

## WOMEN'S RIGHTS IN COLOMBIA

Prof. César Augusto Ortiz Neira  
Corporación Universitaria Minuto de Dios (UNIMINUTO), Colombia

**Abstract:** *The rights that women have been obtaining are more the result of individual struggles, with legal recognition, through the exercise of the tutela action and the issuance of the corresponding sentences that resolve them. The historically discriminated woman then becomes a subject of special constitutional protection, in fact, what the Jurisprudence has called a reinforced protection that shows that her rights have been disregarded unlike those of men who do not seem to require, in general, this constitutional guarantee. Through the exercise of the tutela action and in the instance of review, the Honorable Constitutional Court has issued sentences that have generated new rights by issuing Jurisprudence on the issues under review. It is through the use of the tutela action that women have been obtaining rights that historically have been denied to them and that, even once recognized through different judicial rulings, continue to be violated by the abuse of the law by judges or institutions in charge of enforcing the rights, once recognized. It is important to remember that the exercise of the tutela action is only appropriate in Colombian law to protect and guarantee those fundamental rights contemplated as such in articles 11 to 41 of the Political Constitution of Colombia.*

**Keywords:** *women's rights, Colombia*



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**Professor: César Augusto Ortiz Neira**  
cesar.ortiz@uniminuto.edu  
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## OBJECTIVE

At the end of the session participants will understand the evolution of women's rights in Colombia.



## METHODOLOGY

- The research is framed within the historical hermeneutic approach, understanding knowledge as an act of understanding and hope, where jurisprudence is a legal tool that recognizes step by step rights and freedoms, in this case that of women.
- For the process, the most relevant and controversial jurisprudences were analyzed to provide clarity aimed at the protection of women.



## SPECIFIC AND INVESTIGATIVE BACKGROUND

An excellent starting point for studying this specific and investigative background can be found in the document issued by the High Presidential Advisory Office for Women's Equity, which states: "In a country where peace is being built, it is imperative to achieve gender equality, since this will allow Colombian men and women to opt for the life of their choice in equality and to exercise their rights to the full, enjoying the same opportunities, while society achieves development with greater social inclusion. In the globalized world, reductions in gender inequalities entail competitive advantages for nations, by allowing a State to achieve greater results, which translate into a better quality of life for all its inhabitants.



### STATE OF THE ART

Somehow, it has been reiterated to observe women as victims of aggressions, of conflict, of unfair salaries or of aggressions by a State that seems to be unprepared to protect them.

A new vision is born, one in which women are not victims, but rather, based on the aggressions they have suffered, become the main actors who build stories and change states of life. It is women who give rise to resistance movements that modify social orders and generate rights and opportunities.

Often, most of the time, from anonymity, women who appear to be victims, when considered as passive subjects of someone's aggression, become true active subjects from the courageous decision to leave anonymity and lose fear to make visible to society the violence they suffer and have suffered for countless years.



### STATE OF THE ART



The woman who suffers these scenarios embodies resistance, the struggle for the vindication of rights, for non-revictimization, for the recognition of the right to live together and to live without labels that seek to differentiate men and women in different catalogs. The woman who reacts to aggression is the voice of those who remain silent, of those who remain “in a closet” no longer sexual, but of fear and intimidation. The woman who resists has the name of the Rosa Elvira women who were raped and abused during the Colombian conflict.

### STATE OF THE ART

Suffice it to recall that well into the twentieth century, women in Colombia had their citizenship restricted, were equated to minors and the insane in the administration of their property, could not exercise parental authority, were forced to adopt their husband's surname, adding the particle “de” to theirs as a symbol of belonging, among other limitations. Little by little, the struggle of women to achieve the recognition of legal equality was concretized in various norms that helped to transform this state of affairs.





### STATE OF THE ART



In political matters, in 1954 they were granted the right to vote, which could be exercised for the first time in 1957. In the area of education, Decree 1972 of 1933 gave women access to the University. In the civil sphere, Law 28 of 1932 granted married women the free administration and disposition of their property and abolished marital power, so that the man ceased to be their legal representative.

