

Florida A&M University College of Law

Scholarly Commons @ FAMU Law

Journal Publications

Faculty Works

2014

"Where Has Their Innocence Gone?" Addressing Child Sex Tourism

Cheryl Page

Follow this and additional works at: <https://commons.law.famu.edu/faculty-research>



Part of the [Criminal Law Commons](#), [Human Rights Law Commons](#), and the [International Law Commons](#)

Where Has Their Innocence Gone?

Addressing Child Sex Tourism

Cheryl Taylor George, Professor of Law, Lincoln Memorial University—
Duncan School of Law, Knoxville, Tennessee

Introduction

Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear.

— Nelson Mandela (as cited in
U.S. Government International
Assistance for Children
in Adversity, 2014)

On October 12, 2012, Malala Yousafzai was shot by a known terrorist organization (Husain, 2013). Her crime or offense? She was attending school. This brave and courageous young lady has become a world-renowned figure for advocating for the rights of children (Sagan, 2013). She has spoken before the United Nations and other places about injustices toward children, especially girls, and she has advocated tirelessly for people to take note to the injustices that are being done to children. One such injustice is child sex trafficking.

If someone thinks that slavery is a thing of the past, they are simply unaware of what is going on around them. It is amazingly easy to “buy” a child. Given the incredible advances in technology and the pervasiveness of the Internet, one could obtain practically any product with a simple click of a mouse. While these technological advances have made life easier in many respects, it has also made it easier for sex predators to have access to buy and sell children. These children are exploited sexually just as easily as ordering a pizza (“Child Sex Trafficking,” 2013).

Children around the world are used as objects to satisfy the perverted sexual desires of deviants. The bulk of these children reside in poor and vastly uneducated countries around the globe (Fisher, 2013) and their innocence is stolen and shattered on a daily basis (Hume, Cohen, & Sorvino, 2013).

This article addresses the already rampant problem of sex tourism with special attention on child sex tourism. The focus will be to inform the who, what, and where of sex tourism, its history, the economics of it, the laws—both domestic and international—concerning sex tourism, court cases involving sex tourism, the problems associated with combating sex tourism, and also possible solutions in eliminating sex tourism.

The Three Ws of Sex Tourism: What, Where, and Who

Traveling for the purpose of purchasing a sex acts is known as sex tourism (Hughes, 2004). Quite logically, child sex tourism would imply traveling for the purpose of purchasing sex acts with a child or as the ECPAT (2013) (an international organization aimed at ending child prostitution, pornography, and trafficking for sexual purposes) defines it, “the commercial sexual exploitation of children by men or women who travel from one place to another . . . and there engage in sexual acts with children.” Congress integrates sex tourism as part of the definition of “trafficking” (Cotter, 2009, p. 497).

Where does sex tourism take place? The answer to that is found in the definition: wherever someone can travel and engage in sex acts (Cotter, 2009, p. 497). Traditionally, when people think of sex tourism, they associate it

with exotic destinations such as the Caribbean, Southeast Asia, or Amsterdam's "red light district," but sex tourism is not limited to only those destinations. How far one must travel varies from region to region or town to town, but it can be a much shorter distance. These destination countries are often less developed, have a poorer economy and a favorable exchange rates for the traveler, and also offer anonymity due to being in an entirely foreign location. Many of these tourists have traveled from a wealthier country, region, or town to these less-developed destinations (ECPAT, 2013).

Who are involved in sex tourism? There are numerous players involved in this trade—specifically, there are the victims who are primarily women and children from rural communities and poor families that lack educational and economic opportunities (Mathews, 2005, pp. 658-659). Those victims who are children are mostly between the ages of 13 and 18, but those victims that fall in the category of under 13 are growing (Fredette, 2009, p. 5).

There are the facilitators of this "flesh trade"—the sex tour operators, brothel owners, traffickers, and so forth. Traffickers obtain their supply of these sex workers through recruitment via employment opportunities in remote locations or by abduction (Fredette, 2009, pp. 5-6). When the traffickers have control over the victims, they are removed from their communities and sold to vendors or marketed directly to sex tourists. The victims are then held against their will and made to perform sexual acts (p. 6). Traffickers are able to get the victims to fall in line through coercive methods, including fabricating debt (from travel expenses, lodging, and/or feeding them), seizing identity documents (birth certificates, passports, and/or driver's licenses), forcing the victims to take drugs and thus become dependent on them, and threatening or actually committing violence (p. 6).

Brothels used to be the main place to procure children for sex, but because brothels are stationary, they are obvious targets for

law enforcement (Atwell, 2008-2009, p. 173). Because of the law enforcement presence around brothels, sex tourists have been forced to find victims on their own and commit their crimes in private homes or hotel rooms (Fredette, 2009, p. 6). Traffickers sometimes work in conjunction with sex tour operators. These tour operators have created and set up trafficking "travel agencies" that arrange tour packages for tourists who desire sexual encounters with adults, children, or both. In addition, the operators arrange local guides to facilitate sexual encounters at brothels (p. 6).

