# Trafficking in Women and Reflections from a Latin

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Cet article examine le trafic des femmes et des enfants dans l'industrie du sexe en Amérique Latine. Elle assure que les inititatives anti-trafic dans cette région doivent être faites dans une approche contextuelle tenant compte des facteurs structurels économiques, sociaux, culturels, sexuels et politiques liés à cette félonie internationale, ses causes et ses conséquences et la façon dont les femmes y participent. L'auteure souligne en particulier, le besoin d'enquêter sur les conséquences des abus sexuels chez les enfants en relation avec le trafic des femmes et des filles, avant de débattre de la question du consentement.

Although trafficking in women and children is prohibited by multiple international conventions, according to the Sub-Commission on Prevention of Discrimination and Protection of Minorities,<sup>1</sup> over one million women and children are trafficked into prostitution. Sex tourism alone vields five billion dollars per year. Traffickers transport women and children from their home and families, confiscate their passports, and rape their victims to subdue and "break" them. Many victims are hesitant to report the abuse to authorities, often not speaking the language and fearing reprisals for illegal migration. Although women's advocates disagree whether prostitution should be criminalized, research is uncovering the fact that legalized prostitution is an enabling environment for traffickers, at least in Latin America and the Caribbean.<sup>2</sup>

Although there is a growing body of research on this topic, much of this research is not conducted from a feminist human rights perspective and, therefore, results in segmented or partial understanding of the problem. It is true that the problem of trafficking and the web of human

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rights violations it embraces present some of the most difficult issues on the international human rights agenda, but reducing the problem to a criminal justice issue, a transnational crime issue, an illegal migration one, or even a political or ideological problem, and not making the links to patriarchal structures and a misogynist mindset which reduces everything to hierarchical dichotomies,<sup>3</sup> obstructs the creation of sustainable solutions.

The United Nations Latin American Institute for Crime Prevention (ILANUD), through its Women, Gender and Justice Program, decided to analyze the literature on the subject produced in Latin America and the Spanish-speaking Caribbean. We found that most of this literature had an androcentric perspective and was, therefore, without the understanding that the construction of gender plays the most important role in what men and women perceive as "erotic" or sexual, which in turn has great bearing on what is understood by "consent."

In the course of our research, we became convinced that there are many more factors which should be taken into consideration when analyzing this crime as, for example, incidences of past sexual abuse in the lives of trafficked women and girls and of the women who participate "willingly" as agents. Our findings point to a history of incestuous sexual abuse in almost 90 per cent of the women who are in prison for prostitution and related crimes.<sup>4</sup> This is why we believe that the crime of trafficking in persons for the sex industry should always be analyzed using a gender, economic, and historical perspective. It is only by doing this that we can begin to appreciate the magnitude and complexities of the problem of trafficking in women and children throughout the Latin American region. These complexities include the different political contexts and the economic, cultural and geographical dimensions of the problem, the ideological and conceptual differences of perspectives on the issue, the mobility and adaptability of traffickers, insufficient and/or fragmented research and data on all the participants and at what level and to which degree they participate, and of course, the researchers', criminologists', and others' feelings/emotions which are aroused when discussing any problem that is even remotely related to sexual activity.

From the '70s onward, there have

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been tremendous changes in the attitudes toward the sex industry, particularly in Europe. In Latin America, there have been even greater changes in sexual mores, including around the issues of prostitution and pornography. Attitudes range from a complete acceptance of the institution of prostitution as a way of life, to the abolitionist stance which sees this institution as one of the pillars of patriarchy and thus seeks to eradicate it altogether. It must be clarified that in Latin American this acceptance of the institution of prostitution does not always translate into acceptance or respect for the prostitute. On the contrary, the institution is "tolerated" because it benefits "good" women by providing "lost" women for men's sexual needs. In our patriarchal societies, men's needs usually come before women's human rights even in the minds of the hierarchy of the Catholic Church. In my opinion, this is one reason why the abolitionist strategy of eliminating prostitution completely by criminalizing the clients and the providers is not one that has been accepted yet by the political or religious hierarchies of Latin American societies.

What is prevalent in this region at the present time are interventionist policies which seek to control and/or regulate prostitution by keeping it legal. Although it is true that more and more the term "sex worker" is being used by feminists, in our interviews with many feminists from several countries we discovered that not all those who use this term agree that sex work is just another form of work and should be regulated as such in the labour codes. Most of the women who use the term "sex worker" do it out of respect for the women in prostitution, not as a stance for equating sex work with other types of work.

