

LEGAL STATUS OF PROSTITUTION IN LATIN AMERICA

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Abstract:

The article studies the evolution of the prostitution phenomena and its regulation in the Latin America Area.

Keywords: prostitution, causes, motivation.

JEL Classification: E01, E20, Y90

The Latin America Area represents a region of tolerance for the prostitution phenomenon.

Mexico. The permissive laws, including rules concerning the development of prostitution practice includes this country within a Hispanic Area with an obvious tolerance, including along with Mexico: Spain, the states of the Continental Central America, Argentina, Columbia, Venezuela, Peru, Chile, Uruguay, Paraguay, Ecuador, Bolivia, and others. For children it is legally forbidden the practice of prostitution and also the use of prostitutes. The prostitution was decriminalized and regulated at the level of the federal states, both sex persons interested in this having the possibility to practice this activity, by fulfilling several conditions:

- to have reached the legal age of 18 years old;
- to be registered to the authorities of the public local administration;
- to perform the medical examinations, including the analysis concerning certain diseases with sexual transmission, examinations performed periodically;
- to have a health card, where it is specified the health state and the performed periodic examinations.

The activity of attracting clients cannot be performed in public, as a general regime the street prostitution being forbidden. The federal laws allow, based on the express provisions of the local autonomous administration, to establish certain local aspects concerning the manner of performing this activity, including the authorization on the existence of certain areas of prostitution tolerance, named “*Red Districts*”. The development of the activity is performed under certain authorized

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persons, and in some countries, the tolerance houses can be licensed by the local administration, by fulfilling certain requirements, similarly with the Swiss, Turkish and German models.

The acts of prostitution and traffic with people for sexual exploitation are punished with criminal imprisonment, remaining criminally unsanctioned only the authorized holding of a tolerance house, according to the local rules and transmission of the right of use on a real estate to a person that will perform prostitution activities. Thus, in many places from Mexico, the voluntary prostitution develops due to the tolerance of the legislation and local administration, but compliance with the sanitary and hygiene rules in the provincial cities is very poor. One of the best examples in this regard is the Tijuana City (capital of Baja California), city with a high number of practitioners of commercial sex (over 5.000 active prostitutes being registered over 8100 to a population of 1.483.992 inhabitants) *"where the local council adopted a resolution by which they are obliged to perform the monthly medical examination on sexually transmitted diseases. (...) But also the holders of the tolerance houses, under the sanction of losing their licence, are due to apply the sanitary rules. (...) Those who do not comply can be sanctioned by case, by fees or by cancelation of the functioning license."*²

Among the reasons that determine the Mexican prostitution, can be found:

- cultural tolerance concerning the phenomenon, specific for Latin America;
- poorness, particularly in the federal states from the South Mexico;
- general corruption, leading often at the local level to the dissolution of the public authority;
- systematic consume of drugs and alcohol, by people with social deviances;
- sexual tourism that has become a widespread and old phenomena.

The main features of the social phenomena in Mexico are the followings:

"the practice is established in neighbourhoods established by the local administration, based on a special law;

- pandering, as a rule, is criminally sanctioned. An exception is the activity concerning the functioning of the tolerance houses, legally authorized in pre-established neighbourhoods (urban areas of tolerance);

*- trafficking women for exploitation is severely criminally punished, the state institutions offering temporary shelter for the women forced into prostitution";*³

*"the phenomena of children prostitution is frequently met, especially in Mexico City; Mexico is one of the main international destinations for sexual tourism that involves the children prostitution; " (along with Thailand, Cambodia, India, Kenya, Tanzania, and others);"*⁴

² James, McKinley Jr., **A New Law in Tijuana Regulates the Oldest Profession**, New York Times, Dec. 13, 2005.

³ Reuters Com, Elderly ex-prostitutes, pe
<http://www.reuters.com/article/idUSN2020179420070620>, 26 Oct. 2007.

-*"according to the Mexican federal police, Mexico is a very important destination country for trafficking women for sexual exploitation, these being brought from: Guatemala, Brasilia, Salvador, Nicaragua, Honduras, Costa Rica, Dominican Republic, Cuba, Ecuador, China, Taiwan, South Korea, India, Argentina, Russia and Ukraine; the trafficking is favoured by corruption, permissive laws on voluntary practice of prostitution and functioning of the houses of tolerance, complicity of the business environment that patrons the sex industry, and others.; according to the same source, Mexico is also the origin country for trafficking women for United States, Germany, and others,"*

-the severe corruption of the public administration system, public order, defence, justice and business environment.

