropriately.
- Lack of coherence and synergy between family court proceedings regarding parental authority and child custody, and ongoing criminal proceedings.

6. The judicial system can sometimes revictimize individuals who report sexual assaults. What structural or regulatory changes could be implemented to ensure more sensitive and effective procedures for victims?

This is a very broad question, but if I had to choose two structural changes, they would be:

1) Expanding the range of protective measures available in the country for those exposed to violence.

2) Clearly developing mechanisms for compensating the harm suffered by victims.

In my view, shaped by a non-punitive and minimalistic approach to criminal law, major transformations should primarily take place at the social and cultural levels, rather than in criminal law itself. I firmly believe in using criminal law as a last resort, whereas Latin American criminal culture generally sees it as the first option—an approach that clearly has not succeeded in effectively protecting women and girls.

Real structural changes must come from fostering a culture of non-violence, prevention, and early detection, so that incidents do not recur. Strengthening the criminal justice system's response when cases have already happened is obviously necessary, but I believe this strengthening should be more profound: better training and working conditions for state officials, more personnel, and so on.

The idea that increasing penalties is an adequate response to crimes against women and girls has proven largely ineffective. Such measures do not act as deterrents for offenders.

7. In other countries, crimes such as “stealthing” and “revenge porn” have been criminalized. How does Colombia address these phenomena in its criminal law, and do you believe specific reforms are needed?

Colombia has not made significant progress in these debates. “Stealthing” has been discussed in Congress as an aggravating factor in sexual crimes, but the debate has gone no further. Certain Constitutional Court rulings on consent and how it is interpreted could potentially apply to this situation.

Greater progress has been made concerning so-called “revenge porn”, which is a crime in Colombia and is treated more severely when minors are involved. Colombia has been moving forward in addressing digital sexual violence since Law 762 of 2002, which triggered a series of legislative changes aimed at protecting people affected by sexual crimes, including the non-consensual sharing of sexual content. Since 2018, Colombia has been a party to the Budapest Convention on Cybercrime, which mandates specific measures and obligations regarding digital sexual violence.

Once again, even though the criminal law framework is solid, the main issue remains the consistent enforcement and practical application of these statutes.

8. Universities and other educational institutions can play a key role in preventing sexual violence and promoting the idea of consent. What strategies do you consider essential in this domain, and what actions should Colombia prioritize to fight sexual violence more effectively?

In terms of prevention, comprehensive sexuality education (as endorsed in the *Guzmán Albarracín v. Ecuador* judgment of the Inter-American Court of Human Rights) is crucial and has proven effective in various studies. Girls and women who learn early on how to identify violence are less likely to become victims. Training on non-violent masculinity is vital for prevention. Unfortunately, in Colombia, there has been fierce opposition to any form of sex education since 2016.

Regarding criminal policy, strengthening protective measures for victims within the criminal justice framework is essential, as is providing ongoing and adequate training to judicial officials. Such training programs must also be sustained long-term to ensure that the know-how remains in place.

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