Complaints about Commercial Sexual Exploitation of Minors and sex crimes involving minors in Costa Rica: temporal and geographic trends in a ten year period according to government statistics

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Abstract

Local and international media have presented Costa Rica as a sexual tourism destination with a serious problem of commercial sexual exploitation of minors, nevertheless there are no scientific studies about the prevalence of such exploitation. To evaluate the problem I examined the data published by the Judiciary Branch of Costa Rica for the period 2001-2011. Despite the view presented in the media, according to official records there were only five legal complaints involving commercial sexual exploitation in the decade. Complaints about other illegal activities involving minors -that do not include commercial sexual exploitation- are also recorded and became less frequent in recent years (mainly Corruption), but there is an increase for Aggravated Procuring, Sex with Minors for Remuneration and –in some provinces- Aggravated Corruption and Human Trafficking. These trends can reflect real changes in crime rates, changes in the proportion of crime reporting, or other circumstances, but these options cannot be evaluated with available data. There were slightly more complaints from the two provinces where tourists are known to relate with sex workers but the pattern is unclear. Independently of the historical trend, rates are low (from 0.6 to 13 complaints for every 100 000 inhabitants). The frequency of commercial sexual exploitation complaints (mean: one every two years) does not match the attention given to the crime by mass media and the state, which apply the oppression paradigm without questioning its validity.

Introduction

For many years local and international media have presented Costa Rica as a sexual tourism destination with a serious problem of commercial sexual exploitation of minors, leading to legislation of 4-8 years of jail for people behind programs, campaigns or adds projecting the country as a tourist destination accessible for the commercial sexual
exploitation or prostitution of persons of any sex or age (Costa Rican Código Penal, Artículo 162 bis). This legislation was approved in a political context that is strongly supportive of the patriarchate (Chamorro-Calvo, 2002; Monge-Nájera, 2003). In a larger context, the position of the Costa Rican state has always been in line with what Weitzer (2012) calls the "oppression paradigm", a position of the religious right that has been reflected in biased sexual exploitation statistics used by the State Department in the USA as well as by conservative governments in other parts of the world (Weitzer, 2009; 2012).

Patriarchal legislation, originally uncontested, is still dominant and even international organizations apply it (e.g. PANI-UNICEF, 2009). However, in recent years it has been criticized by the scientific community and by some writers within the legal community, as well as by the people more directly involved, the sex workers themselves. In a series of books, Kempadoo and colleagues review a large mass of scientific literature concluding that the simplistic image used by legislators is inadequate (Kempadoo, Sanghera & Pattanaik, 2011).

The paradigm fails to reflect the variety of sexual activities associated with the exchange of money and other resources, in which forced prostitution and exploitation are not the rule, opposite to the view often presented in the media (Kempadoo & Doezema, 1998; Kempadoo, Sanghera & Pattanaik, 2011). The situation is similar in Costa Rica, where despite the stereotype, recent field studies concluded that women providing sexual services are mostly adults who chose that activity, not exploited minors or forced prostitutes (Monge-Nájera, Rojas, Morales & Ramírez, 2009; Monge-Nájera & Vega, 2011; Rivers-Moore, 2009, 2010, 2011, 2012, 2013).

The associated "doctrine of superior interest" has also been criticized from the legal point of view. According to Viola (2013), this doctrine, which considers that humans are “children” until one day before their 18th birthday, violates several principles, among them, the right of minors to construct their own judgments and manifest their opinion; and their right to progressive autonomy according to the development of their faculties. The position presented by Viola is supported by research too numerous to cite here but reviewed by Levine (2002). Furthermore, Couso (2009) wrote that the establishment of a particular age for sexual consent is inadequate, adding that there is a need to recognize the possibility of proving an “expression of autonomous sexuality” in those cases that lack evidence of coactions or manipulation of adolescents. This position is not reflected in any way in Costa Rican legislation, which is based exclusively on the superior interest doctrine. In fact, Costa Rican law defines a series of unlawful conducts that, according to Monge and Issa (1999), undermine freedom and the integrity of sexual determination, and in the case of minors, damages their psychosexual development and personal autonomy (Muñoz, 2002).

According to Couso (2009), the state exposes adolescents to stigmatization and unjustified criminalization by applying -without scientific justification- legislation that has unlimited intromission in youthful development, a position documented also by Levine (2002). Independently of their age, sex workers can be considered victims without personal autonomy, for example by the Coalition Against Trafficking in Women (Brunovskis & Surtees, 2010), or as a complex group ranging from free-will contractors to victims, as done for example by the Global Alliance Against Traffic in Women (Kempadoo & Doezema, 1998; Outshoorn, 2004). The complex group approach is taken in Costa Rica only by one ONG, La Sala (see Rivers-Moore, 2009).
Despite the prominent treatment given to commercial sexual exploitation in Costa Rica by the media (Monge-Nájera, Vega & Gonzalez-Lutz, 2013) and by the state (e.g. CONACOES, 2007), my search of the literature failed to find any scientific studies of complaints about sexual exploitation in the country. In this article I describe official statistics and test three clearly defined hypotheses: that there are more complaints in the two provinces associated with sexual tourism (i.e. the provinces of San José and Puntarenas, see Rivers-Moore, 2009); that the legal reforms and official campaigns have resulted in an increased number of complaints in the decade covered in this study, and that crime rates explain the importance given to this problem by local and international media, as well as by the Costa Rican state.

Methods

To test the hypothesis about provincial differences I tabulated complaints independently for each province and used rates per 100,000 inhabitants to correct for differences in population size among provinces. For the hypothesis of increasing number of complaints I separated data by year and considered a period of ten years, and to test the hypothesis about crime rates I compared the resulting rates with rates for other crimes from the same government statistics.

I examined the data published by the Statistics Section of the Planning Department of the Judiciary Branch of the Costa Rican Government (http://sitios.poder-judicial.go.cr/planificacion/Estadisticas/judiciales.html) for the period 2001-2011 as well as additional documentation kindly provided by the Section (Appendix 1). I found that the statistical data published by the government do not mention the sex or age of the victims and took this into account in the analysis. Graphs present trends that are statistically significant (Chi-Squared tests, p<0.05).

Legal descriptions and other regulations are from Sistema Costarricense de Información Jurídica (http://www.pgr.go.cr/Scij/index_pgr.asp, downloaded December 2013) (Appendix 2).

The activities punished by law are classified in five groups that I summarize here (for exact wording, see the original Code):

**Sexual Acts with Minors for Remuneration** (official Spanish name Actos sexuales remunerados con personas menores de edad): paying or promising to pay or provide economic advantage or some other kind of advantage to a minor for performing sexual or erotic acts. The original law referred to sexual relations and was later changed to sexual acts.

**Corruption of Minors** (Corrupción) refers to promoting corruption of minors and the incapable, or using them for that purpose in the presence of others. The acts refer to erotic, pornographic or obscene purposes, shows or exhibitions, public or private. A reform added perverse, premature or excessive sexual acts, even if the victim consents. Aggravated if done for profit and when the victim is under 13 years old.

**Procuring** (Proxenetismo): described as "to promote, induce or maintain" persons of either sex in prostitution. Considered Aggravated Procuring when the victim is under 18 years old.
**Pimping** (*Rufianería*): profiting financially from the sex work of another person as a lifestyle with coercion. Increased penalties if victim is under 18 years old.

**Human trafficking** (*Trata de personas*): promoting, facilitating or encouraging the international traffic of persons of either sex to do sexual activities. Exacerbated if victim is under 18 years old.

Strictly speaking, only pimping fits the idea of sexual exploitation according to the Oxford Dictionary definition ("the action or fact of treating someone unfairly in order to benefit from their work"), but after finding that there were only five cases in a decade, I decided to include any sexual activities involving minors that are considered as illegal by the state. This must be taken into account when analyzing the results.

**Results**

Complaint trends throughout the years appear in Figs. 1 and 2. There were only five complaints for Pimping (profiting financially from the sex work of another person) and thus they are not presented in the graphs.