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Although there is no consensus on this issue within the women's movement in Latin America, one thing there is agreement on is that women in prostitution should be guaranteed their full human rights.

At ILANUD we do not believe in the preventive powers of criminal law, so we do not favor the abolitionist stance on prostitution but neither do we accept the idea that prostitution is just another form of work. Having said that, we do advocate for the inclusion of the crime of trafficking in our penal codes because of the heinous nature of this crime. Nevertheless, our objective is not the incarceration of the women who participate in this crime. Our goal is to comprehend it more fully so preventive measures can be implemented. Because our program has worked for

the past ten years in various women's prison's in the region, as well as on the subject of violence against women, we know that women are not only victims of this crime, but also the perpetrators and therefore it is imperative to understand how and why these female perpetrators get involved if we are to develop effective antitrafficking initiatives in the region.

### Latin America and the Caribbean: An "Export Zone" for Women and Children?

The globalization of capital and the growth of the sex industry are as evident in Latin America and the Caribbean as they are elsewhere around the world. The best known centres for sexual tourism are the Dominican Republic, Brazil, Colombia, Cuba, and some of the Anglophone Caribbean islands. The best-organized national sexual tourism industries can be found in Suriname, in Curaçao (Kempadoo), and Panama.

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In the '90s, as the sex trade networks grew, living conditions deteriorated in the countries of Latin America and the Caribbean and the migration streams increased, with the consequent increase in trafficking in women (ISIS), including Mexican (Colimoro) and Ecuadorian (Cordero) women. Athough there is more data on trafficked adult women, it is known that in Latin America and the Caribbean there is also traffic in adolescent girls within national borders, among neighboring countries, and within the region.

According to Pro Niña y Niño de Centroamérica ("In Defence of Girl and Boy Children in Central America") (ISIS), 2000 girls were sexually exploited by trafficking networks in 1996, 1200 were Salvadoran, 500 Honduran and Nicaraguan, and more than 300 Guatemalan. Furthermore, the CIMAC organization has revealed that young women, among whom some were as young as 14 years old, were trafficked from Mexico for the sex industry in the United States offering them promises of safe employment. They were physically beaten and raped when they refused to be sexually exploited or after any attempt at escape. They were even obligated to abort after becoming pregnant, thus increasing the "debt they owed." This network was discovered after two 15year-old girls were able to escape (ISIS 13).

In the Caribbean, in the Dominican Republic, according to research carried out by the Centre for Orientation and Integral Research (COIN), there is information indicating upwards of 100,000 persons in the sex industry, of whom 25,000 are minors of both sexes. There is no information disaggregated by age for the persons that have left the country. Of this group of 100,000, however, it is believed that 40,000 are outside the country. For this reason, the Dominican Republic is considered the fourth most important country in "female exports," after the Philippines, Thailand, and Brazil (see Ferreira).

With regard to the Andean Region, as revealed by the women in prostitution themselves, sexually exploited young women, and health professionals, there is a great deal of mobility among Colombia, Venezuela, and Ecuador, and to a somewhat lesser extent on the borders with Peru.<sup>5</sup> Moreover, thousands of Ecuadorian children are smuggled through Colombia and brought to Venezuela to work in virtual slavery conditions as prostitutes (Gutierres).

These data mean that Latin America has the dubious honour of holding two of the countries with the largest number of women in the international sex industry. Both these countries are also known to have large if not majority populations of African descent which also raises the issue of the link between trafficking and racism.

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### Organization of the Sex Trade and Mechanisms for Trafficking in Persons

The sex industry is one of the most malleable and changing "sectors." The structures, organization, methods, and mechanisms adapt to the changes in social and economic structures, at the same time that they produce and exhilarate sexual fashions and tastes (Brussa 1991: 36).

Over three decades, the industry has diversified, passing from small brothels in rural and urban areas, to a globalized industry with particular characteristics in each region. As it diversified, it has taken advantage of all the myths and stereotypes of feminine sexuality: Asian and Latin American Indigenous women as soft and docile, Africans or those of African descent as savages, Europeans and North Americans as liberated, and the young ones are the most amenable, "fresh, and untouched."

Technology has also gone into service, from the national and international telephone sex "hotlines," to sexual services and advertisements of all kinds on the Internet. In this industry, any sexual practice is possible; it is an industry without limits or borders.