There are also customers who are referred to as "Johns and James" (according to the ECPAT [2013], women comprise only 5% of the sexual offenders). These customers like the anonymity of these above-mentioned locations. Some may rationalize sexually exploiting children by thinking such behavior is culturally acceptable in the place they are visiting. Twenty-five percent of international child sex tourists come from the U.S. (Patterson, 2007, p. 17). According to the Federal Bureau of Investigation (FBI), half of those from the U.S. who engaged in sex tourism were between the ages of 40 and 60 with nearly one-fourth over 60 years old (p. 19). The FBI also has data showing that most offenders were either divorced or separated from their spouses.

History

The beginnings of the sex tourism industry can be traced back to the Vietnam War. Brothels, bars, and massage parlors popped up around U.S. bases in Thailand, the Philippines, and Taiwan in the late 1960s. Many of these places used underage prostitutes. After the war, demand decreased, and the U.S. withdrew or downsized its forces. The governments in these countries did not attack prostitution but, instead, encouraged it, planning and promoting international tourism with sex tourism as part of the getaway (Beyer, 2000-2001, pp. 302, 304-305). As sex tourism received more international attention, some of the sex tourism packages moved into the shadows. For example, arranged fishing expeditions to the

Amazon were organized for the purpose of child sex tourism for European and American exploiters (Shepherd, 2010).

Demand for women and children prostitutes continued to rise until Asia could not support it, resulting in the sex tourism industry spreading to other areas of the world. Several countries have become preferred destinations for sex tourists. Some of these destinations include Brazil, Costa Rica, the Dominican Republic, Kenya, Morocco, the Netherlands, the Philippines, Colombia, and Thailand (Beyer, 2000-2001).

In an article on sex tourism, Nancy Beyer (2000-2001) identifies five reasons behind the existence of sex tourism: (1) poverty, (2) materialism, (3) inaction of the government, (4) gender discrimination, and (5) beliefs of sex tourists. The impoverished environment of developing countries is one of the main causes of child prostitution (pp. 306-308). Families are struggling to provide their children the necessities of life. Sex procurement agents seek out these struggling families telling them there are jobs for these children and offering cash advances. The children repay these advances with their labor. Some parents are aware of the fate awaiting their children. Economic benefits are not limited to these families. It goes all the way up the chain from the recruiter, to the pimps, to the brothel owner, and finally to the local police who turn a blind eye. The profitability of this trade keeps some governments from taking action to relieve the problem (p. 306).

In regards to parents of these abused children, they look to the sex trade for materialistic reasons. They use money gained from these cash advancements to attain modern indulgences. Children enter the industry believing the economic rewards for prostitutes to be great (Beyer, 2000-2001, p. 307). An income as a sex worker can be up to 25 times greater than legitimate rural wages, which also has the effect of tempting families to force their children into the flesh trade (Fredette, 2009, p. 11).

Government inaction increases the trade. As already mentioned, the trade provides the local economy with a source of revenue, but there are also corrupt officials taking bribes from sex tourists who are caught (Beyer, 2000-2001, p. 307).

Gender discrimination is also a big factor. Females continue to be viewed as sexual objects. In many developing nations, girls have fewer educational opportunities than boys, leaving them with little job opportunity available to them. Traditional gender roles have an effect, too, because men are seen as providers and women are seen as housekeepers who bear children for their husbands (Beyer, 2000-2001, p. 308).

There are two beliefs common among sex tourists promoting sexual exploitation of minors: (1) having sex with minors will allow them to remain sexually active farther into their later years, and (2) sexual intercourse with children poses a decreased risk of contracting the HIV virus. These children are often marketed as virgins both for the decreased risk and more money. However, these sex tourists face greater risks of contracting these diseases with young prostitutes both because of failure to use condoms and the child's body is not ready for sexual activity, so the anus or vagina are extremely susceptible to rupturing (Beyer, 2000-2001).

Economics

Worldwide, there are nearly two million children in the commercial sex industry. Not surprisingly, sex tourism generates in excess of \$32 billion dollars (Compassion International, 2014). In the countries of Indonesia, Malaysia, Thailand, and the Philippines, sex industries account for 2 to 14% of these countries' gross domestic product (Cotter, 2009, p. 506). INTERPOL (which is the official representative to the International Criminal Organization) numbers suggest that a woman being sexually exploited can bring in from \$75,000 to \$250,000 per year (Beyer, 2000-2001, pp. 304-305). It is estimated that 600,000 to 800,000

people (including children) are trafficked internationally. Children, who are highly valued for their virginity and decreased risk of sexually transmitted diseases, can bring in even more money (Compassion International, 2014).

Kevin Bales (2004), in his book *Disposable People*, provides charts that illustrate the costs of brothels in Thailand. He shows that it costs \$2.00 to \$3.20 to feed a prostitute per day (p. 54). Also, the brothel owners avoid trouble with the law through bribes, and these bribes cost around \$8.00 to \$16.00 a day. Even with these costs, these girls are very profitable. Bales studies show that each girl has between 10 and 18 clients a day at \$50.00 to \$90.00. Thus, the brothel owner has profits between \$1,000 and \$1,800 on just sex alone (p. 55). Selling sex is not the only way the brothel owner makes money. The owner also makes money through bar sales, condom sales, and rent the girls have to pay. General expenses of running a brothel in Thailand, on average, are approximately \$10,280 a month (p. 55). Minus expenses, these brothels can profit on average \$81,280 a month. This is just one of many brothels all over the world, but, specifically, Thailand has an estimated two million prostitutes, with 800,000 of these being children or adolescents (British National Policy, 2013).

