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RIGHTS
PRODER



**SEXUAL
EXPLOITATION OF
CHILDREN AND
ADOLESCENTS IN
LATIN AMERICA**

Second Edition

**DOCUMENTOS DE
TRABAJO DE PRODER**

Alejandro Bonasso

Chief Executive Officer
Inter-American Children's Institute (IIN)

Ariel Gustavo Forselledo

Coordinator
Program for the Integral Promotion of Children's Rights Inter-
American Children's Institute (IIN)

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Inter-American Children's Institute

Av. 8 de Octubre 2904 (11600)
11600 Montevideo
Tel: (5982) 4872150
Fax: (5982) 4873242
E-mail: iin@redfacil.com.uy

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THE SEXUAL EXPLOITATION OF CHILDREN AND ADOLESCENTS IN LATIN AMERICA

INTRODUCTION

For more than a decade, the problem of sexual exploitation of children and adolescents has been considered an emerging issue on the agenda of the Americas. However, it is only in recent years that it has gained relevance in the political and strategic consideration of the States. As the number of children joining the workforce in the region increases, the number of children who fall into the different networks of the sexual exploitation industry, for whatever reason, also increases. This serious problem has significantly affected all Latin American countries without exception, although available information indicates that Asia is the region most affected by it. According to UNICEF reports, there are 100 million abandoned children worldwide, of which 40 million belong to Latin America (Forselledo, 2001)¹ "Research by non-governmental organizations has shown that about 65% of children in street situations in the capitals of Latin American countries are involved, in one way or another, in sexual exploitation. Of these, 15% survive on what they earn from prostitution and 50% have been involved in some form of prostitution, although not systematically." (Castanha, 2001)²

Sexual exploitation presents many difficulties and great challenges for governments, non-governmental organizations and intergovernmental agencies. Since Latin America presents a great diversity from a cultural, social, economic and political point of view and, moreover, a significant variety of ethnicities and races that make each country a different and particular context (Castanha, 2001, op.cit.), a clear definition of the problem and explanations of it are seriously hampered in order to understand why all countries in the region suffer from it.

The factors that contribute to the occurrence of sexual exploitation are many and varied; however, the most difficult point in eradicating the problem is to understand those elements that contribute to it and to find the way to change them. "...To know means to penetrate through the surface, to get to the roots, and therefore to the causes..."³ (Fromm, 1965). Many researchers

¹ FORSELLEDO, A.G. "Niñez en Situación de Calle. Un Modelos de Prevención de las Farmacodependencias basado en los Derechos Humanos" *"INFANCIA" Boletín del Instituto Interamericano del Niño*,. Volume 69 No. 236, Montevideo, February 2001 .

² CASTANHA, N. "Towards the Definition of a Model Standard on Sexual Abuse and Exploitation of Children and Adolescents in the Americas". Internal document of the Inter-American Children's Institute, Montevideo, 2001.

³ FROMM. E. "To Have or To Be". Ed. Paidós, Buenos Aires, 1965

have identified some of the causal factors of commercial sexual exploitation, and although they are not presented as conclusive evidence, they are used as a basis for understanding what happens in the macabre industry that mobilizes it.

In the case of Latin America, many of the difficulties faced by countries are related to their development as societies. The colonial era left socio-cultural traces that still dominate social relations today, such as differences in treatment according to sex, social class, race and ethnic group. These relations in turn shape the identity of men and women, children and adults, rich and poor; identities that have permanently struggled against male domination, exploitation and power. Authoritarian attitudes, patriarchal mentality, machismo and the submission of women are all conditions that determine the role and place of women in Latin American society. It is a system of control and domination deeply rooted in the mentality of the people, particularly women and children, who are generally considered as objects and not as human beings with rights and freedoms. In this context, most of the victims who are sexually violated, prostituted and exploited are women, many of them adolescents and even children. Consequently, the position of women, adolescents, degraded girls and boys, and the attitude of men who participate as perpetrators (in the context of a silent society that tends to hide the problem), constitute one of the key elements in sexual exploitation. Thus, the existence and high availability of such a vulnerable sector that is susceptible to becoming the "supply" of the sex industry only increases the likelihood of finding high rates of exploitation in a given country.

In addition to the marginalization of women and children, poverty also plays a key role in sexual exploitation. "The socioeconomic structure is unjust with evident disparities in the distribution of wealth, urban sprawl, scarce labor options and growing consumption needs, make the poorest social sectors and within them girls and boys, vulnerable to sexual exploitation. This structure contributes to the reproduction and deepening of factors such as poverty and marginality." ⁴ (Guatemala Technical Document, 2000)

Although poverty is not confined to the developing world, poverty levels in Latin America are very high and the majority of the population has living conditions below the minimally acceptable. According to the 2001 ECLAC/UNICEF/SECIB report⁵, "Poverty has been reduced much less among the poorest and most vulnerable sectors of the population.