A study performed in 2000 shows that in Mexico, over 16.000 children are involved in practicing prostitution in the urban area.⁵ Other studies from 2004⁶ and 2005⁷ assess that over 17.000 and respectively over 20.000 children practice prostitution in this country. From 13.000-14.000 children that live on the streets of Mexico City, around 95% had at least one sexual relation with an adult, for most cases, having sexual relations for money or other material advantages. The antisocial phenomena of children prostitution is based in Mexico on two ways of perpetuation:

- trafficking children for sexual exploitation from the poor Mexican villages towards the big cities and United States; the children are sold for 100-200 American dollars per person;

- the phenomena of migration into the big cities (Tijuana, Acapulco, Cancun and Guadalajara) and in United States.

Brazil. In this country from Latin America, the practice of prostitution by a person having a full capacity of exercise is allowed, without being any law to be against it. *"The incorporation and property on a tolerance house, the pandering and children prostitution are forbidden".*⁸ The research on the cases concerning the trafficking of women and children for sexual exploitation is under the jurisdiction of the Brazilian Federal Police, due to their complexity. In this country, the normal prostitution does not lead to the involvement of the public order structures, the Brazilian State not being able to stop a much severe phenomena, which is widespread also maybe in Africa, namely, the extremely high number of children in prostitution. The assessment of the prostitution phenomena is presented in the table below:

⁴ [Http://www.en.wikipedia.org/wiki/Boy_and_Girls_Sexual_Exploitation_in_Mexico](http://www.en.wikipedia.org/wiki/Boy_and_Girls_Sexual_Exploitation_in_Mexico)".

⁵ Inter Press Service, **Rights-Mexico: 16,000 Victims of Child Sexual Exploitation,**" 20 Oct. 2009.

⁶ The Globe and Mail, **Gateways to exploitation,** "20 Oct. 2009.

⁷ Inter Press Service, **MEXICO: Key Video Evidence Blocked in Child Sex Ring Trial,**" 20 Oct. 2009.

⁸ [Http://www.en.Wikipedia_Prostitution_in_Brazil](http://www.en.Wikipedia_Prostitution_in_Brazil).

Year	Assessed numbers	Source
1999-population over 160 million inhabitants	1.000.000. prostitutes	International Encyclopaedia of Sexuality, Brazil
2009- population of 191.972.000. inhabitants	Over 250.000. children that practice prostitution	Brazilian Federal Police ⁹
2009	Between 250.000 and 500.000 children practice prostitution	Protection Project Report- Federal Government of Brazil ¹⁰
2009	1.000.000-2.000.000 children prostitutes	N.G.O. ¹¹
2009	Over 2.000.000 prostitutes	Wikipedia ¹²

Argentina. The Criminal Code of Republic of Argentina, adopted to the federal level, does not forbid the practice,¹³ but punishes the pandering and trafficking women for sexual exploitation. The vision of the Argentinean laws is one of tolerance, deriving from the spirit of the Constitution of the Republic of Argentina, which in art. 19 provides that “*personal activities of people that do not breach in any way the public order and morality, nor damage any person, are subjected only to God, and are excepted from the authority of magistrates.*”

To the federal level, the prostitution is not sanctioned, but certain autonomous provinces instituted local sanctions, for the prostitution that determines public scandals. In Argentina, “*trafficking women for sexual exploitation reaches a high level, this country representing also a source and destination for traffickers.*”¹⁴ Equally severe is “*the increase of the number of children practicing prostitution.*”¹⁵

Another element frequently met is represented by the existence of the illegal houses of tolerance, the holders, although sanctioned by the federal criminal laws, benefiting of the “*tolerance of police, who often reaches understandings against perceiving protection taxes, very rarely the panderers being condemned with imprisonment.*”¹⁶

⁹ <http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136103.htm>.

¹⁰ http://www.libertadlatina.org/LA_Brazils_Child_Prostitution_Crisis.htm.

¹¹ http://www.libertadlatina.org/LA_Brazils_Child_Prostitution_Crisis.htm.

¹² Wikipedia Prostitution in Brazil.

¹³ See Código Penal de la Nación Argentina, Part.III, Título III, Chap. II, Delictos contra la integridad sexual, Ley Nr.11.179/1984, art.118-138, published on <http://www.infoleg.gov.ar/infolegInternet/anexos/15000-19999/16546/tex>.