With profits like these, it is easy to see why sex tourism is flourishing. The brothel owners are getting paid very well, and police are getting paid well to look away where illegalities exist. This is a billion dollar industry for the countries involved—a billion dollar industry in which the sex worker is risking the most, putting up with the most inhumane treatment, and receiving only a fraction if any of the profits (Fredette, 2009, p. 9).

Laws

This section will concentrate on the laws directly involving sex tourism. Those included here are state laws, federal laws (including proposed legislation and implementation tools), and laws upheld by the United Nations.

State Laws

As already mentioned, Congress categorizes sex tourism as part of sex trafficking. The majority of states have anti-sex trafficking criminal provisions on the books or if they do not have it, legislation is pending, but they do not specifically target sex tourism. The reasoning may be because many sex trafficking provisions address many behaviors and actions linked with sex tourism without involving international travel. All but one of the 50 states view prostitution as illegal (Cotter, 2009, p. 506). Child pornography is illegal, and possession of child pornography comes with severe penalties; and of course, all states have provisions against sex or sex acts with a minor. So there are numerous ways to go after sex tourists if they commit these crimes within the borders of each respective state. But what laws among the states specifically address sex tourism? Unfortunately, not enough. This is despite the fact that many states have an international airport or border Mexico or Canada, thus giving citizens relatively easy access to travel abroad for the purpose of sex tourism. Below are some of the states and their laws dealing with sex tourism.

Hawaii

Hawaii's law specifically targets travel agencies. It prohibits the selling, advertising, or otherwise offering to sell travel services or facilitate travel for the purpose of engaging in a commercial sexual act, tourism packages offering sexual acts as enticement for tourism, or travel that provides access to sex escorts or sexual services (*Hawaii Revised Statutes* §468L-7.5/10, 2014).

Missouri

Like Hawaii, Missouri prohibits travel agencies from facilitating the sex trade. Specific language includes the travel agency or tour operator shall not promote travel for prostitution nor sell or advertise services to facilitate travel for the purposes of engaging in a commercial sex act or sexual contact as enticement

for tourism. Prohibiting such travel to places with access to sex escorts or sexual services is also part of the language. Any advertisements from a tour operator that include the terms “sex tours” or “sex travel” or pictures with human genitalia automatically violate this law (*Missouri Revised Statutes* §567.087, 2014).

Washington

The State of Washington has almost the same language of prohibitions, which have the same effect for travel agencies and operators. Washington goes one step further requiring actual knowledge that the person knows he or she is selling or offering travel services to patronize or promote prostitution (*Revised Code of Washington Annotated* §19.138.340, 2014). It also classifies promoting travel for prostitution as a Class C felony (§98.88.085).

Federal Laws

There are two acts passed by Congress that specifically go after sex tourists. They are the Trafficking Victims Prevention Act (TVPA) and the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act (PROTECT Act) (Polaris Project, 2014b). This article will first address the TVPA and its tier system followed by the PROTECT Act and Operation Predator, which works to enforce the act. Also discussed in this section is pending/proposed legislation.

TVPA

The TVPA was created in 2000 and reauthorized in 2003, 2005, and 2008. The Polaris Project (2014) compiled some of the key points of this act. In 2000, upon passage of the TVPA, a federal task force was created to assist in its implementation. The act created an office to monitor trafficking within the State Department which reports and ranks countries’ efforts to combat trafficking. The act also served to make human trafficking a federal crime with severe penalties. The T Visa was established, which allows victims of trafficking to become temporary U.S. residents, thus

making them eligible for permanent residency after three years. The T Visa is extended to the following individuals:

- Victims of “severe forms of trafficking”
- Victims who are physically present in the U.S. on account of trafficking
- Those who have complied with any reasonable requests for assistance in investigation and prosecution of trafficking crimes
- Those who could otherwise suffer extreme hardship (Polaris Project, 2014b)

Minors do not have to meet the third criterion. Under the first criteria, “severe forms of trafficking” means

sex trafficking in which a commercial sex act is induced by force, fraud, coercion or in which a person induced to perform such [an] act has not attained the age of 18; or recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through use of force, fraud, or coercion to place the victim in involuntary servitude, peonage, debt bondage, or slavery. (22 U.S.C.A. §7102[8], 2013)

The reauthorization of the act in 2003 brought some changes, one of which authorized two hundred million dollars over two years to combat trafficking. It also required the U.S. government to terminate contracts with overseas contractors engaging in sex trafficking, commercial sex, or who use forced labor. Another important addition was creating a federal civil cause of action giving trafficking victims the right to sue their traffickers (Polaris Project, 2014b).

Reauthorization in 2005 increased the amount authorized from two hundred million to three hundred million dollars. Grant money was also authorized to assist local and state enforcement efforts in combating human trafficking. This reauthorization also expanded federal criminal jurisdiction to trafficking offenses committed by U.S. government personnel and contractors abroad (Polaris Project, 2014b).

The 2008 reauthorization created a new program providing services to U.S. citizen survivors of human trafficking. Criminal liability is expanded to those financially benefiting from human trafficking crimes as well as obstruction and conspiracy. The act expands the crime of sex trafficking by removing the knowledge of age requirements and lowering the standard of proof to reckless disregard of the use of force, fraud, or coercion to cause a person to engage in commercial sex. States are now required to separately report prostitution and vice crimes under categories of those managing or profiting from commercial sex acts, those unlawfully purchasing sex acts, and those unlawfully providing commercial sex acts (Polaris Project, 2014b).

As previously mentioned, the TVPA created the State Department's annual Trafficking in Persons (TIP) Report, which evaluates a country's governmental response to severe forms of trafficking (Cotter, 2009, p. 505). Through this report, countries are rated in tiers based on their level of efforts in combating trafficking. The tiers are described as follows:

Tier 1 – Countries whose governments fully comply with the TVPA's minimum standards.

Tier 2 – Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Watch List [added in 2005] – Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in person from the previous year; or

- c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards as based on commitments by the country to take additional future steps over the next year.

Tier 3 – Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so. (U.S. Department of State, 2011)

The tier system is very helpful in furthering the TVPA, especially in countries where trafficking is the least of their problems. As can be understood from Tier 3, these are the countries with the worst problems in trafficking; and if placed on this tier, a country may face loss of international aid and international sanctions (Atwell, 2008-2009, p. 169). For countries that depend on such aid, such loss serves as a highly motivating factor in getting them to enforce their own laws against sex tourism and trafficking (Cotter, 2009, p. 508).

With the release of the first TIP Report, many governments took immediate steps to prevent trafficking in efforts to avoid economic sanctions (Fredette, 2009, pp. 31-32). For example, since 2002, Cambodia has fluctuated between the Tier 3 and Tier 2 Watch List (Cotter, 2009, p. 508; see also Atwell, 2008-2009, pp. 169-170). With threats of sanctions and loss of aid, Cambodia began making a greater effort with arrests of officials involved in trafficking and arrests of foreign men charged with sexually abusing children (Cotter, 2009, p. 508). Of course, Cambodia may not be the best example as it fluctuates back and forth between the two tiers, but reports do show progress being made (p. 508); and without the "stick" of the tier system, it is doubtful any progress would have been made at all.

PROTECT Act

The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act was passed in 2003, which further strengthened

the ability of the U.S. to combat child sex tourism (Cotter, 2009, p. 507). Among some of the key provisions include a change in the element of proof in prosecuting sex tourists. No longer does the prosecution have to prove travel with the intent to sexually abuse a minor (Atwell, 2008-2009, p. 164; 18 U.S.C.A. §2423, 2013). The fact that the sex act occurred is sufficient. Although there were successful prosecutions with the “traveling with intent provision,” this change allows the prosecution more leeway. Also, those American citizens engaging in such deplorable behavior face, if convicted, a maximum sentence of up to 30 years (Atwell, 2008-2009, p. 164). In addition, the PROTECT Act also goes after sex tour organizers (p. 164).

Criticism of the PROTECT Act focuses on the broadening of the scope of foreign commerce power. In an article by Daniel Bolia (2007), he asks the following questions: “Should Congress regulate the extraterritorial conduct of a citizen that does not violate the laws of the country in which the conduct occurs?” and “Should Congress place restrictions on individuals or corporations to engage in foreign commerce with repressive regimes?” (p. 825). The PROTECT Act features good laws aimed at protecting those who need protection, but how far across the globe should criminal liability extend? This is not to say that the author wants to repeal the Act; he is just considering the potential implications.

To implement the PROTECT Act, the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) created Operation Predator, a special taskforce charged to investigate and apprehend child sex tourists (Atwell, 2008-2009, p. 164). Through Operation Predator, agents are able to work with foreign governments and their foreign law enforcement counterparts to enhance coordination and cooperation on crimes that cross borders. This group also works with INTERPOL in gathering intelligence on criminal child predators (“Fact Sheet,” 2004). An example of Operation Predator’s effectiveness is the arrest and conviction of Rafael Ruiz. Ruiz was involved in enticing young girls

from Mexico with promises of a better life and then smuggling them for the purpose of forced prostitution. Based on his illegal actions, he was convicted and given a 44-month sentence (Fraleay, 2005, p. 460).

Proposed Legislation

One such bill that has been introduced twice but not enacted was HR 3253, the International Megan’s Law of 2011. Its purpose is to give a sex offender a duty to report international travel. This bill would “request” the cooperation of foreign governments in notifying the U.S. when a known sex offender is seeking to enter a foreign country. The bill would require more cooperation and accountability from foreign governments, especially in regard to sex offenders. As mentioned, this bill has not passed or been voted on most likely because of the level of cooperation between governments and the added workload placed on the State Department in keeping track of these sex offenders.