⁴ **"Plan Nacional de Acción contra la Explotación sexual Comercial de Niños, Niñas y Jóvenes (ESCNJ) en Guatemala - Documento Técnico"** Not for publication. Guatemala, September 2000.

⁵ "Construir la Equidad desde la Infancia y la Adolescencia en Iberoamérica" CEPAL, UNICEF, SECIB, Santiago, September 2001.

The evolution of households with children and adolescents was not enough to reduce the increase in the number of those living in this condition (...). Thus, at the beginning of the 21st century, more than half of the children and adolescents in the region are poor and more than half of the total number of poor people in the region are children and adolescents". But the gap between rich and poor has also widened. If we compare the extremes of income distribution in the world, the richest fifth of the population enjoys a share of the world's income 74 times greater than that of the poorest fifth.

It is estimated that only 12% of people living in the world's richest countries are affected by poverty, yet they live in comparatively better conditions than the poor in developing countries.⁶

This reality has forced many families to seek any means to generate an income, which means that every member of the family must go out to work and contribute their share for survival, including children. The lack of family cohesion coupled with the lack of education about sexual exploitation and the simple need to survive have pushed children out of their homes, at the risk of being subjected to different forms of violence and exploitation. Although poverty is not the only explanation for the occurrence of this phenomenon, it certainly has the necessary catalytic elements to link many of the other elements.

Today with technological advances and increased movement between countries, the idea of borders has been lost. Over the course of this century, mankind has advanced so rapidly that it has left many by the wayside, and it is they who must face the repercussions of these advances. This phenomenon, known as globalization, threatens the livelihoods of millions of human beings. Many of the dilemmas we face today are a consequence of globalization, including the increase in tourism resulting in an increase in the demand for prostitutes, the aforementioned gulf between the rich and the poor, and the rapid migration from rural to urban areas in a desperate search for jobs.

One of the most notorious technological advances is the Internet, which allows the user to find information about anything, including pornography. The supply of pornographic material is shocking, as the user can choose from a countless menu of Web sites offering children engaged in sexual activities. This medium has made it possible for pornographic audiovisual material to be distributed worldwide with impunity. Considering the great demand for this type of pornography, children are used to produce materials that generate sexual pleasure in the user, being forced and violated in various ways that, as such, always have negative consequences for the victim.

⁶ UNICEF, UNDP: Human Development Report 1999.

The tourism industry also plays a major role in the increase in the number of sexually exploited children. Latin American countries are increasingly popular as places of rest and relaxation, and the growing flow of tourists in and out of the countries has resulted in an even greater increase in the number of sexually exploited children. It has even been suggested that the motive behind the increased levels of prostitution, and especially child prostitution, are directly related to the rise of tourism⁷. Very often the tourist has a misconception of what is culturally accepted in the country they are visiting. They believe that the culture accepts this way of life, and thus the tourist understands that society accepts and condones child prostitution. With respect to the offer of sexual services, it is popular among tourists to believe that the only source of income for these poor girls and adolescents is prostitution (Leal, 1997, op. cit.).

Looking back, many factors have been pointed out that could contribute to explain why the rate of sexual exploitation is so high in Latin American countries. However, there is one more point that should be taken into consideration as it is one of the most influential components: the lack of sustained political commitment to address this problem. If governments do not provide the necessary funds and do not include the phenomenon of sexual exploitation as an urgent consideration in their children's agenda, then there is no alternative but to expect it to continue to grow.

In 1996, the international community came together for the first time to address this problem from the perspective of the Convention on the Rights of the Child. Representatives from 122 countries met in Stockholm, Sweden to exchange information and opinions that resulted in the Stockholm Declaration and Plan of Action against the sexual exploitation of children and adolescents. Twenty-two of the 122 participating countries were from the Latin American region. "The Congress called on all States to cooperate with national and international organizations and civil society to promote, create, review and above all implement government and social policies aimed at protecting children from sexual abuse and exploitation."⁸ (ECPAT, UNICEF, Stockholm, 1996)

State of the Situation in the Americas in light of the Inter-American Children's Institute Reports

The Inter-American Children's Institute (IIN) prepares an annual report to the Secretary General of the OAS to evaluate the progress made by OAS Member States in the fight against sexual exploitation. In 2002, the

⁷ LEAL, G. "La Explotación Sexual de Niños" Boletín del Instituto Interamericano del Niño "INFANCIA". Volume 67 N° 234, Montevideo, October 1997.

⁸ ECPAT, UNICEF- "Agenda for Action against Sexual Exploitation of Children." Stockholm, August 1996.

presented the Third Report, which reported on a survey of the 34 Member States on compliance with the Stockholm goals and the Montevideo Commitment (resulting from the Regional Governmental Congress against the Sexual Exploitation of Children held in November 2001).

