

Assisting children victims of human trafficking before regional and domestic courts: a practitioner's perspective.

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ATENCIÓN HUMANITARIA

INDEX:

1. Legal ethics for practising attorneys
2. Legal framework for the protection of minors victims of Human trafficking. Minors best interest
3. Legal practise in Spain: what, why, where, when
4. Main challenges and obstacles to legal intervention towards the Spanish Judicial System



LEGAL ETHICS. STARTING POINT

- Social practise of the legal profession
- Rule of law
- Legal integrity, due diligence
- Non disclosure, secrecy

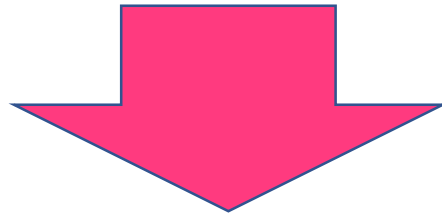


**BUILDING TRUST FOR THE
DEFENSE OF HUMAN RIGHTS**



HUMAN TRAFFICKING: HUMAN RIGHTS' VIOLATION. MINORS BEST INTEREST

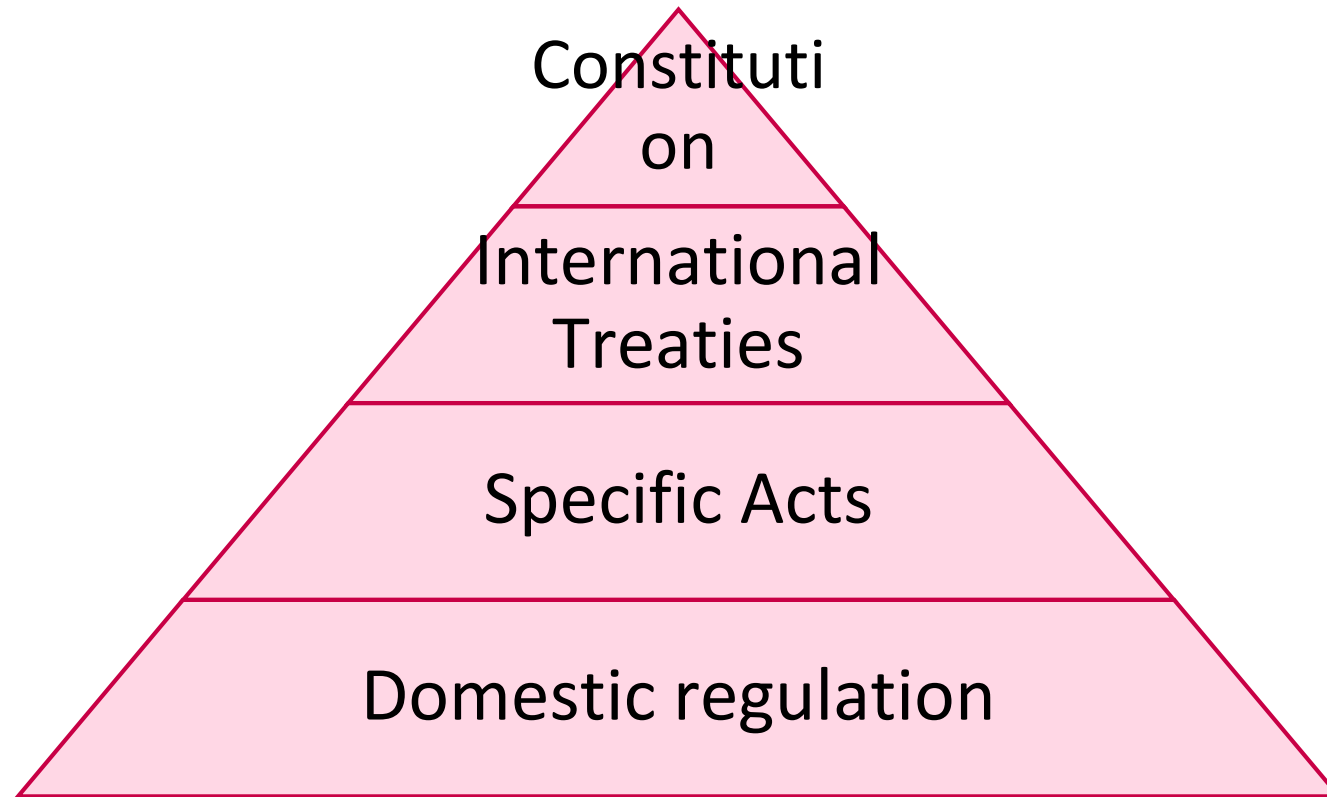
- Sexual exploitation of minors: an increasing phenomenon
- A hidden practice, difficult to detect
- A serious damage to the normal development
- Minors' consent is never free. Palermo Protocol
- Modern slavery



