

Prostitution as Structural Violence According to the Supreme Court of Justice of Colombia

Analysis by isala of Decision SP287-2026, Radicación No. 61003 (Acta No. 142) of the Supreme Court of Colombia

Executive Summary: Founded in 2013, isala supports people in situations of prostitution and advocates for gender equality. Through this contribution, it provides a rigorous analysis of a decision by the Supreme Court of Justice of Colombia, which recognises that prostitution forms an integral part of the continuum of sexual violence and exploitation and should be regarded as a form of exploitation that is inherently harmful and violent.

I. Background to the Court's Decision

Judgment No. 61003 (Acta No. 142) of the Supreme Court of Justice of Colombia forms part of the criminal prosecution of the sexual exploitation of children. The case concerned a man who solicited four children, three girls and one boy, to perform sexual acts in exchange for payment. Following this solicitation, several sexual acts were in fact carried out, including touching and acts of masturbation, although no penetration took place.

The question before the Court was whether the solicitation of children for remunerated sexual purposes and the actual commission of sexual acts should be regarded as a single criminal offence or, alternatively, as two distinct offences warranting separate legal classifications and penalties.

The Court adopted the latter approach. It held that proposing or requesting remunerated sexual relations from a child constitutes, in itself, a form of commercial sexual exploitation of children, which Colombian law equates with child prostitution. However, where such solicitation leads to the commission of concrete sexual acts, those acts infringe a distinct legal interest and may therefore give rise to an additional criminal charge, in this case that of “indecent assault” (*attentat à la pudeur*).

This decision is particularly significant because it clearly distinguishes commercial sexual exploitation of children, which sanctions the commercial logic and instrumentalisation of a child's body for profit, from the sexual offences actually committed against the child. By recognising the autonomy of these two offences, the Court strengthens the criminal protection afforded to child victims of sexual exploitation and affirms that the remunerated sexual transaction and the sexual act resulting from it constitute two separate harms that may be punished cumulatively.

Beyond the question of the criminal classification of the facts, the decision is of major importance for two reasons:

- First, the Court develops an understanding of prostitution as a form of structural violence, embedded within a broader continuum of sexual violence and exploitation.
- Second, it identifies demand as a central component of the prostitution system and recognises the active role of those who purchase sexual acts in sustaining exploitation.

These two contributions lie at the heart of the judgment and are examined in the following sections.

II. Structural Violence

The Court affirms that, within prostitution, individuals are reduced to objects of consumption, thereby undermining their dignity, sexual autonomy, and personal development. It also recognises the central role of “clients” in sustaining this system of exploitation.

“It is essential to adopt a human rights-based approach that recognises prostitution and, more broadly, all forms of sexual exploitation as manifestations of structural violence, particularly when they affect women, girls, boys, and adolescents.” — **Decision SP287-2026, Radicación No. 61003 (Acta No. 142) of the Supreme Court of Colombia, p. 21, para. 57.**

What the Court recognises:

1. Prostitution forms part of the broader continuum of sexual violence. The existence of a transaction (i.e. payment or remuneration) does not alter this conclusion and does not negate the exploitative nature of the act.
2. Prostitution is driven by demand. The Court recognises the purchaser of sexual acts (whom it also refers to as the *prostituter*) not as a passive or marginal actor, but as a direct exploiter who enables and sustains the prostitution system, since it is demand that generates supply.
3. It contributes to the normalisation of the commodification of women’s and girls’ bodies, thereby perpetuating sexist understandings of gender roles and hindering the development of sexual relationships based on equality, free consent, and respect for human dignity.
4. It perpetuates relations of domination and sexist stereotypes, fostering the hypersexualisation of women’s bodies and shaping social norms that associate a person’s value with physical appearance and sexual availability.

Prostitution is not merely the sum of individual transactions; it must be understood as a form of structural violence with consequences for society as a whole.

III. The Purchaser of Sexual Acts as a Direct Exploiter

In its decision, the Supreme Court of Colombia pays particular attention to the role of those who purchase sexual acts within the prostitution system. On the basis of the evidence before it, the Court notes that purchasers are predominantly men and that the practices they seek frequently take place within relationships of domination characterised by the objectification and dehumanisation of women and girls.

This analysis leads the Court to challenge the notion of the “client”, which it considers inadequate to reflect the reality of the relationships involved. In the Court’s view, the purchaser is not a passive actor or someone external to the phenomenon of prostitution; rather, he actively contributes to its operation and perpetuation.

The Court therefore emphasises that:

- Demand is an essential condition for the existence of the prostitution market;
- Purchasers play an active role in maintaining the system of sexual exploitation;
- Prostitution cannot be understood solely through supply, but must be analysed in light of the demand that generates and sustains it;

- Those who solicit sexual acts in exchange for payment participate directly in the exploitation of prostituted persons.

From this perspective, the Court considers that the terminology used should more accurately reflect this responsibility. It therefore favours the terms “purchasers,” “prostituters,” or “direct exploiters” rather than the term “clients.”

This approach is rooted in a structural understanding of sexual exploitation and is consistent with analyses developed at the international level, notably by Reem Alsalem, United Nations Special Rapporteur on violence against women and girls, who has highlighted the central role of demand in sustaining prostitution systems.

From a legal and policy perspective, this interpretation has several implications:

- The responsibility of purchasers must be explicitly recognised;
- Purchasers cannot be regarded as mere consumers of a service;
- The use of criminal sanctions against purchasers is compatible with a human rights-based approach;
- Preventing sexual exploitation requires action not only in support of victims, but also against the demand that fuels the system.

The decision therefore marks an important development in the understanding of responsibility within the prostitution system. It invites attention to shift from the situation of exploited persons alone to the actors who create, maintain, and fuel demand, thereby strengthening an approach centred on perpetrator accountability and the effective protection of victims.

Conclusion

The ruling of the Supreme Court of Colombia invites us to understand prostitution not as a series of individual transactions, but as a system of exploitation rooted in the commodification of the body and sexuality, primarily of women and girls. From this perspective, the existence of trafficking networks or pimping is not a necessary condition for recognising exploitation; rather, exploitation lies in the very characteristics of prostitution itself and in the harm it inflicts on the human dignity, autonomy, and sexual freedom of those involved.

Furthermore, the Court adopts a broad understanding of prostitution that is attentive to the diversity of its contemporary forms. This approach makes it possible to move beyond labels such as “escort” or “sugar baby”, which can contribute to obscuring the reality of commercial sexual exchange and the exploitation that underlies it.

Finally, the Court emphasises that the existence of consent to a sexual transaction does not eliminate its exploitative dimension. On the contrary, remuneration may reinforce certain mechanisms of domination and generate specific harms, notably by fostering feelings of responsibility, guilt, or shame among those subjected to violence and abuse. This analysis leads to the conclusion that the central issue lies not solely in trafficking or pimping, but in the institution of prostitution itself and in the exploitative relationships that it organises and legitimises.

In conclusion, according to the Supreme Court of Justice of Colombia:

- 1. Prostitution is both a distinct system (with its own specific dynamics and causing specific harms to its victims) and an integral part of the broader continuum of sexual violence and exploitation.**
- 2. Prostitution cannot be regarded as work, but rather as a form of exploitation that is inherently harmful and violent.**