The conclusions of this report highlight the interest and political will shown by the government representatives who participated in this Regional Governmental Congress to address this serious violation of the rights of children and adolescents in a comprehensive and intersectoral manner. Unfortunately, this interest could not be ratified in the consultation carried out by the IIN, since it was not possible to obtain information from 58.8% of the OAS Member States for the aforementioned report. On the other hand, if the responses for 2001 and 2002 are added together, it is still not known what is happening with 41.2% of the OAS Member States. Although, from secondary information sources, it is known that some of the countries that have not responded to the IIN consultations have developed some actions to prevent, combat and eradicate sexual exploitation, the general state of the situation in the region remains uncertain and progress does not appear to be significant. An example of this is that 10 States were identified between 2001 and 2002 as having Action Plans, representing only 29.4% of the total number of OAS Member States. Furthermore, the issue of obtaining and allocating the necessary resources for the implementation of these plans continues to be an obstacle to their progress.

It is precisely in the area of Coordination and Cooperation where the issue of resources plays a relevant role, with the need to improve the countries' planning processes so that the Plans are a set of actions financed from their very definition. For example, information was received that only two countries had sufficient financial resources to implement their Action Plans.

The area of prevention is one of the strongest among the countries of the region, even considering the absence of a concrete Action Plan. The development of mechanisms for the participation of civil society organizations in preventive actions stands out, as well as the presence of universal primary and secondary education policies. There would also be a strong presence of awareness-raising and adult education programs aimed at promoting changes in behavioral patterns regarding sexual exploitation, as well as public information programs.

In the area of protection, there is a significant positive trend towards legislative compliance with the Convention on the Rights of the Child, with interesting advances in criminal law for crimes related to commercial sexual exploitation, pornography and sex tourism. An example of compliance with international standards is the fact that 12 of the 14 countries that responded to the consultation (85.7%) stated that they have ratified

ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

The area of recovery and reintegration shows that, regardless of the quality and coverage of the services provided by the countries, there are services available for the care, recovery and reintegration of victims based on inter-institutional and intersectoral coordination mechanisms.

The area of Participation also shows a positive tendency to generate mechanisms that promote the active participation of children and adolescents in the prevention and eradication of commercial and non-commercial sexual exploitation.

The Research and Indicators area continues to show certain weaknesses due to the lack of databases that systematize and disseminate the knowledge generated on the subject and allow the monitoring of its evolution.

COUNTRIES WITH ACTION PLANS (May 2002)

COUNTRY	Action Plan
Antigua and Barbuda	n/c
Argentina	YES
The Bahamas	n/c
Barbados	n/c
Belize	n/c
Bolivia	NO
Brazil	YES
Canada	NO
Chile	YES
Colombia	YES
Costa Rica	YES
Dominica	n/c
Ecuador	n/c
El Salvador	YES
United States	YES
Grenada	n/c
Guatemala	n/c
Guyana	YES
Haiti	n/c
Honduras	NO
Jamaica	n/c
Mexico	YES
Nicaragua	n/c
Panama	NO
Paraguay	n/c
Peru	n/c
Dominican Republic	YES
St. Kitts and Nevis	n/c
Saint Lucia	n/c
Saint Vincent and The Grenadines	n/c
Suriname	n/c
Trinidad and Tobago	n/c
Uruguay	NO
Venezuela	NO

Basic Elements of the International Legal Framework

With regard to the international legal framework, there are many instruments that address and link, directly or indirectly, the issue of sexual exploitation. From the "Convention on Slavery, Servitude, Forced Labor and Similar Practices" of 1926, to the "Universal Declaration of Human Rights" of 1948, the Humanitarian and Refugee Legislation (the 1951 Convention and the 1967 Protocol), the Convention on the Elimination of All Forms of Sexual Exploitation of Women, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Discrimination against Women and the

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Convention on the Elimination of All Forms of Discrimination against Women.

The 1981 International Labor Organization (ILO) Conventions: No. 138 of 1976 (on the minimum age for admission to employment) and No. 182 of 1999 (on the worst forms of child labor), to the 1989 Convention on the Rights of the Child which, as is well known, constitutes the paradigmatic axis in terms of the rights of children and adolescents and, finally, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and the Use of Children in Pornographic Material.

With regard to the Convention on the Rights of the Child, this legal instrument has been ratified by all but one of the States of the OAS system. Article 34 of the Convention explicitly states:

"States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. To this end, States Parties shall, in particular, take all appropriate national, bilateral and multilateral measures to prevent:

- a) Inciting or coercing a child to engage in any unlawful sexual activity;
- b) Exploitation of children in prostitution or other illegal sexual practices;
- c) Exploitation of the child in pornographic performances or materials."

The Optional Protocol defines a series of legal, administrative and social policy measures to be adopted by the signatory states in order to ensure the compatibility of national legislation in terms of child protection, raise public awareness, provide the necessary assistance to victims and ensure international cooperation through multilateral, regional and bilateral agreements.