United Nations

On September 2, 1990, the UN adopted the Convention on the Rights of the Child (United Nations [UN] Treaty Collection, 2014). Article 34 of the convention requires state parties to take all appropriate actions “to prevent the inducement, coercion, or use of children in unlawful sexual activities or practices, prostitution, and pornography” (Beyer, 2000-2001, p. 324). Article 19 specifically addresses protecting the child from “maltreatment or exploitation including child abuse while in the care of parent(s), legal guardian(s), or any other person who has the care of the child” (p. 324). The Convention provides for procedures to monitor state compliance, but, of course, as with all things associated with the UN, it lacks authority to enforce any of these measures, keeping to the role of advisor (p. 324). It is also important to note that the U.S. signed this treaty but has yet to ratify it (UN Treaty Collection, 2014). The Clinton Administration signed it in 1995 but did not put it to Congress. The Bush Administration opposed the Convention

because they felt it conflicted with privacy laws and family rights. The Obama Administration has expressed a desire to ratify the treaty but has yet to do so (Blanchfield, 2009).

United States v. Clark

The first case to test the constitutionality of the PROTECT Act was *United States v. Clark* (2006). Michael Lewis Clark was arrested in 2003 by Cambodian police after finding him engaging in various sex acts with two boys ages 10 and 13 (p. 1103). Clark, a 71-year-old U.S. citizen, had been giving the boys money to participate in these acts (pp. 1103-1104). During the investigation, the boys admitted to engaging in these acts because they needed money to buy food for their family. Payments ranged from \$2.00 to \$5.00. Clark admitted to having sexual activity with approximately 40 to 50 children in his travels since 1996. With permission from the Cambodian government, the U.S. government took over jurisdiction of Clark and brought him back to the U.S. where he was indicted under the then new PROTECT Act (p. 1104).

Clark pled guilty to engaging and conspiracy to engage in illicit sexual conduct with another person while traveling in foreign commerce (18 U.S.C.A. §2423[c] & [e]) but “reserved the right to appeal his pretrial motion to dismiss based on constitutional, jurisdictional, and statutory construction grounds” (*U.S. v. Clark*, 2006, p. 1105). Illicit sexual conduct in this case is defined as any commercial act with a person under 18 years of age (18 U.S.C.A. §2423[f]). He did appeal on constitutional grounds specifically challenging congressional authority to regulate this conduct (*U.S. v. Clark*, 2006, p. 1105). The court found that because of Clark’s U.S. citizenship, the U.S. could exercise jurisdiction over him regardless of where the crime was committed (p. 1108). The court also referred to the duties and obligations of being a U.S. citizen, specifically the “duty of allegiance on the part of the member and a duty of protection on the part of the society. . . these [being] reciprocal obligations, one being a compensation for the other” (p. 1109). The duty most applicable here

for the citizen is to obey laws that specifically applies to one’s conduct (p. 1108).

Clark also challenged that Congress exceeded its power under the Foreign Commerce Clause when it enacted §2423(c) (*U.S. v. Clark*, 2006, p. 1109). The court examined the statute to see if it had “a constitutionally tenable nexus with foreign commerce” (p. 1114). The elements to prove here are traveling in foreign commerce and engaging in a commercial transaction while abroad; the court held that these two provisions were constitutionally adequate in implicating foreign commerce (p. 1114). The first element was met when Clark traveled to Cambodia by plane (pp. 1114-1115). The court went on to say that previous decisions “have recognized that Congress legitimately exercises its authority to regulate the channels of commerce where a crime committed on foreign soil is necessarily tied to travel in foreign commerce, even where the actual use of the channels has ceased” (p. 1116). The second element was met when he engaged in illicit sexual conduct, which has been defined as any commercial sex act with a person under 18 years of age (pp. 1114-1115). The Ninth Circuit affirmed the District Court’s decision.

Problems Combating Sex Tourism

There are three key areas which prevent the effective combat of sex tourism: (1) corruption, (2) prosecution setbacks, and (3) the victims themselves. Each of these three areas presents unique challenges in the prosecution and handling of these cases.

Corruption

Sex tourism is an industry ripe in corruption. What are the reasons for such rampant corruption? Many of these destination countries are what can be classified as third-world or developing countries. As such, state resources are limited, and wages are not high, especially among officials such as judges, police, and others (Fredette, 2009, p. 15). This is particularly troublesome since laws are only as effective as those who enforce them. For

example, in Honduras, police officers have an average income of only \$1,000 a year (Beyer, 2000-2001, p. 321; Cotter, 2009, p. 496). Such wages make it extremely tempting to look the other way, remain silent, or make “mistakes” in regards to collecting evidence and investigation.

A State Department report on Cambodia made the statement that “It was widely believed that some law enforcement and other governmental officials received bribes that facilitated the sex trade” (Cotter, 2009, p. 497). There was one case of a particular Cambodian judge who found two suspects not guilty of sexually abusing children even though there were photographs of the men having sex with young children and e-mails discussing what they had done to the children (Atwell, 2008-2009, p. 175). A sex offender in the Cambodian legal system only has to pay \$10,000 to \$30,000 to have the charges dropped (p. 175). On a side note, Cambodian judges are paid \$15 a week (Fredette, 2009, p. 15), so it is easy to see why some judges are tempted to make such decisions. The victims also see these sex tourists escaping justice, so they are even less likely to report it in the future as they lose faith in the justice system.

