

Article

Illicit Supply and Demand: Child Sex Exploitation in South East Asia

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ABSTRACT

As migration increases and borders open more worldwide, child sex exploitation is a growing concern. Larger populations and poor economic conditions create opportunity to exploit people in sex industries, while international travel provides consistent demand and a sense of anonymity to the practices. Sex tourism generates billions of dollars annually, and some national economies are partially dependent upon illicit proceeds from sex, including those relating to exploitation of children. Domestic and international laws have been established to protect children in theory, but in reality the industries proliferate, some with the assistance of law enforcement personnel. This article focuses on the Association of Southeast Asian Nations (ASEAN) group as a major supplier of illicit sexual services involving minors. Americans and Canadians are considered major consumers of those services. Relevant literature is reviewed along with international legal conventions, psycho-social theory, economic and crime statistics. Domestic laws from the 12 nations studied are compared. The potential to change social conditions from outside of a targeted group is discussed and a dynamic new approach to the problem is introduced.

Keywords: *Child Protection, Pedophilia, Child Sex Exploitation, Sex Tourism, Organized Crime, ASEAN*

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I. INTRODUCTION

Children, adolescents, and young adults are lured, coerced, and forced into sex industries worldwide. This is an unpleasant topic to discuss, but it is a visible part of life in many tourist districts in developing countries. The topic itself may invoke a person's deepest fears and touch on some people's most aggressive psychological defenses. Child Sex Tourism (CST) and related illegal practices have been part of growth industries in recent years, and as such the problems not only affect the poorest people, but have been so pervasive as to impact the daily lives of the middle and upper classes.

Prior research on the subject implicates a growing number of international patrons in larger sex tourism industries. As border crossing regulations became more relaxed and intercontinental flight more affordable to middle and lower classes through the latter half of the 20th century, a robust sexual services industry emerged in the tourism sector, and that has continued to expand into the 21st century. In developing countries, poverty is rampant, licit job opportunities are scarce and provide much less income when compared to black market professions including prostitution. Illicit trades often provide higher revenues and profit margins for people desperate or misfortunate enough to work in them.

Citizens of wealthier nations such as the United States and Canada (CA) can visit destinations like those in the Association of South East Asian Nations (ASEAN)¹ and obtain various goods and services, including sex, for relatively low prices. Unscrupulous brothel owners and procurers may create markets for child sexual services or merely supply a pre-existing demand. Studies have shown that sales and consumption of such services in the ASEAN region are prevalent. Some consumers, like those from the North American Occident – United States and CA – may travel halfway around the world to satisfy their urges and fantasies, or they may engage in opportunistic encounters which were otherwise unplanned.

What is known about the sex industry is limited, as is the case with all of black markets. These economies operate in secret, staffed by transients and they are not easily studied given the largely criminal and generally immoral nature of illicit trades. The child sex industry is more shrouded in secrecy and illusion than the adult trade, although the practice is present through recorded history. Child sex exploitation (CSE) is most frequently involved in CST, and represents a breakdown in community and family structure. With the emergence of fields of psychology and modern forensics, experts have been able to understand the processes through which CSE and

1. The ASEAN group includes Brunei (BR), Cambodia (KH), Indonesia (ID), Laos (LAO), Malaysia (MY), Myanmar (MR), Philippines (PH), Singapore (SG), Thailand (TH), and Vietnam (VN).

CST proliferate and succeed, but the ratio of interested professionals to community members and organized crime affiliates is still rather low. Leaders have yet to find a way to treat these ills of civilizations which are saturated with poverty, fear and disorder.

Researches have had some groundbreaking effects in alleviating the burdens of CSE and CST. Most literature on the subject is produced by NGOs or academic researchers. Western academic authors often posit commentary from outside of regions most seriously affected by CST, or pen articles following brief visits to those places. NGO and UN researchers more often have some locally-based, longer-term operations which offer the bulk of quantitative data on the subject. As the issues are examined, layers of problems are uncovered. Some researchers estimate that roughly a quarter of child sex tourists worldwide are American citizens,² meaning that one of the world's most active state-advocates against CSE and CST also contributes most to the problems.

The high monetary value of any sex trade attracts criminals from associated and ancillary industries. Some procurers specialize in offering child sex workers while others enter child markets from adult markets due to financial opportunities abundant in CSE. With high levels of demand on the spot and forecasted for the future, procurers can more easily rationalize engaging in and patronizing human trafficking rings to establish consistent supplies of child sex workers. Enterprising foreign customers may also aspire to import sex slaves or other sex workers into their home countries where high profits are available.

Poorer nations such as seven of those in the ASEAN group³ have been the foci of intergovernmental cooperation on prevention and reduction of international sex tourism, which is frequently associated with CST and CSE. In spite of increasing attention to its associations with CST, adult sex industries are thriving and patrons are exceedingly daring in their shady doings. International sex tourism has become somewhat ubiquitous in certain nations and regions, and child sex trades have found some element of safety in the lack of salience of sex workers in general.

Because fields of comparative legal and interdisciplinary social studies have not been fully developed, CST and CSE in ASEAN have not been adequately exposed within and between those fields. The problems are

2. Kelly Cotter, *Combating Child Sex Tourism in Southeast Asia*, 37 DENV. J. INT'L L. & POL'Y 493 (2009).; *About Child Sex Exploitation*, WORLD VISION (2009), <http://www.worldvision.org/resources.nsf/main/SexExploitation.pdf>.