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The following table shows the status of signature and ratification of the Protocol as of September 2002:

Participant	Signature	Ratification
Antigua and Barbuda	18 Dec 2001	
Argentina	1 Apr 2002	
Belize	6 Sep 2000	
Bolivia	10 Nov 2001	
Brazil	6 Sep 2000	
Canada	10 Nov 2001	
Chile	28 Jun 2000	
Colombia	6 Sep 2000	
Costa Rica	7 Sep 2000	9 Apr 2002
Ecuador	6 Sep 2000	
Guatemala	7 Sep 2000	9 May 2002
Haiti	15 Aug 2002	
Jamaica	8 Sep 2000	
Mexico	7 Sep 2000	15 Mar 2002
Panama	31 Oct 2000	9 Feb 2001
Paraguay	13 Sep 2000	
Peru	1 Nov 2000	8 May 2002
Suriname	10 May 2002	
United States of America	5 Jul 2000	
Uruguay	7 Sep 2000	27 Sep 2002
Venezuela	7 Sep 2000	8 May 2002

International Commitments

In terms of international commitments, it is worth reiterating the importance of the Declaration and Plan of Action of the First World Congress against Commercial Sexual Exploitation of Children and Adolescents, held in Stockholm, Sweden in 1996. As mentioned above, this congress made a commitment to develop national action plans for the progressive elimination of the sexual exploitation of children and adolescents in five strategic areas, namely:

- coordination and cooperation (local, national, regional and international),
- prevention,
- protection,
- recovery and reintegration, and
- participation of children and adolescents.

After the World Congress, other regional events were developed to follow up and coordinate actions in the different regions of the world. In the case of Latin America and the Caribbean, these include, among others:

The Follow-up Meeting to the Stockholm Congress, which took place in San José, Costa Rica, was attended by 133 representatives of governmental, non-governmental and international organizations. It approved the "Declaration of San José" on Zero Tolerance to all forms of sexual violence against children and adolescents. In its contents, governments and civil society committed themselves to fulfill their obligations to the victims, providing them with a comprehensive and reliable system in which they would be guaranteed access to a solid system for the administration of justice. A commitment was also made to strengthen existing national and international coalitions related to sexual violence that have had a political and programmatic impact.

The aforementioned Regional Governmental Congress on the Sexual Exploitation of Children, held in Montevideo, Uruguay, November 7-9, 2001, under the sponsorship of IIN and UNICEF, was convened as a preliminary activity to the II World Congress in Yokohama, Japan (December 16-20 of the same year). Its objective was to analyze the situation of the Americas in relation to the problem from a governmental perspective, and to approve a regional strategic document to be presented in Japan entitled: "Montevideo Commitment".

In order to make progress in achieving the objectives of the Stockholm Declaration and Plan of Action, the Montevideo Commitment proposed, among others, the following recommendations:

- Develop national and international campaigns to raise public awareness of sexual exploitation.
- Implement Action Plans in those countries that do not yet have them.
- To create "child-friendly judicial procedures" that respond quickly, efficiently and respectfully to children's needs according to their age and stage of development, listen to them and restore their rights.
- Raise awareness of policy decision makers and train professionals working directly on the issue to be able to detect risk situations and intervene effectively.
- Promote strategies for the use of available resources to enable the adequate implementation of National Action Plans and other instruments to combat sexual exploitation.

Finally, the Second World Congress in Yokohama issued a declaration reiterating the importance of more effective implementation of the Convention on the Rights of the Child by Member States and underlining the conviction of the absolute necessity to protect children's rights against commercial sexual exploitation in the forms of child prostitution, child pornography and trafficking of children for sexual purposes. The declaration also calls for the ratification of the appropriate international instruments, in particular ILO Convention 182 and the Optional Protocol to the Convention on the Rights of the Child, Sale of Children, Child Prostitution and Child Pornography.

Another important element is the ratification of the commitment to the Stockholm Declaration and Plan of Action, particularly with regard to the definition of national agendas, strategies or action plans, focal points and data collection classified by gender, as well as the implementation of new legislation based on the rights of the child.

Some points common to all the international commitments mentioned are those related to the need to ensure an appropriate allocation of resources to address the commercial sexual exploitation of children, the promotion of education and information for the comprehensive protection of children and adolescents, and the reaffirmation of the importance of the family and the community as two of the central axes of any intervention.

The cooperation of the Inter-American Children's Institute

Since the approval of the IIN Strategic Plan for the period 2000-2004 by the IIN Board of Directors (Ottawa, June 2000), institutional action in the area of cooperation has focused on the promotion of a set of strategic products covering different aspects related to the management of children's issues in a given country. These products, which constitute a set of so-called "prototypical" tools, are intended to contribute to the promotion of progress in the States' capacity to respond to children's issues.

