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## VIOLATION

OF THE CITIZEN SECURITY RIGHT BY SEX WORKERS DUE TO LACK OF LEGAL REGULATIONS

### **VULNERACIÓN AL DERECHO DE SEGURIDAD CIUDADANA POR PARTE DE TRABAJADORAS SEXUALES POR FALTA DE NORMATIVA LEGAL**

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#### ABSTRACT

In the center of the City of Riobamba a historical reference is located, such as the railway station, known as Plaza Alfaro. Many tourists visit it daily. The activities of residents, owners of commercial premises and passers-by unfold amid uncertainty, shameless behavior and fear of the presence of sex workers, who occupy public spaces until late at night, a view of police authorities, who are powerless to act, as there is no municipal order regulating this activity. Situation that threatens the image of the historic center of the city and the most serious thing is that it violates the security right of the residents of the sector.

**Keywords:** Law, ordinance, prostitution, conduct.

#### RESUMEN

En el centro de la Ciudad de Riobamba se encuentra ubicado un referente histórico como es la estación del ferrocarril, conocida como plaza Alfaro; visitado diariamente por muchos turistas, las actividades de los moradores, propietarios de locales comerciales y transeúntes se desenvuelven en medio de la incertidumbre, la conducta impúdica y el temor por la presencia de trabajadoras sexuales, quienes ocupan el espacio público hasta altas horas de la noche, a vista de autoridades policiales, quienes se ven impotentes de actuar, al no existir una ordenanza municipal que regule esta actividad; situación que atenta contra la imagen del centro histórico de la ciudad y lo más grave, es que violenta el derecho de seguridad que tienen los moradores del sector.

**Palabras clave:** Derecho, ordenanza, prostitución, conducta.

## INTRODUCTION

In the Canton Riobamba, County of Chimborazo in the traditional Neighborhood, the Station located in the center of the City, considered a tourist icon for the historical presence of a relating one as it is the Station of the Railroad; placed where the activities of the residents, proprietors of local commercial and pedestrians are unwrapped amid uncertainty and the fear by the presence of sexual workers who exercise the oldest work in the world, the prostitution; at least a dozen of sexual workers are exhibited to a side of the square Alfaro until high hours of the night; it is necessary to point out that in the sector, a carp of the National Police exists, however that doesn't prevent the ladies of the night to occupy in an illegal and arbitrary way the public space, remaining and exercising its work with total normality, because the police members cannot act for the lack of a municipal ordinance. That referred attentive against the good name of a sector of a lot of historical tradition, creating civic insecurity and the most serious thing attempting a primordial aspect as it is the Right of Civic Security that all who visit, work and inhabit the place.

The present investigation is a thematic very important to analyze, taking into consideration that we should leave of the knowledge of all the edges that generates this problem. Not having an ordinance that regulates the sexual work inside a tourist sector of the city and that made as these they happen in the City, it is inconceivable. It is a reality that all the inhabitants of the Ecuadorian territory have right to exercise activities that allow us to generate resources for our subsistence; nevertheless, places of tolerance located in strategic areas for those who are devoted to this activity type, the holes exist, they are in areas that the citizens are not affected in the free circulation, and they can exercise their activities with total normality, being respected this way their Right to the civic security; they also exist a continuous control of the authorities of health and of Police's General Intendency, situation that the station doesn't happen in the neighborhood; for what becomes necessary to create an ordinance that regulates the activity before signal.

## DEVELOPMENT

The term prostitution comes from Latin prostituere that means literally to exhibit for the sale" (Trejo García & Álvarez Rosemary, 2007) understands each other for prostitution the act of participating in sexual activities in exchange for money or goods. The term generic employee to refer to who exercises as a prostitute, it is considered as the oldest profession in the world, because it appeared in the third millennium before Christ in Babylon, because, all the women had the obligation at least once in life, of

going to the sanctuary of Militta (the Greek Aphrodite) to practice sex with a foreigner as sample of hospitality, in exchange for a symbolic payment. (Martos Montiel, 2015) In the classic Greece, the prostitution was practiced as much for women as for young men and it is believed that it was in the old Athens where the first brothel settled down, in the VI century B.C., as local of business being a service that was equal to the half wage of one day. In the old Egypt, some women, not always prostitutes, well-known as felatrices, they put on makeup the lips of a certain color to give to know their inclination for this practice. In the century IX, Great Carlo ordered the closing of all the establishments where the women were allowed to have promiscuous sexual relationships and it prepared the exile of the prostitutes, but given the great corruption that existed, the legal measures were innocuous.