3. Singapore and Brunei are very well-developed nations with high GDP per capita. Malaysia follows with its strong middle-class position. Thailand is an important emerging market with a wealthy elite class, but the mainstream population earns less than 300USD per month. Although Indonesia has the highest GDP in the region, its population size keeps it generally poor. Vietnam and Philippines are similarly poor. Myanmar, Laos and Cambodia are least-developed countries (LDCs).

ongoing and certain complicated aspects of the crisis have not been discussed thoroughly. Locally-based or long-term resident foreign academic authors in ASEAN have not been represented in literature on the subject. I have lived and worked throughout Thailand for around seven years and I have encountered a vast number of aspects of the sex tourism and CSE epidemics that other authors did not cover. In this article, I aim to provide a slightly new approach to the long-standing issues at hand.

Internet searches were conducted for retrieval of resources, which were analyzed and interpreted within the framework of a legal positivist model. Cultural and natural law theories were considered when drawing conclusions, but the compelling interest lay in protecting children rather than supporting exploitation, if only inadvertently so. Considering the low levels of enforcement of anti-prostitution and child protection laws in the majority of ASEAN, some alternative interpretivist methodological framework was incorporated, such as phenomenology. Because the ASEAN region is influenced by Confucianism, it was accepted that right living in accordance with moral and legal rules and ethics must come from within individuals rather than from a dogmatic or coercive second person. Hence, the social and logical premises did not necessarily support expansive and ambitious conclusions.

This paper reviews statistics on the sex trade in section II. Section III reviews international laws and partnerships on human rights and child protection. Domestic laws from ASEAN nations, Canada, and the United States are reviewed in section IV. Mental health and economic harms are assessed in section V. Section VI follows with evidence that there has been a failure to protect children. In sections VII and VIII, a redeveloped action plan is proposed to combat CST/CSE, accepting that eradication is probably unachievable under the current economic paradigm. Conclusions point toward proactive-reactive eclectic and holistic models, focusing on family and community involvement, education and erudite concepts such as moral thinking, self-esteem, and higher regard for human rights. Psychiatric and social services are suggested as parts of a treatment plan.

II. STATISTICAL REVIEW

International crime statistics do not offer an entirely reliable perspective on the child sex exploitation problem. Comprehensive reporting is not required and recording methods vary among nations. Crimes are defined and laws are enforced differently in different jurisdictions. General crime statistics are only partially comparable, and sex crimes relate to many superstitions, so reports may not be accurate globally or even nationwide. Statistics regarding estimated volumes of illicit trades are easily contested

for their validity and reliability due to lack of quantitative evidence. Reports regarding the number of people involved in child sex tourism, or human trafficking, or other related trades annually may be only best guesses.

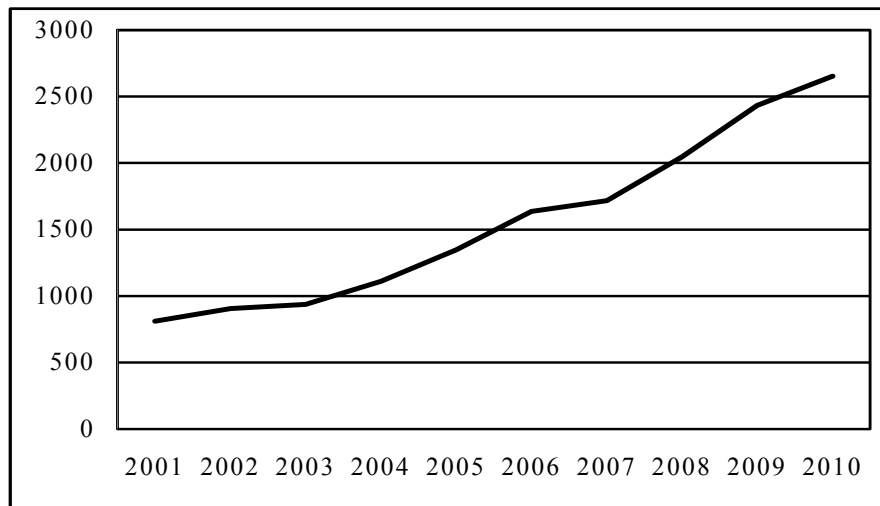
A. *Criminology*

At the domestic level, crime statistics may be reported unevenly or by using diverse methodologies at the local, state and provincial levels. Perceptions regarding the severity of crimes in smaller communities are likely to vary when compared to urban populations. Error variance and data manipulation may significantly affect the integrity of statistics. Inconsistencies in legislation and semantics between nations decrease reliability of international comparisons. Nonetheless, some useful information was provided by estimates and reports offered online by domestic government and international sources.

United Nations Office on Drug and Crime (UNODC) statistics were only minimally useful in examining trends related to sex crimes. Among nations under study, only the United States, Canada, and Philippines reported annually to the UNODC for more than a few years. Canadian and Singaporean domestic statistics were comprehensive, but several methodological and reporting changes were found in the ten or more years starting in 2000, making year-on-year direct comparisons in that time period impossible with the publicly available information. US Courts provided rich data relating to convictions and sentences of sex offenders (Figure 1), but the increases shown in the time period is likely more reflective of changes in legislation and enforcement procedures rather than incident prevalence.⁴

4. *Crime Statistics*, UNODC, <http://www.unodc.org/unodc/en/data-and-analysis/statistics/data.html> (last visited Dec. 27, 2012); *Crime Statistics*, STATISTIC CANADA, http://cansim2.statcan.gc.ca/cgi-win/cnsmcgi.pgm?Lang=E&AS_Mode=2&AS_Action=Find&ResultTemplate=Stu-Etu/85-002-X_D&AS_Univ=1&AS_Ser=85-002-X&AS_Interface=2 (last visited Dec. 27, 2012); *Federal Judicial Caseload Statistics*, US COURTS, <http://www.uscourts.gov/Statistics/FederalJudicialCaseloadStatistics.aspx>. (last visited Dec. 27, 2012)

Figure 1 Sex Offenders Convicted and Sentenced in US Federal Courts (2001-2010).