Just as sex trade has diversified its organization and structure, the methods and mechanisms for recruiting women and children into the industry have diversified in a similar fashion. Currently there are three operative methods through large-scale and medium-sized networks and individuals.<sup>6</sup>

The first are highly structured and hierarchical, with diverse personnel handling everything from recruitment to the mobilization of the women and girls from one country to another. They are aware of the possibilities and legal obstacles in the countries of origin and destination, with legal fronts that allow them to carry out the traffic (travel and marriage agencies or tourism and artistic operations). They have some degree of access to the social, political, and economic structures of the countries of origin of the women being trafficked; and, in most cases, they even enjoy the complicity of corrupt authorities.

The second type operates in a manner similar to the largest networks. The difference arises from the destination of the women. In the first type of operation, once the traffic has been completed, they sell the women, adolescents, and young girls to the sex dealers in the country of destination. The second system recruits them for their own "businesses."

The third type corresponds to the small organizations that have neither the capital nor the organizational structure to develop the whole trafficking process. Their business is built on local sex dealers, and the latter are always looking for different ways to keep the traffic going. Until the '80s, the method used was arranged marriages, especially in former Dutch colonies. Due to the tightening of the law on marriage to foreigners in the Netherlands, this method has declined.

Based on research carried out in the Netherlands, Spain, Germany, and Italy,<sup>7</sup> after the mid-80s, another method was discovered for recruiting women and children from the region into the sex industry, through families, relatives, and friends. These data are also confirmed by research carried out in Switzerland and the Dominican Republic. Once the woman becomes involved in the sex industry, a "chain migration" takes place. The woman, as a friend or relative that knows the drill, invites her cousin or sister and makes the contacts necessary for the latter to reach her destination. Travel agencies are also a part of this informal circuit (Imbert; Rosario et al.).

Although there is sufficient information to reveal that women participate as traffickers or active agents in all three of the operative methods, we do not have the answers to a series of questions. At what level of power or decision-making are these women found? What kind of relationships do they establish with the recruiters or intermediaries? Do they receive some remuneration for their contacts? Or are they induced or forced into this activity by other means? What percentage of the contacts result in traffic? How many of them have been tried by the courts for this type of criminal activity?

What we do know from the information we gathered is that in women's prisons in the six Central American countries and Ecuador, there are no women incarcerated for the crime of trafficking in persons. This is mostly because trafficking in person was not included in the criminal codes of most Latin American countries until 2000. We did learn that women who have been trafficked are often later used by traffickers to recruit other women into the sex industry. Some of the women we spoke to in the prisons who were incarcerated for drug trafficking had themselves been trafficked and some had even participated as recruiters.

We also learned from the women in prison that some young women are trafficked through adoption. Women may present themselves as intermediaries for families wanting to adopt a girl child. Women are used as intermediaries or recruiters because traffickers know that women

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are perceived as more trustworthy (Brussa 1991: 36). In fact, over 80 per cent of the trafficked women from Dominican Republic say that they were first contacted by an older woman who presented herself as a motherly figure interested in promoting the careers of the younger women.<sup>8</sup>

## Society's Response in the Face of Trafficking in Women

Women's and feminist organizations in Latin America began to place the issue of trafficking in women and girls on the agenda in the 1970s (*Vena Newsletter*). Since then they have advocated for the protection of the rights of trafficked women and girls in the sex trade. It was not long before trafficking in persons came to be seen as a modern-day form of slavery (GAATW et al.) as well as a violation of fundamental human rights (Acosta). The concepts of human dignity, freedom, and non-discrimination proposed in international and regional instruments<sup>9</sup> were thus brought to the forefront, and resolutions were passed in particular to protect women and children<sup>10</sup> from this crime.

The most important efforts in the international and regional milieus have been those of the Council of Europe, the Governments of the Netherlands and Belgium, the United Nations System, and the international organizations in defense of women and children. The Council of Europe called a consultative meeting in 1991, with experts from different continents to approach this problem. The Dutch Government, furthermore, given the increase of Third World and Eastern European women trafficked to Holland, held consultative meetings with experts from NGOs in order to develop policies to prevent trafficking.11

In 1996, in Stockholm, Sweden, an international meeting was held on the Commercial Sexual Exploitation of Young Boys and Girls, and in Brasilia, during the same year, there was a regional meeting.