Complaints for Corruption, including Aggravated Corruption (which is related to performing or witnessing sexual acts), have decreased in recent years all over Costa Rica. The exceptions are the provinces of San José and Puntarenas, where complaints have increased (See Fig. 1).

**Fig. 1.** Change in the number of complaints from 2001 through 2011 for Aggravated Corruption, Corruption, Procuring and Aggravated Procuring. The values are presented as complaints per 100 000 inhabitants to correct for population growth in each province.

Complaints about Procuring (profiting from the sexual activities of other persons) have also decreased in recent years throughout the country, with a small increase in 2011. Aggravated Procuring (minors involved) complaints tend to become more common in all provinces except Puntarenas, where they are declining (Fig. 1).

Complaints about paid Sexual Acts with Minors, and attempts of such acts (which were recorded separately in the government data), fluctuate widely with time but generally seem to be more frequent than in previous years (See Fig. 2).

Finally, Human Trafficking complaints have fluctuated greatly but after 2009 they have decreased everywhere except for the province of San José (Fig. 2). Unfortunately, official data do not mention how many of them involved minors.

**Fig. 2.** Change in the number of complaints from 2001 through 2011 for Sexual Acts with Minors for Remuneration, Attempt of Sexual Acts with Minors for Remuneration, and Human Trafficking. The values are presented as complaints per 100 000 inhabitants to correct for population growth in each province.

In conclusion, for the period 2001-2011 several sex related complaints tend to become less frequent, but there is an increase for Aggravated Procuring, Sex with Minors for Remuneration and -only for the province of San José- Aggravated Corruption and Human
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Trafficking. Independently of the historical trend, even the top complaint rates of the period are relatively low: they range from 0.6 to 13 cases for every 100 000 inhabitants (Figs. 1 and 2).

Discussion

The lack of previous studies about time trends in complaints about Commercial Sexual Exploitation of Minors - and other sex related crimes involving minors in Costa Rica - makes it difficult to compare the present findings. There are, of course, many on-line publications dealing with related subjects but I do not cite them because they do not fit scientific criteria, even when published by ONGs such as UNICEF and lesser known universities (see Outshoorn, 2004; Brunovskis & Surtees, 2010). There are, however, articles in some English language media and scientific journals about the situation in Europe and the USA. Davies (2009) wrote that the moral panic associated with sexual exploitation and trafficking results from the combined efforts of Evangelical Christians and right-wing feminists. The explosion of media reports in recent years may be a product of the growing reach of the Internet according to Clapton, Cree & Smith (2013). This right wing campaign also seems to be behind recent antigay legislation in Russia and some African countries, a campaign that can be considered an example of 21st Century moral panic (Milivojevic, & Pickering, 2013). Costa Rican media, religious organizations and the government appear to follow the example of their conservative counterparts in the USA and Europe: this can explain the Costa Rican attitude, campaigns and legislation in recent years.

The contrast between perception and reality probably results from the power of the media to shape public opinion against scientific evidence, as shown recently in the case of climate change (Brulle, Carmichael, & Jenkins, 2012). A good example of how prejudice is stronger than evidence in the media is the recent case in which the CNN reported that a crusader against the trafficking of girls for sex had invented key parts of her story (Martinez, 2014) and only a month later gave space to a religious representative who said: "I have spoken to several thousand women in prostitution, from over 12 nations in the last 14 years, and 99% of them hated this work" (Ehrlich, 2014), a statement obviously opposed to scientific evidence (see Kempadoo, & Doezema, 1998; Kempadoo, Sanghera, & Pattanaik, 2005; Rivers-Moore, 2013).

The fact that many complaint rates are decreasing with time may indicate, among other possibilities, that people are increasingly less likely to file complaints or, conversely, that these activities are becoming less frequent. The first option is unlikely because shortly before the beginning of my study period, the Costa Rican government started a well financed campaign in the national media asking people to denounce such activities (CONACOES, 2007). The other possibility is a real reduction in the number of acts punished by the law. In my experience as interviewer of sex workers, people are now afraid of having anything to do with minors because of the legislation. However, there are yet no formal studies on the subject and other options may exist.