Source: US Courts, Caseload Statistics (2001-2010).

B. *Sex Economy*

Sex is said to be the number 2 illicit trade in the world by monetary value, second only to drugs. Studies have suggested that the international sex tourism industry is more popular among consumers than domestic sex tourism, with as many as 80% of commercial sex tourist transactions taking place outside of the consumer's home country.⁵ International sex tourists play an important role in prolonging the lifespan of the industry. Tourists are rarely regarded as part of the dregs of any society. The predominant image of international tourism is associated with higher education, higher income, broader understanding of the finer points in life such as arts, food, and culture. When international tourists consistently engage in a specific activity abroad, the activity may easily become normalized and accepted.

The International Labour Organization (ILO) estimated as many as 1.8 million children were exploited in prostitution or pornography worldwide in the year 2000, a number which rose to 2 million by 2006 according to the United Nations Children's Fund (UNICEF).⁶ In 1996, an estimated more than 1 million child prostitutes were present in Asia.⁷ 2.5 million is a

5. Cotter, *supra* note 2, at 493-94.

6. *Commercial Sexual Exploitation of Children and Adolescents – The ILO's Response*, ILO (2008), <http://www.ilo.org/ipeinfo/product/download.do?type=document&id=9150>.

7. *Status of Women in Canada*, HAWAII AIDS EDUCATION AND TRAINING CENTER AND AIDS EDUCATION PROJECT (1997), <http://www.hawaii.edu/hivandaids/Round%20Table%20On%20Child%20Sex%20Tourism.pdf>.

conservative recent estimate of the number of people who are trafficked annually.⁸ In 2007, the United Nations Development Fund for Women (UNIFEM) estimated as many as 4 million persons were trafficked annually, 80% of whom were women and girls, and 50% of whom were minors.⁹ UNODC estimated that 79% of human trafficking victims identified in a study were sexually exploited. Worldwide sex trafficking generates profits of US\$28 billion or more annually.¹⁰

Cotter cited statistics indicating that “the sex industries in Indonesia, Malaysia, Thailand, and the Philippines account for two to 14 percent of these countries’ gross domestic product” (GDP).¹¹ According to Rushing and Urbina,¹² sex is “an essential economic pillar in Thailand,” where “the buying and selling of sex has become a social norm.” Cotter quoted estimates of roughly 900% monthly profit margins at a brothel in Thailand.

C. ASEAN

“Long-affected” CST destinations included Thailand and the Philippines, while Vietnam, Cambodia, and the island of Java in Indonesia were considered “emerging destinations” by ECPAT.¹³ Thailand is consistently considered the number 1 destination nation for trafficking in the Greater Mekong Sub-Region (GMS) due in part to its higher GDP and thus higher opportunity to profit from CSE when compared to other nations in the region. Children in the mainland South East Asian region are most often trafficked-in from mainland China, and across borders between Laos, Myanmar, Cambodia, Vietnam, and Thailand. Some of the children are then trafficked out of the region. The US government reported that Japan was the largest market for adult Asian women trafficked for sex, where about 50% of the 150,000 non-Japanese women in the sex industry were Filipino and 40% were Thai.¹⁴

Accurate numbers are hard to come by in the world of child prostitution. Older estimates of child prostitutes in Thailand ranged from less than 15,000

8. *Human Trafficking FAQs*, UNODC (2011), <http://www.unodc.org/unodc/en/human-trafficking/faqs.html>.

9. *Fact Sheet: Human Trafficking and Slavery*, WORLD VISION (2009), http://www.worldvision.com.au/Libraries/DTL_fact_sheets/Factsheet_Human_trafficking.pdf.

10. *Trafficking for Labour Exploitation*, ILO (Sept. 2, 2009), http://www.ilo.org/sapfl/Informationresources/Speeches/WCM_041995/lang--en/index.htm.

11. Cotter, *supra* note 2, at 497.

12. Rosanne Rushing & Juan Urbina, *Fatal Attraction: A Qualitative Study of Western Clients of Sex Workers in Thailand*, paper presented at Conference “Violence: A Game for Men?” (2005).

13. *Combating Child Sex Tourism: Questions & Answers*, ECPAT (2008), http://www.ecpat.net/ei/Publications/CST/CST_FAQ_ENG.pdf.

14. CRS REPORT FOR CONGRESS, TRAFFICKING IN WOMEN AND CHILDREN: THE US AND INTERNATIONAL RESPONSE (Mar. 18, 2002), <http://fpc.state.gov/documents/organization/9107.pdf>.

to 800,000. In Cambodia, over 30% of prostitutes – 30,000 or more – may be children, with up to 75% of those coming from Vietnam.¹⁵ In the Philippines, estimates vary again, but there are thought to be at least 100,000 child prostitutes. Throughout the GMS, UNICEF provided consistent estimates that 30-35% of all sex workers are between the ages of 12 and 17,¹⁶ which qualifies them as “children”. In the world of easy virtue, Machiavellianism is a substitute for ethicism, and the monetary ends of any trade justify the means of obtaining those ends.

An American Ambassador to the Philippines estimated that “40% of foreign tourists come to the Philippines for sex”.¹⁷ A United Nations article referencing the Harvard Business Review estimated that 60% of foreign tourists to Thailand visit for sex, and that sex tourism is one of if not the biggest source of foreign exchange in Thailand.¹⁸ Strong correlations between sex tourism and child prostitution have been found.¹⁹ Vast statements from reliable organizations and government agencies confirming high prevalence of international sex tourism and of the more egregious child sex tourism are available on the internet, in pamphlets, and cited in the news media. Although statistics on the subject are sometimes outdated and seldom infallible, they are also not without merit.

D. *At-Risk Persons*

Stateless, poor, and undereducated people are most threatened by exploitation and trafficking.²⁰ In developing countries, foreign sex tourists can easily exploit harsh economic conditions by offering a week’s or month’s salary for a single unit of sexual services. With cash in hand, many

15. Suman Mehta et al. *Adolescents in Changing Times: Issues and Perspectives for Adolescent Reproductive Health in the ESCAP Region*, UNESCAP (1998),

<http://www.unescap.org/esid/psis/population/icpd/sec7.asp>; Karen C. Tumlin, *Trafficking in Children and Women: A Regional Overview*, paper presented at Asian Regional High-level Meeting on Child Labour (2000),

<http://www.ilo.org/public/english/region/asro/bangkok/child/trafficking/downloads/jakarta.pdf>.

16. Christine Jacquemin, *Mekong Responsible Tourism*, UNWTO (2011),

<http://ethics.unwto.org/sites/all/files/docpdf/jacqueminpresentation-baliseminar2011.pdf>.

17. Angie Rosales, *US Ambassador’s Statements on RP’s Sex Tourism Have Basis – DFA*, Philippines DEP’T OF FOREIGN AFFAIRS (2011),

http://www.cfo.gov.ph/index.php?option=com_content&view=article&id=1510:us-ambassadors-statements-on-rps-sex-tourism-have-basis-dfa&catid=109:overseas-filipino-new&Itemid=840.

18. Sharifah Shahabudin, *Strategies of Civil Society to Address AIDS in Asia: Emphasis on the Sex Sector*, U.N., <http://www.un.org/womenwatch/daw/csw/hivaida/Shahabudin.html> (last visited Dec. 27, 2012).

19. Jacqueline Larsen, *Migration and People Trafficking in Southeast Asia*, 401 TRENDS & ISSUES IN CRIME AND CRIM. 1 (2010).

20. *Stop Sex Trafficking of Children & Young People*, ECPAT (2008),

http://www.ecpat.net/EI/Publications/Trafficking/Full_Report_Global_Child_Trafficking_for_Sexual_Purposes.pdf.

of the poorer people in this world clearly find it easier to justify violating their moral consciences, or laws, or religions, or sacred cultural values. Communities play a role in fostering a sense that devaluation of innocence and childhood is rational, normal and intelligent, which then obviously makes it easier to push people into exploitative industries and to ignore the widespread problem, or to blame it only on the foreigners and outsiders, including government officials.

Under systems of harmful traditional practices, children are physically and mentally abused at home, in schools, and elsewhere. Auemaneekul et al found that children are viewed as possessions among community members in Northern Thailand, where privacy rights were used to justify child abuse.²¹ Possession implies ownership which in turn implies rights to control and to buy or sell at will. 35% of Bangkok brothel sex workers in a Boonchalaksi and Guest survey were from the northern Thai region.²² More than 30% of brothel workers surveyed in that study entered the sex industry as “children” between the ages of 13 and 17, with more than 55% reporting having entered as adolescents under the age of 20. There is probable cause to assume that some of the sex workers who entered the industry prior to arrival at the age of majority did so under pressure from parents and family members, or they were sold into the industry.

Table 1 ASEAN Population and Poverty Rates²³

	% Below Poverty	
	Population	Line
BR	408,786	
KH	14,952,665	31% ('07)
ID	248,216,193	13.33% ('10)
LAO	6,586,266	26% ('10)
MY	29,179,952	3.6% ('07)
MR	54,584,650	32.7% ('07)
PH	103,775,002	32.9% ('06)
SG	5,353,494	
TH	67,091,089	9.6% ('06)
VN	91,519,289	10.6% ('10)

Source: CIA, World Factbook (2012).

21. Naruemon Auenmaneekul et al., *Participative Model of Child Protection in Northern Thailand*, 13(3) THAI J. NURS. RES. 101 (2009).

22. See generally Wathinee Boonchalaksi & Philip Guest, PROSTITUTION IN THAILAND (1994).

23. *World Factbook*, UNITED STATES CENTRAL INTELLIGENCE AGENCY (2012),

<https://www.cia.gov/library/publications/the-world-factbook/index.html>. All population figures were taken from 2011-2012 data, whereas the years of most recent % in poverty are indicated. Poverty in Brunei and Singapore was negligible.

A 2008 State of Michigan study found that women with a childhood history of sexual abuse were 4.7 times more likely to be raped in adulthood. Sexual abuse was also linked to impoverished living conditions in the Michigan study, where both those living in poverty were at a higher risk for sexual assault, and sexual assault survivors were at a higher risk of living in poverty.²⁴ In 1999, 85% of American States identified poverty and substance abuse as the top two problems related to child abuse.²⁵ The US Department of Health and Human Services reported that age, poverty, and sexual abuse were the top three risk factors for minor domestic sex trafficking victims.²⁶ UNESCAP corroborated the correlations between poverty, prior sexual abuse and trafficking/exploitation of children in the GMS.²⁷

E. *Public Health*

The United Nations Development Programme (UNDP) reported results from a Harvard School of Public Health partnership study which found that girls who were trafficked into sex suffered qualitatively and quantitatively higher levels of sexual risk compared to non-trafficked sex workers. Trafficked females, the majority of whom were “children” under age 17 in the study, were at a high risk of contracting sexually transmitted infections (STIs) including HIV, used condoms less, and were likely to experience violence. In the Indonesian sample, 1 in 7 trafficking survivors tested were infected with at least one STI, while 75% of them experienced sexual violence, and 76.6% were denied freedom of movement. Of the Indonesian sample of trafficking survivors, 46.5% were exploited as “children” under the age of 18, and 24.5% were trafficked when they were under 15. In the Cambodian sample, 52.2% were trafficked as “children” under the age of 17, where 1 in 4 reported forced sex acts, 73.4% tested positive for STIs; 90% of survivors exploited for 2 months or less tested positive for an STI, and 100% of survivors exploited for more than one year were infected.²⁸

24. *The Intersection of Poverty and Sexual Violence*, DOMESTIC VIOLENCE PREVENTION & TREATMENT BOARD, STATE OF MICHIGAN (2008), http://www.michigan.gov/documents/poverty/DHS-Poverty_DomViolence-Report_239087_7.pdf.

25. Jill Goldman et al., *A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice, Chapter Five: What Factors Contribute to Child Abuse?* US OFFICE ON CHILD ABUSE AND NEGLECT (2003), <http://www.childwelfare.gov/pubs/usermanuals/foundation/foundation.pdf>.

26. Heather Clawson et al., *Human Trafficking Into and Within the United States: A Review of Literature*, US DEPARTMENT OF HEALTH AND HUMAN SERVICES (2009), <http://aspe.hhs.gov/hsp/07/humantrafficking/litrev/index.pdf>.

27. *Sexually Abused and Sexually Exploited Children and Youth in the Greater Mekong Subregion: A Qualitative Assessment of Their Health Needs and Available Services*, UNESCAP (2000), http://www.childtrafficking.com/Docs/exploited_children_andyouth_in_subregion_oct07.pdf.

28. *Sex-Trafficked Girls Have a Higher Risk to Contract STIs and HIV*, UNDP (Aug. 12, 2009), <http://content.undp.org/go/newsroom/2009/august/sex-trafficked-girls-less-likely-to-be-reached-by-prevention-programmes.en>.

III. INTERNATIONAL LAW

The 1948 Universal Declaration of Human Rights (UDHR), Eleanor Roosevelt's greatest legacy, established rights to life, liberty, and security of person; freedom from slavery or servitude; freedom from torture and cruel or degrading treatment; recognition before the law; equal protection; freedom of movement; right to nationality; right to choose whom one marries; freedom of thought and conscience; freedoms of expression and opinion; right to participate in government, and equal access to government services; freedom to choose one's own profession; rights to have standards of living adequate for health and wellbeing; and rights to education.²⁹ The UDHR is not a treaty *per se* and has no binding effect on nations; it merely outlines some basic ideals that nations are believed to support. In practice, it has virtually no legal effect beneath the UN level, but it is a nice idea.

A. *Rights of Children*

The 1989 Convention on the Rights of the Child (CRC)³⁰ addresses issues of abuse; education and abolition of harmful traditional practices; rights to adequate standards of living; rights to protection from exploitation; responsibilities of states and elders to prevent abduction and trafficking; rights to protection from exploitation; rights to be free of inhumane or degrading treatment; rights to dignity, liberty, and to legal assistance. As of 2011, all nations under this study except for the United States adopted the Convention. The United States enacted domestic law which provides de facto implementation.

The CRC includes an optional protocol on the Sale of Children, Child Prostitution and Child Pornography, which addressed the sex tourism problem and took a holistic approach to eliminating harmful practices. The foreword addressed contributing factors such as underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctional families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behavior, and harmful traditional practices.

As of 2011, Malaysia and Singapore had not signed, and Indonesia signed but did not ratify or accede. Brunei, Laos, Myanmar and Thailand acceded. Canada, Cambodia, Philippines, and United States ratified.³¹ The

29. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U. N. Doc. A/RES/(III)(Dec. 10,1948), arts. 3-7, 13, 15, 16, 18, 19, 21, 23, 25, 26.

30. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S.3, arts. 19, 24, 27, 32, 35-37.

31. Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, GA Res A/RES/54/263, arts. 1, 3, 5-9, 12.

extent to which state parties implement provisions beyond the legislative level depends largely on budget. The US and Canada have sentenced more offenders, funded more projects, and have taken a broader international approach than poorer nations. Sovereign nations satisfy obligations under the treaty and protocol domestically. Large variations between nations are seen in some aspects, such as support and treatment for victims, due to the capacity of domestic institutions to provide services. Other aspects of national sovereignty, such as concepts of social justice and discrimination law, also create widespread differences between nations in the handling of individual cases.

B. *Islamic Law*

Several aspects of the UN conventions were unacceptable under Shari'a law, so the Islamic Conference of Foreign Ministers drafted their own agreements founded upon similar principles as those at the UN. The 1990 Cairo Declaration on Human Rights in Islam³² was designed to protect man from exploitation and persecution, and to affirm freedoms and rights to a dignified life. The declaration outlined rights contemplated in the UDHR, offering also a distinctly Islamic set of additional rights, such as: life (starting at conception); a responsible husband and father; moral and ethical environment; freedom from colonialism via self-determination; freedom from monopolistic practices and from exorbitant interest on loans; a clean environment; social care; inviolable privacy; rights to advocate good, to warn against wrongdoing and evil.

The 2005 Covenant on the Rights of the Child in Islam³³ provides rights similar to those in the CRC and Cairo Declaration with additional rights Muslims hold dear. It was signed to strengthen the family, prevent economic, social or health deterioration, ensure a balanced and safe childhood, and provide free compulsory primary and secondary education without discrimination for Muslims and non-Muslims. The Covenant enumerates rights to life; identity; family cohesion; personal views and opinions; education and culture; rest and activity times; social living standards; health; protection from drugs, trafficking, humiliation, abuse, and exploitation; freedom from child labor; justice; dignity, freedom from harmful traditional practices, and responsible parents.

Malaysia and Indonesia are members of the Organization of Islamic

32. Cairo Declaration on Human Rights in Islam, Aug. 5, 1990, U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18, arts. 1, 2, 4-7, 11-14, 17-20, 22.

33. Organization of Islamic Conference Covenant on the Rights of the Child in Islam OIC/9-IGGE/HRI/2004/Rep.Final, arts. 6-9, 12-15, 17-20.

Cooperation (OIC). Economic disparity between the two ASEAN members of OIC causes gaps in protection standards implemented in those nations. As the case is with many of the world's most idealistic treaties and moral convictions, practical application of broad principles is subject to a number of less than universal factors such as budget, subjective interpretation of ambiguous or vague terms, relativistic value judgments, social and national pride, etcetera.

C. *Child Labor*

The 1999 ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour³⁴ defined “the worst forms of child labour” as including slavery, child trafficking and sale of children, debt bondage, forced or compulsory labor, child prostitution and child pornography, and any form of work which is likely to harm the health, safety or morals of children. As of 2011, all nations under study except Myanmar ratified the Convention. Provisions of the convention regarding poverty eradication and universal education show again the impractical side of international agreements.

D. *Sexual Exploitation*

The First World Congress against Commercial Sexual Exploitation of Children, representing 122 nations, in combination with ECPAT, UNICEF, UN, and other NGOs committed to a partnership against the commercial sexual exploitation of children. The Stockholm Declaration considered sexual exploitation a “fundamental violation of children's rights”. Various persons and groups were considered partially at fault for the abuses, including family, businesses, government and other community officials. An action plan based upon cooperation, prevention, protection, recovery and reintegration, and child participation was developed.³⁵

The United Nations World Tourism Organization (UNWTO), in cooperation with End Child Prostitution in Asian Tourism (ECPAT), Interpol, UNICEF, International Hotel and Restaurants Association (IH-RA), and other private and public organizations designed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, identifying the international sex trade as a risky industry which poses a

34. ILO Convention, (ILO No. 182), Nov. 19, 2000, 2133 U.N.T.S.161, arts. 3, 6-8.

35. *Declaration and Agenda*, 1ST WORLD CONGRESS AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN STOCKHOLM FOR ACTION, (1996), http://www.csecworldcongress.org/PDF/en/Stockholm/Outome_documents/Stockholm%20Declaration%201996_EN.pdf.

threat to children at or near popular sex-tourism spots, and calls on members to reduce and prevent harms. The IH-RA initiated a program among its own members to address youths at risk for exploitation, and to ensure protection of children in hospitality. ECPAT works with governments, national tourism authorities, the tourism and travel industry, other child rights organizations, international organizations, NGOs and local grassroots groups in their Combating Child Sex Tourism Program. Child protection is an international peremptory norm, and such projects give further practical effect to international law.³⁶

E. *Organized Crime*

The 2000 Convention against Trans-National Organized Crime drew inspiration from the Millennium Declaration, wherein Heads of State reaffirmed that children have the right to dignity, though application of such rights has not been universal. Trafficking of women and children for forced labor including sexual exploitation is considered “one of the most egregious violations of human rights that the United Nations now confronts”. An Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and a Protocol against the Smuggling of Migrants by Land, Sea and Air supplement the Convention. As of 2011, all nations under study except Thailand and Vietnam adopted the Convention. Brunei, Singapore, Thailand, and Vietnam had not adopted the anti-trafficking protocol; Brunei, Malaysia, Singapore, Thailand, and Vietnam had not adopted the anti-smuggling protocol.³⁷ Non-adoption of the convention and anti-trafficking protocol relieved certain nations of the duty to rid street markets of document forgers, like those that can be found in districts such as Bangkok’s Kaosan Road, which undoubtedly aids sex-traffickers.

In 1997, ASEAN made its own Declaration on Transnational Crime covering human trafficking.³⁸ The Declaration aimed to increase cooperation in the region, and schedule regular meetings for officials to discuss the problem. Cambodia did not sign since it was not a full member at

36. *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*, ECPAT (2003), http://www.ecpat.net/ei/Publications/CST/Code_of_Conduct_ENG.pdf; *Stop Sex Trafficking of Children & Young People*, ECPAT (2008), http://www.ecpat.net/EI/Publications/Trafficking/Full_Report_Global_Child_Trafficking_for_Sexual_Purposes.pdf; *Youth at Risk Program*, IH-RA (2010), <http://www.ih-ra.com/programmes/youth-at-risk>; ECPAT, *Combating Child Sex Tourism*, ECPAT (2011), http://www.ecpat.net/ei/Publications/CYP/YP_Guide_to_CST_ENG.pdf.

37. *See supra* note 30.

38. *ASEAN Declaration on Transnational Crime*, ASEAN (Dec. 20, 1997), <http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-transnational-crime-manila-20-december-1997>.

the time of the Declaration. The UNODC and Australian Government Aid Program cooperated with ASEAN to release the Handbook on International Legal Cooperation in Trafficking in Persons Cases,³⁹ which addressed relevant laws and international agreements.

According to numerous sources, organized crime has taken an interest in prostitution, sex exploitation and trafficking due to relatively low risk and high profitability. Some criminal groups have shifted activities from drugs or guns to prostitution and exploitation.

IV. DOMESTIC LAW

Every nation under study has enacted domestic legislation in support of international agreements – laws which criminalize sexual exploitation of children. Some variance was found in criminal penalties, though a relatively unified legislative approach is in place among the nations. Given acceptance of the international norm of child protection among the nations under study, variations in prevalence of CST and CSE may be considered functions of the executive and judicial branches if we focus solely on the legal system as a means of reducing certain social harms. Moderate uniformity among nations exists as qualified by the promulgation of similar laws by secular legislatures.

Penalties vary among nations, and within nations depending on the statute applied. Lashings may accompany sexual assault, rape, and procuring and exploitation sentences in Brunei,⁴⁰ Singapore,⁴¹ and Malaysia.⁴² Life sentences are available for sexual assault cases involving weapons or violence in Canada,⁴³ Philippines,⁴⁴ Thailand,⁴⁵ United States,⁴⁶ and

39. *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases*, ASEAN, UNDOC, AND AUSTRALIAN GOVERNMENT AID PROGRAM (2010), http://www.artipproject.org/ic-handbook/ASEAN%20Handbook%20on%20International%20Legal%20Cooperation%20in%20TIP%20Cases_Aug2010.pdf

40. Brunei Penal Code (2001), Cap. 22, § 366, 370-373A, 375; Laws of Brunei, Women and Girls Protection Act (1972), Cap. 120; Laws of Brunei, Unlawful Carnal Knowledge (1984), Cap. 29; Laws of Brunei, Undesirable Publications Act (1984), Cap. 25.

41. Singapore Penal Code (1985), Cap. 224, § 375-376F; Singapore Women's Charter (1986), Cap. 353, Part XI; Singapore Children and Young Persons Act (1993), Cap. 38.

42. Laws of Malaysia, Penal Code Act (2006), Cap. 574, § 372-373, 376-377; Laws of Malaysia, Act 670, Anti-Trafficking in Persons Act (2007); *see also Protection of Children: Emergency Hotlines, Focal Points, Legislation*, UNWTO, <http://ethics.unwto.org/en/content/protection-children-emergency-hotlines-focal-points-legislation> (last visited Dec. 27, 2012).

43. Canadian Criminal Code (1985), R.S.C., c. C-46, arts. 151-153, 163, 170-171, 271-273, 279.

44. Philippines, Revised Penal Code (1930), Title 6 Cap. 2, Title 11, and art. 278; Philippines, Republic Act No. 7610, Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (1992); Philippines, Republic Act No. 8353, Anti-Rape Law (1997); Philippines, Republic Act 9208, Anti-Trafficking in Persons Act (2003); Philippines, Republic Act No. 9775, Anti-Child Pornography Act (2009).

45. Thailand Prevention and Suppression of Prostitution Act (1996); Criminal Code No. 17, Title

Vietnam.⁴⁷ The death penalty is allowable under Thai and Vietnamese law for sexual assaults leading to the death of the victim.

Table 2 Information on Domestic Laws⁴⁸

	Age of Consent	Age of Legal Majority	Law against Child Porn?	Law on Sex Trafficking?	Law against Exploitation?	Extra-territorial?
BN	16	18	yes	yes	yes	
KH	16	18	yes	yes	yes	
CA	16*	18-19	yes	yes	yes	yes
ID	16f, 19m	15f, 18m	yes	yes	yes	
LAO	15	18	yes	yes	yes	
MY	16	10*	yes	yes	yes	
MR	varies	16-18	yes	yes	yes	
PH	18*	18	yes	yes	yes	
SG	16	21	yes	yes	yes	yes
TH	15	18	yes	yes	yes	
USA	16-18*	14-18	yes	yes	yes	yes
VN				yes	yes	

**Subject to some variance depending on local or provincial jurisdiction.*

Source: Interpol, Legislation of INTERPOL member states on sexual offenses against children (2010).

Cambodia,⁴⁹ Canada, and the United States have minimum prison sentences of at least one year for child pornography. Cambodia, Laos,⁵⁰ Myanmar,⁵¹ Thailand, United States, and Vietnam provide minimum prison sentences for exploitation and procuring offenses. Indonesia seemed to have the lightest sentences in the ASEAN group, one of the countries apparently lacking sui generis legislation on the issues, relying solely on the penal code.⁵² Penal codes in Philippines and Myanmar were old, with that from Myanmar dating back to its colonial era. Both the letter and spirit of the laws of the 1860s and 1930s were starkly different from those written after 1980.

IX (2009); Anti-Trafficking in Persons Act (2008).

46. 18 U.S.C. Caps. 71, 77, 109A, 110, 117 (2011).

47. Vietnam Penal Code No. 15/1999/QH10, arts. 111-16, 119-20 (1999).

48. Table 2 was created using statutes and information from Interpol and UNWTO. Where no information was found, cells are blank. Cambodia, Law on Suppression of the Kidnapping, Trafficking and Exploitation of Human Persons (1996); Cambodia, Criminal Code (2010), art. 42; *see also* Legislation of INTERPOL member states on sexual offenses against children, INTERPOL (2010) <https://secure.interpol.int/Public/Children/SexualAbuse/NationalLaws/Default.asp>.

49. *Id.*

50. Laos Penal Code (1989), Cap. 6.

51. Myanmar Penal Code (India Act XLV) (1860), arts. 366-366B, 372-73, 375-76; Myanmar, The Child Law, State Law and Order Restoration Council Law No. 9/93 (1993); Myanmar, Anti-Trafficking in Persons Law, State Peace and Development Council Law No. 5/2005 (2005).

52. Indonesia Penal Code (1982), Cap. 16.

A. *Prison Sentences in ASEAN*

Variations in prison sentences and additional fines or lashings may reflect cultural and religious diversity of nations under study. Confucian, Shari' a, Canon, English Common Law, Civil Law, and Socialist or Communist Law systems influence the ASEAN and North American Occidental regions. Budgetary, technological or developmental constraints are probably the biggest reasons for varying lengths of imprisonment available under the laws

Table 3 ASEAN Prison Overcrowding⁵³

	Prison Population (yr)	Prison Capacity (yr)	Population % of Capacity
BR	379 ('10)	366 ('07)	103.6%
KH	15,001 ('11)	8,360 ('11)	179.4%
ID	141,689 ('11)	85,474 ('09)	165.8%
LAO	4,020 ('04)	N/A	N/A
MY	38,387 ('10)	32,000 ('09)	120.0%
MR	60,053 ('09)	26,100 ('02)	230.1%
PH	104,710 ('11)	35,000 ('11)	299.2%
SG	12,978 ('10)	15,564 ('10)	83.4%
TH	224,292 ('11)	105,748 ('08)	212.1%
VN	108,557 ('10)	N/A	N/A

Source: International Centre for Prison Studies, World Prison Population List (2011).

Fraley argued that “all sentences against child sex tourists must be severe enough to serve as true deterrents of such behavior. Minimal sentences or fines alone are not enough to deter sex tourists.” Considering the limited financial resources developing and least developed nations have to fund prisons, expansive use of prisons is simply not a practical solution for the child sex tourism or exploitation problem in ASEAN, where murderers, drug traffickers and guerrillas are higher priorities for spots in already overcrowded prisons.

Articles reviewed suggested that most consumers of sexual services in general are domestic citizens, although foreign sex tourists do play an important role in the industry and in designing an incarceration strategy for

53. Table 3 presents the most recent statistics available (year in parentheses). Overcrowding is already a serious problem in the nations most affected by CST & CSE. See Roy Walmsley, *World Prison Population List (Ninth Edition)*, INTERNATIONAL CENTRE FOR PRISON STUDIES (2011), <http://www.idcr.org.uk/wp-content/uploads/2010/09/WPPL-9-22.pdf>; *World Prison Brief Asia*, ICPS (2012), <http://www.prisonstudies.org/info/worldbrief/?search=contasia&x=Asia>; Amy Fraley, *Child Sex Tourism Legislation Under the PROTECT Act: Does It Really Protect?*, 79(2) ST. JOHN'S LAW REVIEW 445 (2005).

those who patronize prostitutes or child prostitutes. Increased use of prison sentences and longer sentences are most often recommended by experts, but it is doubtful that the bulk of ASEAN states can afford such a penal strategy. Thailand, for example, already has one of the highest totals and rates of prisoners in the world. If the effectiveness of a strategy heavily reliant upon imprisonment in attempts to reduce the prevalence of an illicit trade is shown in the area of narcotics, then it is unlikely that elevated use of incarceration in sentencing for sex crimes would work for ASEAN members. In cases where foreigners are involved, other options may be exercised including deportation, travel-ban, and extradition.

B. *Extraterritoriality*

Article 1 of the CRC defines “child” as every human being below the age of eighteen or the age of majority under the applicable law. *Lex loci* – the principle of territoriality – has significant effect on local application of the CRC and other relevant treaties given that independent states have varying ages of consent and majority. Extraterritorial enforcement of laws is not a universally accepted practice in general due to risks of encroaching on territorial sovereignty and disrupting certain international norms. However, in matters of child protection, where domestic laws are not harmonized such that treaty principles may be applied, there is some room for extraterritorial enforcement in egregious cases using the protective principle.

Where and when minors are involved in sexual exploitation, a general threat to public safety and security does result. Articles have consistently indicated that organized crime is heavily involved in the sex trade. Due to the severity of the problems associated with CST & CSE, nations like the United States and Canada have been able to claim some extraterritorial jurisdiction without coming into conflict with international customs. Double criminality requirements – that the crime committed abroad must be considered an offense in both countries – have been removed in the US and Canada by recent legislation which establish extraterritorial jurisdiction in CST/CSE cases based upon the nationality principle.

1. *Regina v. Klassen*⁵⁴

In 2008, the Supreme Court of British Columbia upheld the constitutionality of extraterritorial enforcement of child protection laws under §7(4.1) of the Criminal Code of Canada. Klassen was indicted on 35 counts of various offenses relating to sexual misconduct with minors and

54. *Regina v. Klassen*, 24292 BCSC 1762 (2008).

children, including touching, making pornography, and obtaining sexual services. 17 counts were relating to conduct which took place in Cambodia, and 1 count was related to conduct which took place in the Philippines. Klassen argued that the action was ultra vires the Parliament of Canada on the grounds that there was no “real and substantial link” between the Canadian criminal justice system and acts committed in another state, and because such extraterritoriality was contrary to the international legal principle of sovereignty. The Supreme Court supported the action against Klassen, citing the nationality and universal principle, affirming that the CRC and Optional Protocol implementing legislation form “a part of customary international law” analogous to legislation prohibiting piracy, slavery, and torture.

2. *United States v. Kent Frank*⁵⁵

In 2010, the US Eleventh Circuit Court of Appeals upheld a District Court judgment against Frank, and affirmed that 18 U.S.C. § 2251A applies extraterritoriality. Kent Frank was convicted of traveling and engaging in illicit sexual conduct with three girls of ages 11-15 in Cambodia, of traveling with the intent to engage in illicit sexual conduct, and of purchasing the girls in order to produce sexually explicit visual depictions of them. Frank was detained in Cambodia by the National Police in 2004 based on a tip received by the Anti-Human Trafficking and Juvenile Protection Office. Frank was released by Cambodian officials, and was later arrested by US officials in Vietnam.

Frank motioned to suppress details from interrogations conducted by Cambodian law enforcement officers who did not read Frank his Miranda rights. The Circuit Court, citing *United States v. Heller*,⁵⁶ reiterated that “statements obtained by foreign officers conducting interrogations in their own nations have been held admissible despite a failure to give Miranda warnings to the accused.” Contemplating issues from *United States v. Bowman*⁵⁷ among other cases and statutes, the Court decided that Congress did intend 18 U.S.C. § 2251A to apply extraterritorially in order to combat child pornography. Citing *United States v. Mitchell*,⁵⁸ which held that “[A] state may punish the wrongful conduct of its citizens no matter where it takes place”, establishing jurisdiction under the nationality principle, the Circuit Court supported extraterritorial enforcement of the statute.

55. *United States v. Frank*, 599 F.3d 1221 (11th Cir. 2010).

56. *United States v. