

Fondation Scelles

Connaître, Comprendre, Combattre
l'Exploitation Sexuelle

Excerpt from the book:

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Cautionary note: The terms 'child prostitution' and 'prostituted children' are used in this text to denote children that are sexually exploited and sexually trafficked. The connotative manner in which these definitions are perceived and analyzed may differ due to linguistic, cultural, and perceptual differences.

GUATEMALA

	POPULATION 16,9 million		GDP PER CAPITA 4,471 USD
	POLITICAL SYSTEM Unitary State with a Presidential Regime		HUMAN DEVELOPMENT INDEX 125 th rank among 187 countries
	GENDER INEQUALITY INDEX 113 th rank among 147 countries		CORRUPTION PERCEPTIONS INDEX 143 rd rank among 180 countries

Guatemala is country of both origin and transit for human trafficking. These activities find fertile ground in the heart of a country afflicted by violence, poverty, corruption, and drug trafficking. Understanding the ins and outs of prostitution and sex trafficking in Guatemala requires studying both Guatemalan social structures and the country's contemporary history.

Following a civil war that lasted more than thirty years (1960-1996), Guatemala is going through a complex phase of post-conflict transition. This war pitted an American-influenced, authoritarian government against Marxist groups who wanted to put an end to a highly unequal and racist society. This social structure established itself ever since the Spanish colonization in the 16th century. To base their power, the colonizers created a caste system build on different ethnic groups. At the top of this hierarchy: the *criollos*, white people of European origin; then the *ladinos*,

indigenous people who assimilated the *criollo* culture; and finally, the *Mayas* or native populations. The *Mayas* were marginalized to the status of third class citizen, and their lands, which they saw as sacred, were confiscated by the Spanish colonizers. The colonists then created large estates, and monopolized political, social, and economic power. Territorial issues and racial inequalities played a decisive role in both the war outbreak war and the resulting violence (Hickey, 2013). This conflict has had a lasting impact on society by accustoming its population to violence and ethnic and gender inequalities.

It is in this context of decay that prostitution and human trafficking are continuing to develop. These phenomena particularly affect the most vulnerable people in Guatemalan society, that is, *Maya* women and street children. There are no official figures on the number of prostituted persons in Guatemala. Adult prostitution, before being legalized, had

always been tolerated. It was considered a "necessary evil" to protect the virtue of the "ladies" (Howell, May 2003). Furthermore, the country's legislation considers it impossible for a prostituted person to be raped, as violence is an integral part of her living conditions. Until 1906, single women convicted of "misconduct" could be sold to a brothel. Thus, prostitution is in line with a sexist dynamic and a patriarchal control of women.

Guatemala supplies national and international networks, notably to Mexico, the United States, and Belize (US Department of State, June 2017). The Guatemalan people are not the only victims of these criminal networks. Very young girls are targeted by these gangs and end up being exploited along the Mexican border. Government studies provide a better understanding of the functioning of these organizations and their recruitment methods (US Department of State, June 2017). Women have the role of attracting victims, whilst men are responsible for these networks.

Some NGOs, dedicated to defending children's rights, report alarming practices such as the sale of children to traffickers and owners of hotels for prostituted persons.

Violence and poverty in the heart of the Guatemalan prostitution system

Poverty and educational deficiency

According to the World Bank report, "despite a 3% growth rate, Guatemala is one of the few countries in the region where poverty increased between 2006 and 2014, from 51% to 59.3%." (World Bank, October 4, 2018). It is one of the most unequal countries in Latin America and has a very high poverty rate, particularly in rural areas and among indigenous peoples. In the most isolated villages, 80% of the population is bereft and lives either in

poverty or in extreme poverty. According to the *United Nations Development Programme* (UNDP), "a person lives in extreme poverty if he or she does not have the income necessary to satisfy essential nutritional needs - defined on the basis of a minimum calorie requirement [...]. A person lives in general poverty if he or she does not have sufficient income to satisfy basic non-nutritional needs - such as clothing, energy and housing - and nutritional needs" (*Études rurales*, 2001).