Decree 2820 of 1974 granted parental authority to both men and women, eliminated the obligation of obedience to the husband, and the obligation to live with him and follow him wherever he moved his residence; Article 94 of Decree Law 999 of 1988 abolished the obligation to bear the husband's surname, and Laws 1 of 1976 and 75 of 1968 introduced reforms of great importance on the road to equality of the sexes before the law.

### STATE OF THE ART

The 1991 Constitution also recognized the legal equality of women. For the first time, our Constitution expressly recognized that "women and men have equal rights and opportunities" and that "women may not be subjected to any kind of discrimination".

It is evident that Colombian women have not been alien in their struggles and efforts to the struggles of women all over the world to obtain the recognition of the right to vote, to work days equal to those of men, to have civil rights, to be able to exercise parental authority, to be able to plan, to be able to vote, to be elected and to elect, or to be able to be subject to rights.



### RESULTS

- Women continue to suffer strong discrimination in different areas, which means that the State must play a truly active role in guaranteeing these rights and not leave everything to private and individual efforts which, in the end, constitute the exercise of the tutela action.



## RESULTS



- Currently women are protected in some labor rights but continue to be victims of wage discrimination and harassment at work, they have the right to have an abortion in the cases allowed by jurisprudence but many continue to go to clandestine centers, in figures that seem chilling that are close to four hundred thousand clandestine abortions a year with a large number of victims among women because of the poor sanitary conditions in which they are practiced.

## RESULTS



- The right to life is a fundamental right, but in the case of women, they continue to be murdered by armed actors or by their partners without any real protection from the Colombian state, even when they have filed complaints against their aggressor in a timely but desperate manner.

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## RESULTS



- The creation of the Ministry of Women could be an interesting option if it does not become just an entity to satisfy bureaucratic and opportunistic desires. The reinstatement of the death penalty in Colombia seems to lack real effectiveness when living in the midst of a justice system that is not reliable and that usually condemns many innocent people to unjust sentences, among which a death sentence would not have any reversal in its effects on the individual.

## ANALYSIS CONCLUSIONS

- It can be found that the tutela is an effective tool in the protection of women's rights, considered from different spheres, but evidently there is still a great legal vacuum in the state effort to protect these rights and large gaps between the rights granted through the tutela action and the effectiveness of these rights in terms of their application and recognition.



## ANALYSIS CONCLUSIONS



- Judges and the entities in charge of enforcing and applying the rights granted continue to ignore them, applying them as they please or giving them an interpretation that is more religious than legal.

#### ANALYSIS CONCLUSIONS

- Colombia is a social state based on the rule of law, which seeks to guarantee the protection of the fundamental rights of its citizens, but in the particular case of women's rights and based on the jurisprudential pronouncements, it is clear how vulnerable they remain in the protection of their rights.



#### ANALYSIS CONCLUSIONS



- In spite of some advances in women's labor rights, there is still a long way to go, for example, in the protection of women by establishing a much longer maternity leave or seeking to ensure that the alleged equity in public positions to be held by women is really fulfilled.

#### ANALYSIS CONCLUSIONS



- Men usually legislate rights in favor of and for the benefit of men, a situation that, although over time has changed, is still evident in some court decisions and situations that show a clear differentiation in the application of the law depending on whether the subject is a man or a woman.



RECOMMENDATIONS

- The legislative path seems complex and slow. Some voices have been raised to suggest the creation of a women's ministry, to reform the constitutional prohibition of the death penalty and to allow it again in Colombian legislation in aberrant cases of rape or murder with violence and cruelty. The State must open the legal doors for these debates to take place from the legal point of view, outside of particular beliefs or creeds, seeking to create new legal tools that guarantee the real protection of the rights of Colombian women.



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RECOMMENDATIONS

- The constant training of the judges of the republic should be a mandatory activity that implies updating and correct application of the jurisprudential precepts. In Colombia, the concept that we legal professionals use, according to which, in exactly the same cases, depending on the court that corresponds to the study of the case, the result is different, must end



## RECOMMENDATIONS

**STOP  
VIOLENCE  
AGAINST  
WOMEN**



- It is the obligation of the State, but also of society to guarantee non-aggression against women and their real equality in the realization of their rights and protection of the law. Within this scenario, the establishment of a compulsory chair on the study of fundamental rights and the protection of women's rights may be an important step for the new generations to be formed with fundamental concepts of knowledge, respect and tolerance.