Another factor that contributes to corruption is lack of training. One example of this is the adversarial questioning of child prostitutes. Instead of treating the child as a victim, the police are treating the child as the problem, leading to the child being uncooperative and not returning to the authorities after subsequent abuse (Fredette, 2009, p. 16).

Prosecution Setbacks

Prosecution within the U.S. can be hindered due to the expense of the prosecution (Patterson, 2007, p. 18). Considerable expense is incurred with getting witnesses and victims available and ready for testimony. The victim must be brought over from the destination country for testimony and remain for several days. Of course, there are ways around this with the advance of technology in video or

satellite links (Fredette, 2009, pp. 25-26). This keeps the victim in a more comfortable setting in his or her home country. Even with the expenses involved, many police departments lack a specialized unit to investigate child exploitation and abuse (Patterson, 2009, p. 18).

Another potential issue for prosecution is when the destination country does not have an extradition treaty with the U.S. There is a way around this if the destination country cooperates. The U.S. can accomplish this by revoking a suspect’s passport (Atwell, 2000-2001, p. 182). A person can be denied a passport if he or she is “subject to an outstanding Federal warrant of arrest for a felony” (p. 182). Once the passport is revoked, the U.S. shows the destination country that the suspect is without a valid passport, and the destination country expels the person. From here, the suspect is escorted by ICE agents. From there, the suspect may be brought to trial in one of three venues: (1) in the district where the offender is first brought, (2) in the district where the offender last lived, or, if the offender’s previous residence is unknown, (3) in the District of Columbia. Of course, such a way around extradition is contingent upon the cooperation of the destination country (p. 182).

The Victims

Many victims do not trust the police, especially when they see the police turn a blind eye, as already discussed. Even when legal representatives get the victims to stick around for long prosecutions, their memory may have been dimmed with the passage of time (Fredette, 2009, p. 25). Then there are also those victims brought over to the U.S. for prosecutions. They can be traumatized through coming to such culturally unfamiliar states resulting in a compromised testimony. Some Non-Governmental Organizations (NGOs) have solved this problem by working closely with both victims and police departments, recording statements (p. 25) and caring for the victim during trials when the victims are not needed in court (Atwell, 2008-2009, p. 183). Another problem as it pertains to victims, is

trying to ascertain the child's age. This was a problem specific to a case of a child in Honduras who had no documentation to confirm the child's age. Generally, a medical examination is required to get legal proof of the child's age (Beyer, 2000-2001, p. 322).

Solutions and Conclusion

In this day and age of technology and innovation, there is no reason why things cannot be improved in combating sex tourism. The resources and the laws are in existence. The willpower is present. The vast majority of people in the world abhor the notion of a child being forced to engage in sex acts. Equally abhorrent are those children being forced into prostitution through debt bondage, kidnapping, or slavery. So what can be done to further this cause?

In assessing the situation, one has to realize that these criminal enterprises in the flesh trade need to be specifically targeted. One possibility here is establishing an agency or organization like the Drug Enforcement Administration (DEA) or the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) that specifically goes after trafficking. This organization could work both internationally and domestically at curtailing trafficking activities, including sex tourism. Such an organization could work in tandem with foreign governments, developing training programs to deal with sex tourism and coordinating with local law enforcement to go after the criminal organizations running the sex trade. This agency would focus specifically on eradication and have the proper funding (state and federal) to be efficient and operate in an effective manner.

Another potential solution needs to be increased victim support. Counseling services should be made available to these victims as well as some kind of halfway house to transition them into society. The local police in these areas, with increased training, need to find a way to gain the trust of these victims so that the victims will not be afraid of confiding

in them. The fears of repercussion from the pimps, brothel owners, or other criminal elements keep the victims from reporting abuse. The police or government need to find a way to create a safe zone for victims of sex tourism.

There also needs to be easier ways to get their involvement in prosecuting these crimes—for example, eliminating the need to have the victims physically present for trials. It is a great expense to fly them around the world for testifying, especially in this technological age. Australian courts allow testimony through video link for the purpose of curbing “unreasonable expense, inconvenience, psychological harm, or intimidation” (Fredette, 2009, p. 126). If that option is unavailable for evidentiary reasons, one author suggests bringing all cases to trial in one district, or at least one district close to the geographical area close to the affected area. For example, in Southeast Asia, the district could be Guam. The advantages here include less travel to testify, less time away from families, less time on airplanes, and less time in strange hotel rooms (Atwell, 2008-2009, p. 183). Also, have counselors who are trained in this area readily available to talk to survivors (King, 2008). These women and children have been through horrendous acts of brutality and having someone to talk to can mean the difference between testifying against the perpetrator at trial or not. It could also mean the difference between life or death.

We must also tighten and make less confusing our immigration laws. Individuals and groups who have a low social standing are most vulnerable. We need to clarify which laws are on the books that are designed to assist victims of sex trafficking. If we do not have any that are specifically designed to assist them, then we need to enact such measures and ensure that they are utilized. Traffickers take advantage of the numerous loopholes in the laws and exploit the situation even further given that knowledge. We must end discrimination against minorities, and the disparate treatment of women and girls (“UNICEF,” n.d.).

We have to also work to create better financial opportunities for the poor. Traffickers, via “force, fraud or coercion” (Polaris Project, 2014a), are able to get parents to surrender their children to this industry. Many parents are unaware of the exact situation that they are placing their children in, but some are aware and still make the same choice. If given a chance wherein they could afford to pay for their family’s basic needs, many (if not all) parents would never agree to sell their child into a life as a sex slave. But without other financial avenues, it is either sell your child and use the money to feed your other children or let them all starve to death. That is a real situation that many impoverished, uneducated families face (“Children for Sale!,” 2010).

The majority of sexual predators who travel around the globe to have sex with children are westerners (or from industrialized nations). They travel to countries that are much less developed, where the laws are either nonexistent or barely enforced and where children are cheap and in abundance (“Children for Sale!,” 2010). Enforce the laws that are on the books. In countries that are slow in having such laws, use the UN to make them enact these kinds of laws. And where the countries have the laws but are slow or not enforcing them, place economic sanctions on them in an effort to get them to prosecute these traffickers and johns (UN Security Sanctions Committee, n.d.). Where the john abuses a child from the comforts of his office, bedroom or car via a mobile electronic device, use the laws on the books to prosecute him or her.

Another way to assist with the problem of children being commercially exploited is to help raise awareness about the need to educate children (especially girls) around the globe. Malala Yousafzai won the hearts of millions as she became the face and voice of homeless, uneducated, marginalized children around the world (“The Heroic Women of the Year 2013,” 2014). She has lent her voice to the cry for children to be educated, especially girls. “One child, one teacher, one book and one pen can change the world” (Sagan,

2013). Where there is abundant poverty and a vast lack of education (or educational opportunities), there is rampant vulnerability and exploitation. We, as a global community, must recognize that when one child is harmed, our global peace is threatened. When one child is sold online to a predator (virtually or otherwise), we are all at risk for the same violence occurring in our backyard. Until we abhor the predators’ brutal disregard for the value of human life, we are all in jeopardy of turning a blind eye and a deaf ear to what has become the worst crime against children in the history of the world.

Acknowledgments

The author would like to thank Brian Belden, JD (DSOL 2013) who worked tirelessly on this article and who helped out tremendously. The author would also like to thank Aisha DeBerry, JD (DSOL 2015), who tweaked and edited and made the paper presentable; and Ann Long, librarian of the Duncan School of Law, for her invaluable editing help and assistance.

References

- Atwell, M. (2008-2009). Combating American child sex tourism in Cambodia under the 2003 U.S. Protection Act. *Wisconsin International Law Journal*, 26, 163-188.
- Bales, K. (2004). *Disposable people: New slavery in the global economy* (Rev. ed.). Oakland: University of California Press.
- Beyer, N. (2000-2001). The sex tourism industry spreads to Costa Rica and Honduras: Are these countries doing enough to protect their children from sexual exploitation? *Georgia Journal of International & Comparative Law*, 29, 301-333.
- Blanchfield, L. (2009, December 2). *The United Nations Convention on the Rights of the Child: Background and policy issues*. Retrieved September 18, 2014, from <http://fpc.state.gov/documents/organization/134266.pdf>.

- Bolia, D. (2007, Spring). Policing Americans abroad: The PROTECT Act, the case against Michael Lewis Clark, and the use of the foreign commerce clause in an increasingly flat world. *48 South Texas Law Review* 797.
- British National Party. (2012, May 6). *Child prostitution spreading*. Retrieved September 17, 2014, from www.bnp.org.uk/news/national/child-prostitution-spreading.
- Children for sale! (2010, September 26). *Child Sex Tourism: Save the Future of This World* website. Retrieved September 18, 2014, from <http://childsextoursim.wordpress.com>.
- Child sex trafficking – as easy in Seattle as ordering a pizza. (2013, April 11; original airdate). *KIRORADIO: ON-DEMAND*. Retrieved September 16, 2014, from kiro.com/listen/9954703#.
- Compassion International. (2014). *Child abuse facts*. Retrieved September 17, 2014, from www.compassion.com/poverty/child-abuse.htm.
- Cotter, K. M. (2009). Combating child sex tourism in Southeast Asia. *Denver Journal of International Law and Policy*, 37, 493-512.
- ECPAT. (2013). CSEC terminology. *ECPAT website*. Accessed April 1, 2013, from http://www.ecpat.net/EI/Csec_cst.asp.
- Fact sheet: Operation Predator. (2004, July 7). *The WhiteHouse website*. Retrieved September 17, 2014, from <http://georgewbush-whitehouse.archives.gov/news/releases/2004/07/20040707-10.html>.
- Fisher, M. (2013, October 17). This map shows where the world's 30 million slaves live. There are 60,000 in the U.S. *The Washington Post*. Retrieved September 16, 2014, from www.washingtonpost.com/blogs/worldviews/wp/2013/10/17/this-map-shows-where-the-worlds-30-million-slaves-live-there-are-60000-in-the-u-s.
- Fraleley, A. (2005, Spring). Child sex tourism legislation under the PROTECT Act: Does it really protect? *St. John's Law Review*, 79(2), 445-483.
- Fredette, K. (2009). International legislative efforts to combat child sex tourism: Evaluating the Council of Europe Convention on Commercial Child Sexual Exploitation. *Boston College International and Comparative Law Review*, 32, 1-43.
- The heroic women of the year 2013 – Malala Yousafzai. (2014, January 22). *Malala Yousafzai website*. Retrieved September 18, 2014, from www.malala-yousafzai.com.
- Hughes, D. M. (2004, August). *Best practices to address the demand side of sex trafficking*. Retrieved September 16, 2014, from www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf.
- Hume, T., Cohen, L., & Sorvino, M. (2013). The women who sold their daughters into sex slavery. *CNN*. Retrieved September 16, 2014, from www.cnn.com/interactive/2013/12/world/cambodia-child-sex-trade.
- Husain, M. (2013, October 7). Malala: The girl who was shot for going to school. *BBC News Magazine*. Retrieved September 16, 2014, from www.bbc.com/news/magazine-24379018.
- King, L. (2008). International law and human trafficking. *Topical Research Digest: Human Rights and Human Trafficking*, 88-90. Retrieved September 18, 2014, from <https://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf>.
- Mathews, S. (2005). International trafficking in children: Will new U.S. legislation provide an ending to the story? *Houston Journal of International Law*, 27, 649-703.
- Patterson, T. (2007, January). Child sex tourism: A dark journey. *FBI Law Enforcement Bulletin*, 76, 16-21. Retrieved September 17, 2014, from www.fbi.gov/stats-services/publications/

law-enforcement-bulletin/2007-pdfs/jan07leb.pdf.

Polaris Project (National Human Trafficking Resource Center). (2014a). *Human trafficking FAQs*. Retrieved September 18, 2014, from [www.polarisproject.org/human-trafficking/human-trafficking-faqs#What is human trafficking?](http://www.polarisproject.org/human-trafficking/human-trafficking-faqs#What%20is%20human%20trafficking?)

Polaris Project (National Human Trafficking Resource Center). (2014b). Trafficking Victims Protection Act summary resource pack: TVPA fact sheet. *Anti-trafficking efforts*. Retrieved September 17, 2014, from <https://na4.salesforce.com/sfc/p/#300000006E4S8BPMayCvVPSIRhm2BionQ2HiFHY=>.

Sagan, A. (2013, July 12). Malala's 10 most inspiring quotes from her UN speech. *CBCNews: Your Community Blog*. Retrieved September 16, 2014, from www.cbc.ca/newsblogs/yourcommunity/2013/07/malalas-10-most-inspiring-quotes-from-her-un-speech.html.

Shepherd, J. (2010, April 6). ABC News airs undercover fishing/hunting investigation. *The Chattanooga.com*. Retrieved September 17, 2014, from www.chattanooga.com/2010/4/6/172713/ABC-News-Airs-Undercover.aspx.

UNICEF: Child sex trafficking must end. (n.d.). *Information Newsline*. Retrieved September 18, 2014, from www.unicef.org/newsline/00pr05.htm.

United Nations (UN) Security Council Sanctions Committee. (n.d.). *Security Council sanctions committees: An overview*. Retrieved September 18, 2014, from www.un.org/sc/committees.

UN Treaty Collection. (2014). *Chapter IV. Human rights: Convention on the rights of the child*. Retrieved September 18, 2014, from http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

U.S. Department of State. (2011). *Tier placements: Trafficking in persons report 2011*. Retrieved September 17, 2014, from www.state.gov/j/tip/rls/tiprpt/2011/164228.htm#.UWN-JcNVI4U.email.

U.S. Government International Assistance for Children in Adversity. (2014). *Objective 3: Protecting children from violence, exploitation, abuse, and neglect*. Retrieved September 16, 2014, from www.childreninadversity.gov/objectives-implementation/objective-3-protect-children/evidence.

Cases and State Codes Cited

18 U.S.C.A. §2423 (2013).

22 U.S.C.A. §7102(8) (2013).

Hawaii revised statutes §468L-7.5(10) (West, WestlawNext through 2014 Reg. Sess.).

HR 3253 (112th): International Megan's Law of 2011. (2011, October 24). *Govtrack.us*. Retrieved September 18, 2014, from www.govtrack.us/congress/bills/112/hr3253#overview.

Missouri revised statutes §567.087 (West, WestlawNext through 2014 Second Reg. Sess.).

Revised code of Washington annotated §19.138.340 and §98.88.085 (West, WestlawNext through 2014 Reg. Sess.).

United States v. Clark, 435 F. 3d 1100, 1103 (9th Cir. 2006).

Cheryl Taylor George currently works at Lincoln Memorial University–Duncan School of Law in Knoxville, Tennessee. She has been a law professor for more than ten years and has traveled the world spreading knowledge and awareness about commercial sexual exploitation and its various forms. She has been an international speaker in Beijing, China; Innsbruck, Austria; New York,

New York; Cape Town, South Africa; Athens, Greece; Prague, Czech Republic; and Istanbul, Turkey. She wants people to know that slavery is still in existence and is passionate about seeing the eradication of the barbaric and heinous practice. Professor George also teaches criminal law, evidence, domestic violence law, education law, and civil rights.