VIOLATION OF BASIC HUMAN RIGHTS



HUMAN RIGHTS REGULATION IN SPAIN



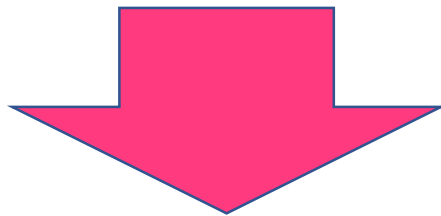
INTERNATIONAL LEGAL FRAMEWORK (III)

- Palermo Protocol: 2000
- Europea Convention against human trafficking 2005
- EU Directive 2011/35/EU against Human trafficking for the victims protection: art. 5.2
- UN Convention for children rights: art 2.1., 7.1., art 19, art 34, 35 and 36
- UN General Observation 17 (1989) regarding the *obligation to register children after birth in order to reduce the danger of abduction, sale of or traffick in children.*
- Volunteer Protocol (25 May 2000) regarding the **sale of children, prostitution and pornography.**
- EU Directive 2011/36/EU: art 13, 14, 15 and 16 regarding the obligation of States for the protection of victims.
- European Convention for Human Rights. article 4



SPANISH LEGAL FRAMEWORK

- Spanish **Constitution** (1978)
- Spanish Act for the **protection of minors**
- Spanish Act regulating the **public system for children protection**
- Spanish **Statute of victims** of crimes
- **Spanish Criminal Code** (2015): art. 177 bis
- **Spanish Act for Asylum** (2009): art 3 and 46



MINORS BEST INTEREST



LEGAL PRACTISE IN SPAIN: WHAT, WHY, WHERE, WHEN

WHAT?

Accompaniment

Legal, administrative and contentious-administrative assistance

Intervention in courts (criminal procedure)

WHY?:

Defense interests

Avoid helplessness

WHERE?

NGO Headquarters

Administrative headquarters

HOW?:

Professionalism

Integrity

Honesty

Loyalty

Diligence

Veracity

WHEN?:

Detection

Declaration

Claims

ID

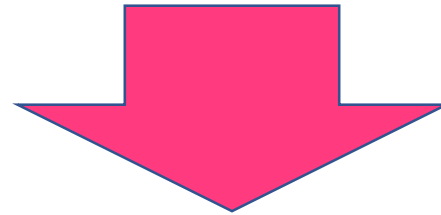
Immigration procedures

Legal assistance



Legal practise (I)

ASSISTING THE MINOR- VICTIM TOWARDS THE CRIMINAL COURTS:

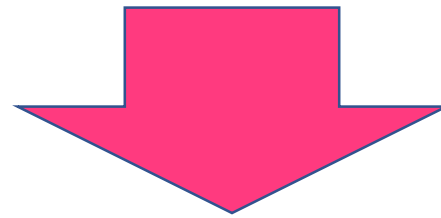


1. Trustee in pre-constitutive evidence
2. Defendant
3. Public Acusation



Legal practise (II)

PRECONSTITUTIVE EVIDENCE IN CRIMINAL PROCEDURES ASSISTING THE
VICTIM:

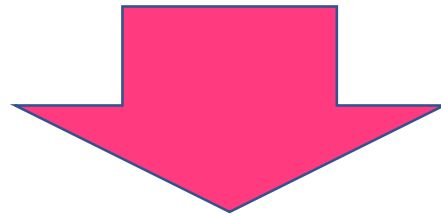


1. Victim as protected witness with no right to legal assistance in the criminal procedure
2. Victimized and re-victimizing
3. Difficulties to avoid victim declaration in Court
4. Difficulties in previous victim declarations to be valid in the criminal



Legal practise (III)

SPECIAL PROTECTION UNDER THE SPANISH STATUTE FOR VICTIMS



1. For victims of any crime in Spain
2. Specific rights for the victims: protection, information, support, assistance, no discrimination
3. Despite off the criminal procedure outcome



MAIN OBSTACLES AND CHALLENGES FOR LEGAL PRACTISE TOWARDS SPANISH JUDICIAL SYSTEM

- DETECTION/FORMAL IDENTIFICATION
- SPANISH LEGAL SYSTEM FOCUSED ON SECURITY AND NOT ON VICTIMS PROTECTION
- AGE DETERMINATION
- LACK OF SPECIFIC REGULATION FOR HUMAN TRAFFICKING IN SPAIN
- FOREIGNER CONDITION VS. VICTIM CONDITION
- HUMAN TRAFFICKING VS. ASYLUM
- COMPLEXITY OF HUMAN TRAFFICKING INCLUDING OTHER LEGAL CLAIMS
- JUDGES, PROSECUTORS AND ATTORNEYS TRAINING TO BE COMPLETED



Q&A



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