¹⁴ http://www.state.gov/2008/Human_Rights_Reports/Argentina.htm.

¹⁵ International Report ECPAT,1999, on <http://gvnet.com/childprostitution/Argentina.htm>.

¹⁶ Reed, Lindsay, Argentinas prostitutes get militant, Observator, 25 Jan. 2004.

Columbia. This state accepts and regulates the practice of prostitution, similarly to most of the neighbourhood countries. The Colombian state chose to accept the practice of prostitution, in an organized manner, within certain “areas of tolerance” established locally. The prostitution phenomenon knows in this country an especially wide spread, amplified by the following causes:

- *"poverty in most areas of the country;*
- *internal travelling of population;*
- *lack of education in certain social areas;*
- *the intense and frequent social tensions, the widespread traffic and consume of drugs among the Colombian society led to the weakening of the society and family involvement in the social evolution of young women;*
- *sexual tourism practiced in the cities from the Colombian seaside cities, like Cartagena and Barranquilla;*

- *the internal conflicts between the Government and drug traffickers or left-wing radicals that control de facto certain geographic areas, and others".*¹⁷ These causes have led to an increase of the criminal acts of trafficking women for sexual exploitation, in particular (specific fact for this country) of trafficking children for sexual exploitation. It is assessed that “over 35.000-40.000 children practice prostitution in the whole country, among which 5.000-10.000 in Bogota”.¹⁸ Columbia is a source for trafficking women for sexual exploitation in Latin America, Caribbean, West Europe, Asia and North America (including the United States). Internally, the women and children are trafficked for commercial sexual exploitation from the rural areas in the urban areas.

Venezuela. The prostitution is legal and regulated in this country. “*The involvement of children and family members in prostitution is drastically sanctioned by the criminal laws of this South-American state. Forcing children to practice prostitution and their trafficking for this purpose are sanctioned by the Criminal Code of the Republic of Venezuela with imprisonment between 3 and 6 years. (..) Forcing the wife or another relative in practicing prostitution is punished with imprisonment from 4 to 6 years*”¹⁹.

Forcing a child in prostitution or using a child for this activity is punished with imprisonment between 3 and 18 months. The fact is more severe if the child used in prostitution is less than 12 years old, or if in forcing a child under 18 years old it was used the fraud, or if the use or determination are performed by a person that has the child under care or protection. In such cases, it is applied the punishment with imprisonment between 1 to 4 years. The pandering acts are illegal and severely

¹⁷ [Http://www.Factbook on Global Sexual Exploitation_Columbia](http://www.Factbook on Global Sexual Exploitation_Columbia).

¹⁸ [Http://www.Wikipedia_Prostitution_in_Colombia](http://www.Wikipedia_Prostitution_in_Colombia).

¹⁹ **United States Department of State, Venezuela - Country Report on Human Rights Practices, 2005".**

sanctioned. Organizing prostitution or having a profit due to it are punished with imprisonment from 3 to 6 years. There are criminally punished the determination, facilitation and organization of prostitution, sanctioned with imprisonment from 1 to 6 years.

The facts frequently associated with the prostitution phenomena in Venezuela represent the trafficking with women for sexual exploitation and trafficking children for the same purpose. *“Venezuela is a destination and an origin country for trafficking women and children for sexual exploitation purposes. The women and children are victims of this traffic, and they are from Brazil, Columbia, Peru, Ecuador, Dominican Republic and Popular Republic of China. The women are trafficked to Mexico, Dominican Republic, Spain, Germany, and others.”*²⁰ Committing this offence in the Venezuelan society is favoured mainly by the following factors:

- *“level of poverty and lack of education in the rural area of this country;*
- *Sexual tourism practiced in Caracas and other Venezuelan resorts;*
- *That the practice of prostitution is perceived by the members of urban collectives as a common fact, normal;*
- *the phenomena of corruption in the public district and the easiness of obtaining identity cards, passports, and others. In many cases, the traffickers are placing announces for models in the regional papers and then they attract many interested young women in Caracas, under the pretext of some false working places”*²¹.

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²⁰ [Http://www.state.gov/Venezuela](http://www.state.gov/Venezuela).

²¹ [Http://www.Wikipedia.en.prostitution_in_Venezuela](http://www.Wikipedia.en.prostitution_in_Venezuela).

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