The United Nations played a fundamental role during the 1990s with respect to the issue of trafficking in persons. It was the topic of the 16th Session of the Task Force on Contemporary Forms of Slavery, which gave rise to a Proposed Plan of Action for the Prevention of Trafficking in Persons and Prostitution of Others. In 1994, by means of Resolution 49/ 166, the General Assembly condemned trafficking in persons and in 1996 the Human Rights Commission implemented the proposal of the Task Force on Contemporary Forms of Slavery (see Wijers and Lap Chew).

The Vienna Conference on Human Rights in 1993 was also significant as it redefined the concept of human rights by recognizing, for the first time. that women's rights are human rights,<sup>12</sup> and that violence against women in the private and public spheres is a violation of these rights. In this context, trafficking is understood as a form of violence directed specifically against women and girls.

The Fourth World Conference of Women in Beijing, in 1995, was another important moment. In this conference, trafficking was expanded to other forms of indentured labour such as domestic work. The Plans of Action developed at both conferences encourage international co-operation between governments to implement the necessary measures to eliminate trafficking. The Beijing Platform for Action includes a broad spectrum of actions. It takes into consideration the countries of origin, transit, and destination, as well as regional and international organizations. It also aims to strengthen national legislation to improve the protection of women and children and to punish the perpetrators.13

In the new millennium, the International Labour Organization (ILO) implemented an International Program on the Elimination of Child Labour (IPEC) to combat trafficking. IPEC supports the efforts of governments and workers' and employers' organizations in the prevention of trafficking and in the rescue, repatriation and restoration of the rights of victims of trafficking. ILO/ IPEC is currently implementing a subregional strategy in Albania, Moldova, Romania and Ukraine to combat trafficking in children and young persons in the Balkans and Ukraine particularly through prevention and reintegration measures. As a longer-term effort, a complementary project on employment and vocational training for women is being developed to offer viable alternatives to trafficked women or potential victims of trafficking.

The adoption of the United Nations Convention Against Trans-national Organized Crime and the subsequent supplementary Protocols addressing trafficking in persons and the smuggling of migrants in November 2000 was a milestone in the United Nation's action against trafficking. Since then 145 countries have signed the Convention and 117 have signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol). Thirty-two countries have ratified this Protocol, including six Latin American and Caribbean countries. Nevertheless in order for this protocol to enter into force, 40 ratifications are needed. The Convention entered into force on September 29, 2003 and its Protocols are expected to enter into force by the end of 2003.

The Trafficking Protocol contains important provisions aimed at preventing and combating trafficking, protecting and assisting victims and promoting inter-agency and intercountry cooperation. In several countries, the provisions of the Convention and the Protocol have already served as the basis for law reform. They also offer a framework for the formulation of regional and national anti-trafficking action plans. The Centre for International Crime Prevention (CICP) organized in November 2002, in Paris, an Expert Meeting on the Development of a Legislation Guide to Promote the Implementation of the United Nations Convention against Transnational Organized Crime and its Protocols.

CICP has set up a database which includes data from multiple sources on global trends, cross national routes and the volume of trafficking in persons and smuggling of migrants, as well as data on victims and offenders of trafficking and on responses of criminal justice systems to this criminal activity. The database is the first of its kind and is needed to facilitate development of strategies to combat trafficking both nationally and globally. The database has developed research tools aimed at generating data on recruitment practices, travel routes, exploitation, criminal organizations, and connivance and corruption. Guidelines have been developed for use in interviewing victims, government officials and NGOs. Regular reports based on data on the situation at the national, regional and global levels will be published.

CICP is also preparing a manual ("tool kit") to provide examples of promising practice in the efforts undertaken by government agencies, IGOs, NGOs and other relevant organizations against trafficking in persons. The manual will provide specific examples of practices, with a focus on the response of the criminal justice system, and will cover four areas: legislative reform, strengthening criminal justice responses, protection and support for victims, and international cooperation.14 It is expected that all these developments will help Latin American and Caribbean legislatures, police forces, immigration personnel, policy makers and others, as well as those NGOs who work in this area, coordinate their incipient efforts at combating this international crime.

Furthermore, in international law there is a vast framework of rights established to protect and guarantee the rights of the trafficked women and children. In particular, these include the Convention on the Elimination of All Types of Discrimination against Women (CEDAW) (Art. 6), the Convention on the Rights of the Child (Art. 34-36), and at the regional level, the Inter-American Convention to Prevent, Sanction, and Eradicate Violence Against Women (Convention of Belem do Pará) (Art. 2).

#### Conclusions and Recommendations

In Latin America and the Caribbean, trafficking in women and young girls is a social phenomenon on the increase. However, current anti-trafficking initiatives are centered for the most part in the receiving countries, in particular in Europe. Furthermore, most policies focus on the victims of trafficking, leaving out the male clients, the men and women who voluntarily work for the sex industry, as well as those women who involuntarily work for the sex industry, the police and other functionaries who directly or indirectly are involved in this international crime. Most policies leave untouched the sexual mores and the social, cultural and religious values of particular countries which promote or tolerate these types of crimes.

Within Latin America, the efforts are isolated and there is still not enough awareness of the magnitude of the problem, nor has there been sufficient analysis of the dynamics of the traffic in women and young girls within the region and between continents.

There are many questions that still need to be asked and addressed in order to implement effective antitrafficking initiatives. For example, the issue of male sexuality is often overlooked. Why do men want sex with a woman or child who does not voluntarily want to have sex with them? Why do women collaborate with men in this crime? Why do officials at all levels of government give such little importance to this social problem? Why doesn't the Catholic Church, which is so active against any effort at sexual education in our region, take a more forceful stance against this crime? What is the link between pornography and trafficking in women and children for the sex industry and prostitution? In our region at least, is there even such a thing as "consensual sex trafficking" or "migration for sex work?" Furthermore, at ILANUD, we believe that there must be more research on the impact of childhood sexual abuse before we can even begin to debate the issue of consent.

These are all questions that have to be addressed if we are to prevent this crime from spreading. We sincerely hope that each and every one of us will find the will to stop these atrocities.

This article is based on a report in

Spanish by Tatiana Cordero and myself for the Tenth United Nations Congress on Crime Prevention held in 2000 in Vienna, supporting the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The report was based on research carried out by the Women, Gender and Justice Program at the United Nations Latin American Institute for Crime Prevention (ILANUD) from 1990 to 1999 on crimes committed by women as well as on those crimes in which women are the majority of the victims.

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<sup>1</sup>Today it is called the Sub-Commission on the Promotion and Protection of Human Rights.

<sup>2</sup>From the draft of a research project including 14 American countries conducted by the Inter American Commission on Women and the International Human Rights Law Institute of DePaul University College of Law. The study has now been published.

<sup>3</sup>For example by reducing the problem to one of either/or. Either you approach the problem from a criminal justice perspective or a human rights perspective.

<sup>4</sup>Reports in Spanish of the research carried out in eleven countries. Unfortunately these reports were never published but they are found on the ILANUD website: www.ILANUD. <sup>5</sup>These data come from the sex workers' organizations and research on sexual exploitation in three cities in Ecuador, developed by the Women's Communication Workshop, 1999. <sup>6</sup>There are different typologies that are used to define the methods for structuring trade in sex. We have selected the one developed by Lucia Brussa (1991) since we feel that it takes into account its dynamics at the international level.

<sup>7</sup>Data from projects carried out by non-governmental organizations. See, Casas *et al.*; Brussa and Cordero 1992; Brussa 1993; Polonia.

<sup>8</sup>From notes compiled by ILANUD on interviews with 23 women in prison who had been trafficked. carried out in 1999.

<sup>9</sup>For instance, the Universal Declaration of Human Rights, 1948; American Declaration of the Rights and Duties of Man, 1948; American Convention on Human Rights (Pact of San José), 1969; Convention on the Elimination of All Forms of Discrimination Against Women, 1979; Additional Protocol to the American Convention on Human Rights on Matters of Economic, Social, and Cultural Rights (Pact of San Salvador), 1988.

<sup>10</sup>In particular, these include the Convention on the Elimination of All Forms of Discrimination against Women (Art. 6), the Convention on the Rights of the Child (Art. 34-36), and at the regional level, the Inter-American Convention to Prevent, Sanction, and Eradicate Violence Against Women (Convention of Belem do Pará) (Art. 2).

<sup>11</sup>The last meeting was held in the Netherlands in 1997: European Conference of NGO's for presentation to the Ministerial Conference of the European Union.

<sup>12</sup>Point 18 of the Vienna Declaration and Program of Action.

<sup>13</sup>Beijing Platform of Action, Strategic Objective D 3, paragraph 130.

<sup>14</sup>For these and other activities carried out by the U.N. bodies and agencies, see the Reports of the Secretary General to the Commission on Human Rights on the issue of Traffic in Women and Girls.

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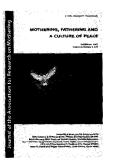
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