With regard to the specific issue of sexual exploitation, the IIN has produced one of these strategic products called: Prototype of a Focused Public Policy aimed at addressing, in an articulated and financed manner, and from an approach of restitution of violated rights, the problems and needs of children and adolescents who are victims of all forms of violence and sexual exploitation.

This implies a continuous and sustained process of planning and execution of Action Plans and technical programs that link State and civil society organizations, identifying risk groups, establishing comprehensive care services with geographical, institutional and vulnerability targeting criteria, as well as training the appropriate personnel, whether they are operators of the social protection system or of the judicial protection system.

At the same time, it seeks an adequate modification of national legislation, in accordance with the Convention on the Rights of the Child and other international conventions, treaties and agreements assumed by each country.

Within this framework, IIN is developing the following instruments for the region:

Prototypes of a legal norm on sexual exploitation (This has already been presented to the Parlatino, and to the Governments of Uruguay and Mexico).

Prototype of a targeted public policy (under development in Panama and initiated in Venezuela).

A system for the monitoring and evaluation of policies and actions developed in favor of children and adolescents.

An Information System for Child Rights Monitoring

Finally, and in response to the mandates received from its Directing Council and the OAS General Assembly, the IIN continues the process of monitoring the

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The progress made by Member States in combating sexual exploitation through the production of their annual reports to the Secretary General.

The road is arduous, but the call of children and adolescent victims of all forms of violence and sexual exploitation does not admit any kind of renunciation or pause. In this task we all find ourselves always remembering that the best interest of the child is, and must be, much more than a mere ethical statement.

PART TWO:

A) THE LEGAL FRAMEWORK IN LATIN AMERICAN COUNTRIES

B) CONCEPTS AND DEFINITIONS

C) RISK FACTORS

A) THE LEGAL FRAMEWORK IN LATIN AMERICAN COUNTRIES

One of the most relevant events in favor of Latin American children and adolescents was the ratification of the Convention on the Rights of the Child by all the countries of the continent. Since 1990, with the advent of this international standard, a movement began in the region for the operationalization of the Convention, by means of adjustments to national legislation, in an attempt to create an efficient and effective system for guaranteeing rights capable of promoting cultural, social and political changes in favor of children and adolescents.

In this scenario, a process of legal reorganization is initiated, which brings as an immediate consequence an institutional reorganization, imposing the co-responsibility of the State, the Society, the Community and the Family as indispensable axes for the protection of the rights of children and adolescents.

Although in most countries there is still no specific legislation to deal with sexual crimes against children and adolescents, the doctrine of integral protection, the concept of the child as a person in a particular condition of development, as a subject of rights and as a person with absolute priority of attention, constitute the paradigmatic bases of the Convention on the Rights of the Child, which are incorporated almost in their entirety in national legislations on the rights of children and adolescents. These legislations group children as persons from birth to 12 years of age and adolescents up to 18 years of age. In this sense, the issue of sexual abuse and exploitation, in general, is placed in the condition of legal enforceability.

Being thus, the trend of sectors not governmental and governmental sectors, is to understand and assume the abuse and sexual exploitation of children and adolescents, in any of its modalities, in the dimension of violation of human rights and recognizing that the attention to the victims is a public right of the child and adolescent citizen. Consequently, every action of the State is recognized as a legally enforceable duty.

On the other hand, the forms of management of policies for children and adolescents are inserted in a new configuration, introducing the elements of decentralization, participation and democratization in decision-making, as the basis of the policy of care for children and adolescents,

including for situations of vulnerability or personal and social risk to which they are subjected.

Therefore, in accordance with the commitments assumed at the national and international level, especially with the Convention on the Rights of the Child, the issue of abuse and sexual exploitation of children and adolescents, contemplated in article 34 of the aforementioned Convention, is in a propitious terrain for legal-social adaptation, from the perspective of preventing and eradicating this cruel and shameful violation of the human rights of children and adolescents.

In contrast to the progress already achieved in the continent, some countries have already included the issue of sexual abuse and exploitation in their legislation:

Bolivia- Código del Menor, Law 1403/92, article 177, item 3 deals with the issue of abuse and sexual exploitation of children and adolescents.

Brazil - Statute of Children and Adolescents, Law 8069/90. Sexual abuse and exploitation of children and adolescents are dealt with in articles 130, 240 and 241.

Costa Rica- Childhood and Adolescence Code, Law 7739/98 establishes social legal protection for victims of abuse and sexual exploitation in the general aspects of this legal framework.

Ecuador- Juvenile Code, Law 170/92 and Law 2766/95, which regulates Article 248 of the Juvenile Code. Sexual abuse is typified as a form of serious maltreatment.

Guatemala- Código del Niño y de la Juventud, Decreto 78/96, Section IV "Derecho a Protección Contra Tráfico, Secuestro y Venta de Niños y Adolescentes", article 52 and Section VIII "Protection Against Sexual Abuse and Exploitation of Children and Adolescents", Article 58.