As poverty in the rest of the world declines, it continues to increase in Guatemala. The links between poverty and education are obviously very strong. If a child goes to school, he can no longer earn a living, and he incurs expenses for his parents. Very poor and extremely poor boys are forced to earn their living, however are paid very low wages. The girls interrupt their studies to relieve their mother by caring for their many brothers and sisters. Of course, primary school is free, but extracurricular costs, supplies, books, uniforms... put a strain on the family budget and doom the schooling of these children.

As studies go on, educational expenses increase. This has led to an increase of scholarships starting from middle schools. This augmentation was even higher in the case of professional courses, which, in addition to school fees, include additional costs (transport, accommodation, and food).

Change of attitudes is always a very long process, which requires financial means that are often prohibitive for the most vulnerable and marginalized populations. One father describes his very low income: "I'm a person who doesn't know about education, my father didn't have any money. I myself have no regular income; I often go to work away from my family, on the Pacific coast, or elsewhere, a month here, a month there. When I find a good

job, I buy schoolbooks. I struggle to earn about 40 quetzals a day (USD 5,24) to support seven people.”

The annual tax losses caused by corruption in Guatemala are estimated at 550 million US dollars (USD) (*El Periodico*, September 27, 2017). Children are the main victims: investment in educational programs amounts to less than a dollar a day per child. There is then a decrease in educational coverage and a worrying chronic malnutrition that continues to affect one in two children under 5 years of age. This "hidden hunger" affects children's health (delay in weight and height) as well as mental development, because it is connected with poor school performance if no treatment is undertaken before the age of two.

Institutionalised and integrated violence into social mechanisms

The phenomenon of prostitution is concomitant with violence, which is inherent to the political and social system. Prostitution and human trafficking develop in a region of the world that is characterized by its aggressiveness, especially towards women.

The brutalities of the civil war have had a profound and lasting impact on the country. Many anthropologists thus recognize the existence, for these populations, of a recurrent link between past conflicts and current tensions (*Garcia*, 2015).

For Guatemalans, violence has gone through three phases: “1) State terror (1980s); 2) waiting for agreements (1990s); 3) time for evaluations (2006)” (*Hébert*, May 2008). The first movement corresponds to the physical and material acts of violence committed. This conflict then institutionalized state violence, causing multiple massacres against the Maya people.

The second period corresponds to the signing of the peace agreements in 1996, which put an end to the context of extreme insecurity. Guatemalan representations of violence are changing and are gradually not limited to physical violence (*Hébert*, May 2008).

During the third phase, the post-war period, violence is gradually becoming a real political issue. There are two opposing speeches: one official, from the government, and the other, social, from the most marginalized groups.

An analysis of these perceptions and of the stakeholders is necessary, making it possible to better report instances of violence against women. Since the signing of the peace agreements in 1996, authorities have tried to impose, through political discourses and positions, a particular vision of violence. This vision is based on a moralistic approach, claiming that the phenomenon of violence results from individual failures, or a deviance of some individuals (*Hébert*, May 2008). This perception of violence thus reinforces the power of repressive agencies such as the police, the army, or even *las juntas de seguridad* (local militias). It also allows an entire ruling class to release itself from its responsibilities.

The second discourse, social and coming from marginalized populations, conveys the idea that violence in Guatemala is first and foremost systemic. The aim is to denounce the problems connected to an oligarchy which prevents the full expression of democracy. Violence is primarily seen as corruption of the State, organized crime, and nepotism, which generate economic problems, poverty, and authoritarianism.

Today, according to the *Institut national d'études démographiques* (INED), Guatemala is the fifth most violent country in the world among the nations that are not

currently at war. The rate of homicide (38 per 100,000 inhabitants) remains significantly above the average of the South American continent, which is 23 per 100,000 inhabitants (UNODC, March 2014). Impunity persists, with 98% of murder cases not investigated or closed (*Le Figaro*, September 1, 2011). This atmosphere of extreme violence is maintained by *Las maras*, which are local gangs specializing in drug trafficking, human trafficking, and fraud. The network of these criminal organizations extends to the United States, corrupting even the highest-level political spheres. Although this violence is widespread and institutionalized, it particularly affects certain groups, several studies conducted by researchers and NGOs showing that it exists mainly as discrimination, with the most affected populations being indigenous women and street children (Hickey, 2013).