I could not reject the hypothesis that there are more complaints in the two provinces where tourists look for sexual services according to Rivers-Moore (2009). However, complaints about aggravated procuring are declining in Puntarenas, one of the two provinces strongly associated with tourism, so there is no clear pattern.

One must also consider the exceptions, the small number of cases in which complaints
increased with time. These were Aggravated Procuring, Sexual Acts with Minors, and, in San José only, Human Trafficking. This may be related to the campaign (CONACOES, 2007) and resource availability but again only further study can provide a fact-based answer.

Complaints rates for Commercial Sexual Exploitation of Minors (often under 10 per 100 000 inhabitants) are low when compared with other crimes such as robbery (above 400 per 100 000 inhabitants: Dammert & Arias, 2007; Poder Judicial, 2012). Of course some crime types are not as serious as some sexual crimes and the importance of some of sexual crimes cannot be overstressed, but my hypothesis that rates match prominence in media and state is not supported by the official data.

Even if the real number of cases of commercial sexual exploitation of minors were many times the documented value of one every two years (average), the frequency of the problem is not correlated with what private and public organizations say and with the international image of Costa Rica. I have been unable to find any evidence for claims of “rampant sexual exploitation” but the evidence should be demanded from anyone making such claims. This is not unique for sexual exploitation, and has been found for Costa Rican criminality in general by previous authors such as Huhn (2008, 2009), Brunovskis & Surtees (2010) and Monge-Nájera & Vega (2012). According to Huhn, the dissemination of false images of criminality rates benefit some organizations and dominant sectors of Costa Rica society, who obtain financial and political benefits from public fear (Huhn, 2008; 2009) and this probably is also true in the case of sex crimes. Scientific findings, however, have little if any effect on the political establishment, public opinion and the media in Costa Rica (see Huhn, 2008; 2009). Similar conflicts among scientific knowledge, public perception and government policies have been reported elsewhere (e.g. Plunkett et al., 2002; Jiang & Sánchez-Barricarte, 2012).

There are organizations and private companies that profit from the belief that sexual exploitation of minors is a rampant problem in Costa Rica. ONGs receive donations, campaigns must be bought from agencies and space has to be paid for in electronic and printed media. I could not find any published data on how much money these organizations and companies receive in Costa Rica, but for comparison, in the recent case of Somaly Mam, her foundation received "millions of dollars", she was named CNN's Hero in 2007 and was among Time magazine's 100 Most Influential People of 2009 thanks to her false account of her victimization as a sexual slave (Martinez, 2014).

In the case of Costa Rica, there are no scientific studies about how many cases never reach the courts or, on the other hand, about how many complaints are filed against innocent people (89% of complaints do not result in conviction according to Poder Judicial, 2012), so my results only apply to the hypotheses I set from the beginning of the research about trends in government files.

The present results, like the government statistics, do not necessarily correspond to real frequency, do not consider that some of these "crimes" cannot withstand a critical analysis of their validity, and that in some cases the law itself can actually victimize the innocent (Monge & Issa, 1999; Couso, 2009; Viola, 2013). All of these ideas can be the subject of future research and this article provides a starting point for a better understanding of a previously unstudied phenomenon in Costa Rica and for improvements in law, enforcing and general policies. Furthermore, I hope this study will lead to more data-based research and policy development in Costa Rica and other Latin American countries where the
scarcity of valid information can have a negative effect on legislation, law enforcement and the victims themselves.