Honduras- Código del Niño y del Adolescente, Decree 287/98 - Title II, Chapter I- "De la Protección del Niño en Situación de Riesgo, article 139, letter d".

Panama - Family Code, Law 3/94. Sexual abuse and exploitation are mentioned in Book Two - Title III, article 501, item 4 of the aforementioned Law.

Dominican Republic - Code for the Protection of Children and Adolescents. According to Book, Chapter I, article 121 and article 174 letter c, deals with the issue of sexual abuse and exploitation.

All this Latin American movement has not yet been sufficient to overcome the shortcomings and/or failures in the legal, political, social and cultural spheres related to the phenomenon of abuse and sexual exploitation of children and adolescents.

In this sense, given the broad mandate of the OAS and the various international legal instruments, the IIN, as the OAS specialized agency for children, adolescents and the family, can play an edifying role by contributing to the construction of a legislative instrument that, in light of the progress already made in the Convention on the Rights of the Child, establishes a legal paradigm of regional scope.

B) CONCEPTS AND DEFINITIONS

Violence - is the explanatory category of sexual victimization. It refers to the process established when sexual abuse occurs, which is based on a power relationship. Violence is understood as a trigger of relationships involving cultural factors, the collective imaginary, norms and the civilization process of a given people.⁹

Sexuality - Human sexuality is at the same time, sexual stimulus, sexual orientation, or sexual pleasure that is constructed in the relationship between people in a symbolic, cultural and ideological process.

Child and Adolescent - All persons under 18 years of age. In most Latin American countries, laws consider children up to 12 incomplete years of age and adolescents up to 18 incomplete years of age. Children and adolescents are considered to be in a special condition of development and subject to protection and welfare by the family, society and the State.¹⁰

Sexual Abuse - It is the situation of excessive use, violation of limits: human rights, legal, power, roles, social and family rules. It occurs in a context of domination, in which the violated is subjugated to the violator, without conditions to oppose.

Commercial Sexual Exploitation - It is an essentially economic activity, of a commercial and mercantile nature, which subjects children and adolescents to commercial work and the sex industry, both nationally and internationally. Therefore, this concept goes beyond the category of child and adolescent prostitution, encompassing the aspects of industrial pornographic production, sex tourism, trafficking of children and adolescents for sexual purposes, and more recently, sex and pornography via the Internet.

Child Prostitution or Traditional Sexual Exploitation¹¹ - The commercialization of children and adolescents as sexual merchandise in exchange for remuneration in money or in kind, generally with the participation of an intermediary.

The word prostitution is quite debatable among specialists and scholars, since the use of the word hides the nature of sexually abusive behavior, diverting the focus and giving an idea of consent.

⁹ Faleiros, Eva. Conceitos de Violência, Abuso, e Exploração Sexual de Crianças e Adolescentes. Relatório Final de Pesquisa - CECRIA - 1999 (Idem Sexualidade, Abuso Sexual, Exploração Sexual Comercial).

¹⁰ Convention on the Rights of the Child and Statute of the Child and Adolescent - Brazil

¹¹ Result of the Research on Sexual Exploitation of Children in the cities of Asunción, Ciudad del Este, Hernandarias and Presidente Franco. Carried out by BECA - Educational and Community Base of Apayo - Asunción/Uruguay - 2000.

This places children and adolescents in the position of offenders rather than victims.

Trafficking of Children and Adolescents for Commercial Purposes¹² - Trafficking of children and adolescents is the lucrative activity of transporting them for commercial sexual purposes. The recruitment and transfer can be between countries or within the country itself, with or without the consent of those responsible for the minor, and through deception or coercion.

Sex Tourism - It is the sexual exploitation of children and adolescents by visitors, in general, from developed countries or visitors from the country itself, involving the complicity, by direct action or omission, of the sectors and services of the tourism industry. It may be through organized group or individual travel, in which sexual relations with minors at the destination are included among the services to be provided. Cases in which the person has not contracted the service, but accepts the offers made by sexual exploitation networks at the destination, are also considered sex tourism.

Child Pornography - Refers to visual or auditory representation of a minor in an explicit sexual act, real or simulated, and with obscene exhibition of the genital organs for the sexual pleasure of the user and almost always with lucrative purposes for the intermediary. It involves the production, distribution and use of visual or auditory material using children and adolescents in a sexual context. Exploiters are considered producers (photographers and videomakers), intermediaries (support staff), broadcasters (advertisers, marketers and publicists) and consumers of the final product. Currently, the largest and most complex means of disseminating child pornography are Internet websites.

Child Labor¹³ - Any activity that involves the participation of children in the production and commercialization of goods or in the provision of services to natural or legal persons, which prevents them from accessing, performing and remaining in school or is performed in hazardous environments, produces immediate or future negative effects, or is performed in conditions that affect the psychological, physical, moral or social development of children.