In the XVI century so that a youth can enter in a public house of prostitution, she had to credit with documents before the judge of her neighborhood to be older than twelve years, to have lost the virginity, to be orphan or to have been abandoned by the family, whenever this was not noble.

To rope mentioned in Cow (1956), affirms that the prostitution is previous to the monogamy and to all the systems of social economy". it is considered that, from the appearance of the republic in 1830, such an activity was considered a since taboo, the Catholic religious moral was dominant in Ecuador. This way, those then prostitutes were taken to centers belonging to the religion considered as reformatories, it stops this way to try to reform them morally and that they stop to practice the prostitution. To the half of the XX century, in the year of 1950 the industrial revolution is given that step to the separation of the church and state (Ayala, 2008).

The project of Garciano tries to implement the Christian moralization, the control and regulation, especially for matters of hygiene and public health; although it has been exhorted to a regulation regarding the houses where the sexual work was offered, the true regulation at juridical level began to be given starting from the year 1921, with the promulgation of the Regulation of Venereal Prevention in the city of I Remove, same that tried of taking a medical guide and of health in connection with the exercise of the social work, the best form that was to carry out this control consisted on the obligation that each worker carried her sanitary identification, in the one that registered if the worker had or not well-known infections of sexual transmission to the time, trying to institutionalize a severe control on the venereal illnesses, when being forced each worker to revisions and weekly exams.

The prostitution is considered as a problem of public order, since one in the ways of modern slavery embraces and should treat it as a social problem whose reaches not even suspect, in which there are exploited victims and executioners that enrich to its coast. The beginnings of labor relationships that embrace women in a variety of commercial establishments consecrated to the masculine leisure, show the municipal environment as one of the few appropriate places to investigate on the world of the work of the women in the XIX century. Once they allow to spin details of their experiences.

In the year 2005 in the City of Barcelona, Spain, the first municipal ordinance of "coexistence" is approved that it regulates the sexual work and it sanctions it. In the later years, ordinances are approved in most of the very similar cases with the objective supposition of preserving the public space and the civic coexistence, criminalizing this way the sexual work in the streets. The oldest work in the world is not legal for cases of proxenetism neither it tries, because it carries tickets according to the Law of Civic Security; they exist three brothels at least for each public hospital.

The Room of the Contentious thing of the Superior Tribunal of Justice of Balearic has forced to a club of it alternates from Formentera to give Social Security to the women that work in sexual works, obtaining of it a variable retribution to the services that offered of accompaniment, but it was determined in the sentence that when there was sex labor, relationship didn't exist.

In our country it is common to observe attractive women, with adjusted and provocative gears, walking slowly on the sidewalk, they are sex servants of different nationalities; Ecuadorian, Colombian, of the Dominican Republic and Venezuelan, these last ones conform to the great majority. The women work in hours of the night, its way of negotiating is in the public road, where they agree a value with some client and then they go aboard in its vehicle to go to some housing, motel or hotel; in the last six months, the owners of night clubs have noticed a bassoon in their clientele, the reason assures then that is the increment of sexual servants in the streets and secret places.

The secrecy is a problem, the sexual workers don't have the corresponding controls of health that it enables them to exercise the prostitution, putting in danger to their users who have the risk of being contagious of some venereal illness, paying remiss attention to that prepared in the Art. 130 of the Organic Law of Health (Ecuador. National Congress, 2006) that it prepares that the establishments subject to sanitary control for their operation will have the permission granted by the national sanitary authority.

The operation permission will have validity of one year calendar".

In the city of I Remove the Ordinance 031 indicates that the houses of tolerance can be located and the sexual work to be exercised in industrial sectors of the city. They are prohibited in places like the Historical Center, The Marshal and the former-airport. The prostitution is a daily reality, where different sectors of the city are scenario of this work. The municipal authorities try to solve this social problem for several years, but the results have been scarce until the moment. The sexual workers say that they are not opposed to a relocation, but they request respect to their occupation and worthy work places (The Telegraph, 2016).

The security is a state where the dangers and the conditions that can cause damages of physical, psychological or material order, are controlled to preserve the health, the well-being of the individuals and the community. It is an indispensable resource for the daily life that allows the individual and the community to carry out their aspirations (García Ortega, 2019).