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References


and reporter gender. *Cuadernos de Investigación UNED*, 5(2), 325-331


**APPENDIX 1**

1. *Fiscalias 2001.xlsx*
   Cuadro nº 130 Entrada neta en las oficinas que integran el Ministerio Público según tipo de caso durante el 2001
   Cuadro nº 129 Casos penales entrados al sistema judicial según título del código penal y tipo de denuncia durante el periodo 1990-2001

2. *Fiscalias 2002.xlsx*
   Cuadro nº 130 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante 2002
   Cuadro nº 130-a Entrada neta en las oficinas que integran el Ministerio Público según tipo de caso durante 2002
   Cuadro nº 129 Casos penales entrados al sistema judicial según título del Código Penal y tipo de denuncia durante el periodo 1991-2002

3. *129-135 Fiscalías Penales.xlsx*
   Cuadro nº 135 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2003
   Cuadro nº 134 Entrada neta en las oficinas que integran el Ministerio Público según tipo de caso durante el 2003
   Cuadro nº 133 Casos penales entrados al sistema judicial según título del código penal y tipo de denuncia durante el periodo 1992-2003

4. *18- Fiscalías Penales adultos MP 151-158.xlsx*
   Cuadro nº 157 Entrada neta en las oficinas de San José que integran el Ministerio Público según tipo de caso durante el 2004
   Cuadro nº 158 entrada neta en las oficinas afuera de San José que integran el Ministerio Público según tipo de caso durante el 2004
   Cuadro nº 156 entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2004
   Cuadro nº 155 casos penales entrados al sistema judicial según título del código penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1995-2004

5. *12-Fiscalia Penal Adultos 98-105.xlsx*
   Cuadro nº 105 entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2005
   Cuadro nº 104 entrada neta en las oficinas que integran el Ministerio Público según tipo de caso durante el 2005
   Cuadro nº 103 casos penales entrados al sistema judicial según título del Código Penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1995-2005
6. **12-Fiscalías Penales Adultos (M.P.).xsl**
   Cuadro nº 107 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2006
   Cuadro nº 106 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2006
   Cuadro nº 105 casos penales entrados al sistema judicial según título del Código Penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1996-2006

7. **12-Fiscalías Penales Adultos  110-est-08 Cuadros 6-8.xsl**
   Cuadro nº 105 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2007
   Cuadro nº 106 Entrada neta en las oficinas que integran el Ministerio Público según tipo de caso durante el 2007
   Cuadro nº 107 Casos penales entrados al sistema judicial según título del Código Penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1997-2007

8. **MP Adultos 2008.xsl**
   Cuadro nº 6 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2008
   Cuadro nº 7 Entrada neta en las oficinas que integran el Ministerio Público o según tipo de caso durante el 2008
   Cuadro nº 8 Casos penales entrados al sistema judicial según título del Código Penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1998-2008

9. **Entrada neta 2009.xsl**
   Cuadro nº 2 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según tipo de caso durante el 2009 (materia penal adultos)
   Cuadro nº 1 (Materia penal adultos 2009)
   Cuadro nº 7 Casos penales entrados al Ministerio Público según título del Código penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1999-2009 (materia penal adultos)

10. **16-Fiscalías penales 2010.xsl**
    Cuadro nº 125 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según delito durante el 2010
    Cuadro nº 127 entrada neta en las oficinas que integran el Ministerio Público según título del código penal y delito durante el 2010 (materias penal adultos y penal juvenil)

11. **Fiscalías penal de adultos.xsl**
    Cuadro nº 6 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según delito denunciado durante el 2011
    Cuadro nº 7 Entrada neta en las oficinas que integran el Ministerio Público por circuito judicial según delito denunciado durante el 2011
    Cuadro nº 9 Casos penales entrados al ministerio público en materia penal de adultos, según título del Código Penal, infracciones a leyes especiales y tipo de denuncia durante el periodo 1998-2011

**APPENDIX 2**

**COSTA RICAN LAWS CITED IN THIS ARTICLE**

*Código Penal (CP), Título III sobre Delitos Sexuales.*

- *Actos sexuales remunerados con personas menores de edad (Artículo 160)*
- **Turismo sexual** (Artículo 162 bis) y (Artículo 168 bis)
- **Corrupción** (Artículo 167), **Corrupción agravada** (Artículo 168)
- **Proxenetismo** (Artículo 169) y **Proxenetismo agravado** (Artículo 170)
- **Rufianería** (Artículo 171)
- **Trata de personas** (Artículo 172)