Worst Forms of Child Labor - Defined by Convention 182 of the International Labor Organization (ILO). Among the different types established are "the use, recruitment, offering of children for prostitution, production of pornography or pornographic performances". The ILO

¹²12 Pinto, Maria L. "Explotación Sexual Comercial de niños, niñas y adolescentes en América Latina y el Caribe - Relatorio Final de Brasil - CECRIA, Brasília - Brasil, 2000 (idem Turismo Sexual y Pornografía Infantil).

¹³ Definition adopted by the International Labor Organization's Child Labor Elimination Program.

has emphasized that some of the worst forms of child labor, including sexual exploitation, is not labor per se, but a form of economic exploitation of children.

Action Plan - A set of actions that contemplates several strategic axes of intervention, establishing objective goals to be achieved and indicators of results and impact in the fight against sexual violence against children and adolescents. The action plan is a political and operational piece, which indicates sources of funding for each planned action and dynamically articulates the efforts of government and civil society in addressing sexual violence against children and adolescents as a global social phenomenon.

Care and Intervention Networks - Networks are not abstract inventions, but are based on the articulation of actors/organizations/forces existing in the territory for a multidimensional joint action with shared responsibility (partnerships) and negotiated. The network, therefore, is an alliance of actors and forces, in an action block, at the same time political and operational.¹⁴

As has already been pointed out in this document, Child and Adolescent Sexual Violence is a multi-causal phenomenon and, therefore, its definitions and concepts should be analyzed based on the particular references of the historical, economic, cultural, social, political and ethical context.

Historical Context

The social history of childhood in the continent is built on the basis of:

Authoritarian parental power;
Socializing and educational concepts based on physical punishment;
Impunity of victimizers of children and adolescents;
Weakness of public policies for children and adolescents from poor and/or miserable families.

¹⁴ Faleiros, Vicente. *Redes de Explotación y Abuso Sexual y Redes de Protección*, in *Para Combatir la Violencia - El Papel de la Familia y de la Asistencia Social en la Acción Junto a Niños y Adolescentes*. Ministry of Social Welfare. Ed Fundap, 2000

Cultural Context

Gender —————▶ Ethnicity —————▶ Race

Power

Domination

Discrimination

Exploitation

Social context

Poverty/Misery;
Inequity;
Geographic Disparity;
Rural degradation;
Urban disorganization;
Family Destructuring.

Economic Context

Economic dependence;
Concentration of National Wealth;
Unemployment;
Early Work.

Addressing the issue of sexuality, taking sexual violence as a social phenomenon, should take into account the cultural differences that are constituted in a given subject in his or her concrete social relations.

Taking Latin American societies in their legal and political aspect as a reference, it is possible to find that, in most of them, racial democracy and equality between men and women is legally guaranteed. In turn, racism and discrimination are considered crimes. On the other hand, concrete social relations show a quite different reality, in which there is discrimination and marginalization of Afro-descendants, women, indigenous people and children.

The formation of our societies reveals that the categories of race, color, gender, age and social class have an absolute weight in the relations of machismo and patriarchalism, which is one of the obstacles to the construction and incorporation of citizenship to the Latin American people in a fair and egalitarian way.

Assuming the possibility of extending citizenship to all, with a culture of guaranteeing rights and comprehensive protection, necessarily means assuming the difficulties present in society as a whole, added to the current processes of economic and political development at the global level.

Therefore, legislation to confront sexual violence is not restricted only to the aspects of denunciation and repression. A policy of legal reorganization should be conceptually and operationally focused on a conception of care networks, which ensures protection and care programs for the victims, criminal liability of the aggressors, prevention of abuse and exploitation, and the guarantee of the development of a safe sexuality. All this taking into account the basic public policies of education, health, housing, social assistance, culture, leisure and minimum family income, as the axes of psychosocial and cognitive development of children and adolescents and their families.

Non-governmental organizations can and should participate effectively in the defense of the rights of children and adolescents, in the social control of public policies and in the expansion of the network of service provision and national and international mobilization.

C) RISK FACTORS

Addressing the risk factors surrounding violence and sexual exploitation of children and adolescents implies reaffirming that this is a complex and multi-causal problem, in which economic, social, cultural and political factors interfere, which are reflected in educational, health, discipline and family organization processes, among others.

Therefore, it is not the case of elaborating a list of the existing risks, which are certainly real, but which do not account, in isolation, for the vulnerability in which sexual violence takes place.

Risk factors are processes that are articulated as structural and structuring in the construction of violent relationships that threaten or effectively produce child and adolescent victims of sexual abuse and exploitation, such as: inequality, inequity, family disintegration, consumerism, rural-urban migration, discrimination, intra-family sexual abuse, drug and human trafficking.