The human rights in their Art. 22 apparent that all person, as member of the society, has right to the social security, and to obtain, by means of the national effort and the international cooperation, had bill of the organization and the resources of each State, the satisfaction of the economic, social and cultural rights, indispensable to her dignity and the free development of her personality". (Organization of the United Nations, 2015)

The Constitution of the Republic of Ecuador (Constituent National Assembly, 2008) in the Art. 34, apparent: The right to the social security is a right of all people, and it will be duty and primordial responsibility of the State. The social security will be governed by the principles of solidarity, obligatoriness, universality, justness, efficiency, subsidiarity, sufficiency, transparency and participation, for the attention of the individual and collective necessities.

The State will guarantee and make effective the full exercise of the right to the social security that includes people that not carry out work remunerated in homes, activities for the care sustenance in the field, all form of autonomous work and to those who are in unemployment situation (Ecuador. Constituent National Assembly, 2008).

The social security for Sánchez Castañeda & Moral Ramírez (2014), is the integrated action that develops the State, with the collaboration of the citizenship and of other organizations of public interest, dedicated to assure their coexistence and peaceful development, the erradicación of the violence, the peaceful use and ordinate of roads and

of public spaces and, in general, to avoid the commission of crimes and lacks against people and their goods.

The National Police is a professional and technical Institution. It depends on Government's Ministry, with administrative and financial autonomy, constituted under the disciplinary and centralized hierarchical system. Their fundamental mission is to guarantee the internal order and the individual and social security (Ecuador. National Congress, 1998).

Among their main functions we can mention that it is to maintain the peace, the order and the public security, to prevent the commission of crimes, to assure a peaceful coexistence of the inhabitants inside the national territory, to cooperate with the administration of justice through the Police Judicial and other police services, to guarantee the rights of people and the protection of their goods, especially those of the minor, the woman and the family, among several functions more consecrated in the Constitution of the Republic, in the laws and in the international treaties ratified by the Ecuadorian constitution and other determined in the Law.

The National Police is subordinated to Government's Ministry and directed from the General Command, under which the districts are and under these, the circuits and subcircuits. The subcircuits are the territorial instances, calculated by hours of patrolling where it works the police of vicinity or Community Police. Some 2.021 Units of Community Police are calculated, among those fully equipped and those that in the middle of operation are not still. They also exist elite bodies that are administratively subordinated to the General Command, although operationally they depend on the districts.

The tourist security is another of the big services that offers this police entity, that which makes in cooperation with the Ministry of the Interior, for the institutional invigoration, granting from that way to the administration of Tourist Security formed by individuals of the National Police.

Their work has settled down with the purpose of being a preventive administration and of well-being for the travelers, the same as a piece of care of its problems. It is very useful as for preventive patrolling routes in places where there is a great flow of visitors. Likewise, interrelation with national visitors and foreigners to avoid and to guide what they have in their visit, guaranteeing their security.

Knowing the arduous work that they carries out, the police body is pertinent to manifest that, when they are carrying out operative of control in the area and in their presence, they can observe to the sex servants offering the service, the National Police cannot carry out any detention, since in

Ecuador and specifically speaking in the city of Riobamba, a legal normative doesn't exist that support so that they can make their work with normality, it is also known that the sexual workers know exactly what they should say if it is that some uniformed of the Police Preposition.

The term ordinance comes from the word "order", it refers to a command that has been emitted by who possesses the imperium to demand its execution. For that reason, the term ordinance also means legal command". The ordinance is emitted by the authority that has the power or the ability to demand its execution (Cambric Hernández, Ortiz Aguilar & Estupiñán Ricardo, 2017).

Ordinance is a disposition or command. The term is used to name to the type of artificial norm that is part of a regulation and that it is subordinate to a law. The ordinance is emitted by the authority that has the power or the ability to demand its execution. In accordance with the juridical classification in question, the ordinance receives different names (Pérez Behaves & Merino, 2016).

The word ordinance like a rule or law settled down in an organization or community for the regulation and control of this, once it is approved or foreseen by a superior authority. The maximum authority, a legislation or some other government entity, the control degree that the ordinances can exercise settle down generally, for what one can affirm then that the ordinances are subordinated to the law. The ordinances can be established by corporate entities, an association of neighbors, and depending on the jurisdiction, the municipality (Pérez Behaves & Merino, 2016).

It is shared the different conceptions on the ordinance, trials of value that affirm that only a competent authority has the imperium of emitting an ordinance, for that which should be in some legal disposition in that, it should consist on the supposition in fact and its sanction. Different ordinance types exist, those that are detailed next:

**Civil ordinance:** It is that mainly is used for the local administration.

The municipal ordinance is what dictates the maximum authority of a municipality, of a city council, that is to say, the mayor, municipal government's boss, being valid the same one only inside the municipality or commune in question, that is to say, outside of the validity if it is that in another place it has not promulgated it to him with the same reach.