In Guatemala, femicide (or the murder of women) takes several forms: intimate violence, when it concerns the current or former partner; “honor-killings,” which are committed by a member of the family, clan or group to which the victim belongs; or non-intimate, which explicitly affects a woman and involves one or more forms of sexual violence. These assaults, motivated by gender or ethnicity, were quite common during the 36 years of armed conflict. 88.7% of the victims of sexual attacks during the war were Maya women, and this left deep scars (*Revista Mexicana de Ciencias Políticas y Sociales*, September-December 2016).

Inadequacies in the Guatemalan legislative framework

Prostitution is legal in Guatemala if it is the result of an agreement between the sex buyer and the prostituted person. On the other hand, child prostitution, procuring, and sex tourism are condemned. The

regulatory system is therefore based on the consent of the prostituted person, who must be able to negotiate with the potential sex buyer, which presupposes equality of bargaining power. This situation obviously primarily benefits the sex buyers.

Facing the worrying increase in sex trafficking and the repeated appeals from the UN, Decree 09-2009 against sexual violence, exploitation, and human trafficking aims at “preventing, repressing, punishing, and eradicating sexual violence, exploitation, and human trafficking,” as well as taking care of, protecting, and compensating the victims of the damages suffered (CENADOJ). Thus, the *Secretaría contra violencia sexual, Explotación y Trata de personas* (SVET), was established for the prevention, management, prosecution, and punishment of crimes related to sexual violence, exploitation, and human trafficking.

In practice, few victims dare to file a complaint because of the threat of possible reprisals or the mistrust of the justice system¹. In 2017, the government identified 316 victims of human trafficking, compared to 484 in 2016 and 673 in 2015 (*US Department of State*, June 2018). The Guatemalan State investigated 254 reports of trafficking offences in 2017 compared to 243 in 2016 (*US Department of State*, June 2018).

These measures seem superficial and not very effective. In fact, while Guatemalan law requires that the victim be removed from their tormentors' vicinity, this remains difficult to apply due to the lack of specialized shelters. People placed in public institutions do not receive sufficient legal advice or sufficient protection protocol. In addition, the only women's only public shelter closed in December 2017, when only small budget cuts were announced.

Cases of sex trafficking are often brought late to the attention of judges, which complicates access to support services. Some underage victims placed with their families fall back into trafficking. In addition, family members are often involved in these criminal networks (*US Department of State*, June 2018).

While authorities have encouraged victims to participate in the conviction of traffickers by giving them the opportunity to testify anonymously, victims residing in government facilities have not been able to benefit from adequate legal support or witness protection.

Assistance to victims of sexual exploitation

The Guatemalan State has reduced its efforts to identify and protect victims by offloading some of its victim assistance responsibilities to specialized NGOs. The NGOs managing shelters have expressed concerns regarding their ability to meet the specific needs of victims. This situation often leads to victims being trapped by traffickers or trafficking networks once more.

SVET has provided training in various Mayan dialects and has continued the implementation of the inter-institutional protocol, initiated in 2016, for the protection of victims of trafficking. Three shelters managed by Government have been set up, sheltering 89 victims of human trafficking in 2017 (80 girls, seven boys, and two women), compared to 77 in 2016. An amount of GTQ 17.6 million (USD 2.3 million) were allocated to these three governmental shelters. Of the 316 identified victims of human trafficking in 2017, 292 were children and 24 were adults. NGOs also host and provide services to 127 victims of trafficking, including victims of trafficking for sexual purposes and forced labor (*US Department*

of State, June 2018). However, assistance to victims remains insufficient and incomplete, when it comes to government shelters.

Social workers, judges, and law enforcement agencies have at their disposal an agenda containing a list of useful contacts (resource people, etc.) and a manual to facilitate the protection of victims. While the transmission of information is facilitated, essential acts for the protection of victims are not or no longer provided by the government.

Child prostitution

The development of child prostitution is a phenomenon that is increasingly worrying defenders of children's rights, notably *ECPAT International* and *UNICEF*. Child sex tourism has expanded throughout South America. The number of visitors has quadrupled since 1980 (*Actu Latino*, May 13, 2016).

The main destinations for child sex tourism have now changed. Awareness campaigns against child prostitution and the end of impunity for these crimes have allowed countries such as Thailand and the Philippines to no longer be among the favourite destinations for sex tourism. Thus, these sex tourists have turned to other destinations, such as Guatemala, which guarantee them total impunity.

The country has set up state entities to protect people and combat sexual violence. The resources allocated to these missions are insufficient for a phenomenon of this magnitude.

In Guatemala, street children are a particularly vulnerable and marginalized population. Guatemalans have a very low opinion of street children and there is a lack of social services assistance for these children. Every year, cases of abuse in shelters break.

In March 2017, the case of the *Hogar Seguro Virgen de la Asuncion* shelter caused a particular scandal in Guatemala. Located

10 kilometers east of the capital, this governmental shelter had a capacity of 400 people, but was actually accommodating 700 and had serious managerial problems. This overcrowding had an impact on the living conditions of children. Therefore, the Guatemalan authorities have repeatedly called on the managers to improve their services and care. In addition, serious dysfunctional elements had been reported: unhealthy food, mistreatment, and the sexual abuse of some young girls. On March 7th, 2017, a group of young girls who had been victims of mistreatment, sexual violence, and humiliation decided to flee the shelter. That same evening, they were arrested by the police and brought back to the center. In retaliation for their escape, they were locked up all night in a 16m² room, deprived of food and access to toilets. On the morning of March 8th, the girls decided to set fire to the mattresses to protest against their imprisonment conditions and, thus, obtain release. No one helped them and the 46 young girls were burned alive (*US Department of State*, June 2017).

Prosecutors stressed the lack of adequate protection options for adult victims. The shelter had already been the subject of an investigation conducted by the UN concerning its difficulties in its activities management. Allegations of corruption and sexual exploitation had even been made. The tragic event that occurred within the establishment provoked rage from the Guatemalan people, who expressed indignation and hostility towards the government in power. A few days after the fire, the Secretary of State for Social Welfare, the undersecretary, and the director of the institution were arrested and charged with homicide, breach of official duty, and violence against minors. In all, seven government officials were prosecuted for abuse of power, neglect of their duties,

and maltreatment of minors (*US Department of State*, June 2018). The shelter was closed down and three national days of mourning were decreed.

Following this tragedy, Guatemalan President Jimmy Morales called for a restructuring of the country's housing system. The government released a new Action Plan for the Protection for Children and Adolescents 2017-2032, which aims to protect victims of trafficking and children placed in public institutions (*US Department of State*, June 2018).

Health and prostitution

In the poorest and most violent districts, prostitution is one of the most important resources of the *maras* (gangs). This international trade is prospering because the main stakeholders, who are also involved in drug trafficking, have friends in high places, such as influential politicians and powerful businessmen.

The health of the poorest girls is directly affected by these activities. Children are the primary victims of drugs. Young people consume crack and opiates from the age of 12-13. To finance their daily dosage, this fragile population has to engage in prostitution.

According to *UNAIDS*, the rate of HIV/AIDS is not a public health problem of primary concern in Guatemala. In 2016, there were on average in the country, 46,000 HIV-positive people, of whom 2,900 were newly infected, and 1,600 deaths connected to the disease. Only 36% have access to antiretroviral therapy.

In Guatemala, the phenomenon of teen pregnancies is very worrying. According to Myrna Montenegro, director of the *Observatorio en Salud Sexual y Reproductiva* (OSAR), the banalization of this phenomenon is the result of child prostitution, gender inequality, and violence

against women in Guatemala. According to SVET, since January 2017, 472 girls under 14 were pregnant. However, the director of OSAR denounces a manipulation of the numbers as, according to her, the statistics should be revised upwards: “[there is] A false decrease in the number of teen pregnancies because of inadequate methods of counting. Every eight hours at least one child becomes a mother in Guatemala before her 15th birthday. This is a shocking figure, but the reality could be much worse, indeed, because the data has been being skewed since 2012”. Myrna Montenegro is conducting a campaign for medical care for these young girls. According to her, it is essential that Guatemala recognizes these teen pregnancies as both a social and a public health problem.

In conclusion, Guatemalan authorities are not concerned about prostitution. Although laws to combat these crimes have been established, very few resources have been allocated to ensure their effective implementation.

Moreover, prostitution and sex trafficking are only symptoms of deeper political, economic, and socio-educational dysfunctions. The phenomenon of prostitution remains taboo in Guatemalan society. It is also intrinsic to the system of violence, which is specific to Latin American countries.

Today, it appears urgent to truly implement a policy of protection and assistance to victims with the opening of many shelters, the establishment of a removal protocol for victims in danger, and, finally, assistance for the professional reintegration of these populations in extreme vulnerability.

In regards to child prostitution, the implementation of the Code of Conduct (*The Code*) enables all stakeholders of the tourism, hotel, and transport sectors to

mobilize against sexual exploitation in the travel industry, an initiative proposed worldwide by *ECPAT International* to combat child prostitution.

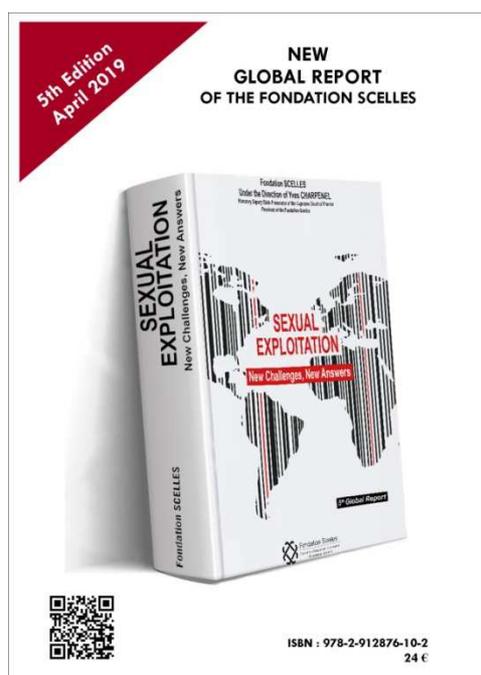
All these measures must put an end to impunity, but also contribute to raising awareness of sexual violence and gender inequalities.

¹ See chapter « Guatemala », in : Fondation Scelles, Charpenel Y. (under the direction of), *Sexual exploitation – A growing menace (3rd Global Report)*, Ed. Economica, Paris, 2013.

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The **Global Report** is produced by the **International Observatory on Sexual Exploitation**, in collaboration with internal and external experts (magistrates, lawyers, social workers, NGO leaders...), and the support of local NGO correspondents or international researchers.



The **Fondation Jean et Jeanne Scelles**, recognized as a public utility since 1994 and as a consultative status with ECOSOC, is an independent, non-profit organization based in Paris (France) dedicated to fight the system of prostitution and the exploitation of prostituted persons, through information, analysis, advocacy, trainings, awareness initiatives and legal actions. The **Fondation Jean et Jeanne Scelles** is a co-founding member of the Coalition for the Abolition of Prostitution (CAP International) which was launched in 2013 and today brings together 28 abolitionist NGOs from 22 countries.

The **International Observatory on Sexual Exploitation** (Observatoire international de l'exploitation sexuelle) is a worldwide hub which allows for information exchange on the system of prostitution. The hub is regularly consulted by French and foreign experts including NGOs, institutions, journalists, lawyers, researchers and those involved in the defense of human rights. The goals of the **International Observatory on Sexual Exploitation** are:

- to analyze all the aspects of the phenomenon: prostitution, sex tourism, procurement, child pornography, sex buyers, human trafficking for the purpose of commercial sexual exploitation...
- to encourage reflection and to take a stand
- to inform the public who are interested in these issues

CONTACT

Sandra AYAD, Head of the International Observatory on Sexual Exploitation
sandra.ayad@fondationscelles.org

14 rue Mondétour
 75001 Paris - France



www.fondationscelles.org
 Tw: @Fond_Scelles
 Fb: @FondationScelles