In the meantime, some factors may be highlighted as fundamental elements in this constituent articulation of the phenomenon of sexual violence.

The Silence

The silence, secrets and secrecy surrounding sexual abuse committed by family members or people close to them disqualify the verbal and non-verbal disclosures of the victims in the name of fidelity and interests of various orders. Most street children and adolescents who prostitute themselves in order to survive have already been victims of the silence that surrounds intra-family sexual violence.

On the other hand, society adopts a posture of indifference or even tolerance, blaming the victims themselves, and considering the problem in the private sphere and not as a contradictory social phenomenon in the process of formation, civilization and evolution of society.

It is in the shadow of this wall of silence that commercial sexual exploitation networks are created and strengthened, reaffirming the belief of impunity.

Poverty

Poverty, although it cannot be considered a risk factor in itself, since the victims of sexual violence do not belong only to the poor strata, generates situations of deprivation and vulnerability that favor the conditions for the emergence of phenomena such as the sexual exploitation of children and adolescents.

Extreme poverty has a decisive impact on the living conditions of families, who cannot find alternative livelihoods for all their members, forcing a large number of children to develop survival strategies on the streets. In this space, in itself violent, the alternatives they find are not many. They navigate between delinquency, such as drug trafficking and the "gangues" of crime, prostitution that triggers sexual exploitation, or other forms of child labor exploitation.

It is not without reason that ILO Convention 182 considers the sexual exploitation of children in the category of the worst forms of child labor and determines immediate actions for its eradication.

The situation of poverty in developing countries has been aggravated by the globalization of the economy, which is the case of Latin America. This situation places the region in its most extreme vulnerability by leaving poor families with more and more difficulties every day to meet their basic needs. Thus, children are necessarily absorbed as providers of their own needs.

In these conditions, girls, mainly, gain the market as domestic employees, an environment in which they are also exploited, including sexually, and other marginal spaces are emerging as an alternative, with sexual exploitation becoming an almost regular path. It is in this path that criminals act to traffic children through illegal adoption, as well as through the deception of their relatives, who sell their children and thus contribute to the expansion of the sex market around the world.

Education

Existing research on the education and intellectual development of children and adolescents who are victims of sexual violence shows that most of them are outside the regular education system or are behind in school. Those who do go to school perform poorly and more than half repeat the same grade more than once. Likewise, more than half drop out of school before completing the first school cycle.

On the other hand, studies in the area of education and personal development indicate that each year of schooling that a person reaches an appropriate age, increases by about 20% their chances of placement in the labor market. This finding denotes the degree of risk of lack of education for victims of sexual exploitation, since they are radically compromising their future possibilities outside of the net of exploitation, which is not only sexual, but also underemployment and the low remuneration they will obtain in the labor market as adults.

Health

It is inherent to the daily practice of sexual exploitation to live in conditions of high risk to physical, psychological, sexual and reproductive health.

It is not uncommon for this vulnerable group to suffer from sexually transmitted diseases, HIV/AIDS, unwanted early pregnancy, induced and unassisted abortions, maternal mortality, physical injuries, growth deficiencies (poor nutrition, sleep and weight loss), allergic and respiratory diseases, as well as chemical dependency, among others.

In the psychological aspect, depression and aggressiveness are highly prevalent and have been responsible for violent deaths and suicides.

These are some of the factors in the field of child and adolescent health that can compromise the development of a normal and healthy sexuality and perpetuate sexual exploitation as a way of life.

Psychosocial Aspects

The absence of public policies of social protection and security for children, adolescents and their families, together with the absence of a critical conscience and of the constitution of citizenship, ends up not allowing them to perceive their situation in the context of exploitation. This reality is then incorporated as a necessary condition for survival and the exploiters come to be seen as their allies and saviors. Exploited children and adolescents assume they are "guilty", although they are victims and take the stigmas conferred on them as part of their real identities.

From then on, they live in the isolation of the "ghettos, with low self-esteem, ashamed and distrustful, internalized in violence as a form of conflict resolution, which makes the few opportunities to rescue them for a possible rehabilitation process very difficult.

What can be affirmed is that the existing protection and safety nets for children, adolescents and families are failing, opening spaces for networks of oppression, exploitation and violence that thus easily obtain the raw material to expand their businesses that violate fundamental and dehumanizing rights.

Although other forms of violence, such as intrafamily sexual abuse, have the same seriousness and risks as commercial sexual exploitation, the latter contains additional factors of extreme importance by virtue of the fact that it is established through market and labor relations and operates through global networks.

Sexual Exploitation of Children and Adolescents in Latin America

Therefore, social isolation, loss of control, drug and alcohol abuse, low schooling and unemployment, among others, constitute factors vulnerable to the proliferation of corruption, impunity, the acquiescence of the authorities and, consequently, to the expansion of national and international networks of commercial sexual exploitation of children and adolescents.

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