The provincial ordinance is that will only have reach in the county in which has been emitted.

The presidential or also well-known ordinance as presidential ordinance are dispositions dictated by the president of the Republic, being the administrator of the operations of the legislative powers of a country, taking into consideration that these ordinances are subject to revision on the part of their assemblymen.

**Military ordinance:** It is that emanates directly of a competent military authority with the objective of regulating the activity and the régime of the troops.

The ordinances are of strict execution for people that live in the town like of those that arrive of out. It is approved and decreed by the competent authority. It can be proposed at the request of the mayor, councilmen or citizens' group.

The objective is to help to regulate and to order the areas of risks in the communities and neighborhoods to diminish the population's vulnerability, the probable damages to the infrastructure and to improve the conditions of the population's life.

It is an instrument for the local development, since it allows to regulate the areas of risk, as well as to have sanctions to who generate conditions of risk. It contributes to share the administration of the risk, defining lists among the different local actors.

On the other hand, the areas of Tolerance or pink areas are those dedicated to the leisure, that is to say, the areas where they usually concéntrate, the discos, bars and similar places of amusement. For the prostitution areas, the euphemism of neighborhoods of tolerance used to " that was only abbreviated with "neighborhood" that already a lot of people understood maliciously to what is referred (areas of the cities or towns where they used to concentrate brothels or brothels). The brothels, some of which usually combine her activity with the presentation of shows of strep trase", they receive the vulgar denomination of "chongos" (Villacrés, 2009).

For the opening of the centers of tolerance, it should be fulfilled certain legal requirements, reason for the one which, a control regulation is emitted with the intervention of General Intendants, Commissaries of Police where an Agreement Ministerial Number is emitted 6987, with official registration 758 of May 19, 2016 at the moment in validity.

Regarding the operation permits classified in the Chapter I (operation Permits of local and establishments) according to the Art. 9, they are the centers of tolerance to those that is defined as the establishments of category 1, amusement for adults that are related with activities of sexual character, in which one will be able to sell and to

consume alcoholic drinks, they exist two different schedules: the schedule of operation of the centers of tolerance understood from Monday to Saturdays, from 11h00 up to 20h00. And the schedule of operation of the night centers of tolerance is from Monday to Thursday from 16h00 o'clock up to 24h00 o'clock; and Friday and Saturday from 16h00 o'clock up to 02h00. (Ecuador. Ministry of the Interior, 2019).

The operation permission will be filled via online in the page of the Ministry of the Interior for that which should necessarily create a bill with a countersign, offering all personal information that requires, the value that should be canceled for the opening of the centers of tolerance it is of \$499.88 annual dollars, the same one that will be deposited to the bill of the (ARCSA)". Later request the inspection schedule that will be granted by the Municipality, emitting directly to the Intendency, in which consists the place where anger to work or permission of floor use commonly call, the sexual workers should have the certificate of occupational health that enables them the exercise of this activity conferred by the Ministry of Public Health, and finally the operation permission granted by the Body of firemen". (Ecuador. Ministry of the Interior, 2018)

In this respect, The Times newspaper (2002), considers that the areas of tolerance will only be allowed in the areas of trade activity and services, and they are prohibited in their entirety in residential sectors and subjected places to urban renovation, conservation and integral improvement".

If we speak of the history of the Railroad, it is intimately bound to Riobamba and the indefatigable fight of their inhabitants so, that the City was part of the system. Gabriel García Moreno expresident from Ecuador provided the rule for the beginning of the work in 1873, Yaguachi. In the year 1900 a document was decreed in which affirmed that the strong line Guayaquil - I remove by the City of Riobamba. But 24 years passed so that such an ordinance was executed.

It was as well as, in the year of 1902 the line of Huigra, Sibambe and Alausí, with the step of the devil's famous Nose for the year of 1903 the strong line was placed until Guamote. It is there where the ordinance of the route should continue for Barleys, and made it for Cajabamba.

The Riobambeños pressed the current president in that time Lizardo García Sorrosa, so that they gave execution of the yearning of the City. It was then in September, 1905 like it reports the investigation on the topic presented in the book Riobamba in the XX century", a contract is signed with Archer Harman, in which settles down that to more to take in 2 months should be transferred to Riobamba: the

station of Colta, the shops of Durán and all the main offices of administration; it also determines that the ordinary or expressed trains, of passengers or of load, they would go by Riobamba.

Harman consults to the governor Carlos Larrea, if the City is willing to endow of lands and pipe of conduction of water for the building of offices and the shops. Although the answer is affirmative, the offers neither were summed up.

This dissatisfaction of the riobambeños is capitalized by Eloy Alfaro who meets with military of the City and he plans a military blow. The city explodes to beginnings of 1906 and with low riobambeñas, Alfaro achieves its intent in the Battle of The Chasqui on January 15.

In September of the same year, Alfaro completes its word and celebrates another provisional contract, in this, the construction of the line is instituted between San Juan Boy and Riobamba. But, the time passes, the locomotive arrives (1908) and Riobamba continues without railroad.

Before nonfulfillments, in 1915, it was formed an organization pro-rectification of the strong line, presided over by Pacific Villagómez. This group makes contact with senators and deputies to achieve another ordinance more, which prepared to build the rectification line and new funds were assigned. The president Square put the one executes on October 6, 1915. But, the papers were in that.

Two years later the president Baquerizo Moreno makes the definitive decision and on July 7, 1918 finally begin the works that conclude in July, 1924. Archer Harman finally accepted to lift the parallel ones from the brunch to Luisa. It also begins to complete other offers like the construction of the new rail station.

Without place to doubt the City of Riobamba is a very guessed right tourist destination and ideal for the trip in train. Their journey offers an unforgettable experience when trafficking for majestic landscapes tinged with culture and nature. It is a tourist attractiveness for national and foreign tourists that enjoy the trip when observing the variety of climates and present culture in each season.

The station of the train in the City of Riobamba county of Chimborazo is in operation from the year 2012 where tourists request products that are marketed in the station with the purpose of being taken to more than the satisfaction of the trip, a representative memory.

The attractiveness that we can find inside the station are: machineries of the old and modern train to the time, center of interpretation of the train, trades handmade of the train and lastly the cafeteria. In certain occasions one has

the presence of dancers who represent our culture and they dance for the tourists.

To more than being a representative economic source, the visit of tourists to our station of the train is a public and tourist space that represents us, there is also the importance of preserving it under excellent conditions and because not to tell it offering a neat image of a learned and respectable society.

It is recognized as municipality to the administrative entity of local level that is constituted for population, territory and consequently the public powers. It is therefore a medical entity inside the State that possesses autonomy so much government as administrative whose function is the one of to negotiate and to guarantee the interests of a population in particular. "The municipality, also, possesses government's local, called Mayor's office organ, constituted by the mayor, maximum local executive authority, and a municipal town council, integrated by councilmen, which govern and administer the municipality, and they are chosen periodically through popular elections to represent the interests of its citizens". (Significados.com, 2020)

In Ecuador, the municipal ordinances are all normative ones created and emitted by the Municipal Town council of a Municipal Decentralized Autonomous Government that is related to topics of general interest for the population whose application and execution is of obligatory character for the citizens of Canton. The municipal ordinances are dictated by the maximum authority of Canton and approved by the members of the Municipal Town council, being held to what the laws and the effective juridical mark.

The general objective, of the investigation work is to demonstrate that the inappropriate location that the sexual workers are attributed rebounds in the respect or execution to the right of civic security, with the residents of the Neighborhood, the Station, merchants, and national and international tourists, by means of the creation of ordinance's model that regulates this problem.

## CONCLUSIONS

Along the time, the sexual work has been considered one of the oldest that has not been normed a lack of ordinances that regulates the same one, existing this way until the present time; the societies have gone respecting it, but not accepting it since it is still a taboo and more if it is in downtown offering an unpleasant show, visible to all the people that cohabit their environment.

It is important the normative at world level, because thanks to the same one, the human behavior is regulated, and to

this problem we cannot pay remiss attention, therefore, the municipal ordinance is the base for future proposals at national level about the outlined problem.

The citizen's concern and many of people that inhabit this traditional sector of the City are those with the presence of the street prostitution that brings also it to the residents, proprietors of local commercial and pedestrians are unwrapped amid the uncertainty and the fear that carries this problem.

The sexual work is a palpable problem inside the riobambena society, since it continues being an activity that is not forbidden inside the Constitution of the Republic of Ecuador, neither carries in legal holes, taking into consideration that parameters have not settled down to guarantee their rights in the labor environment, it is for that reason, this situation should be regulated.

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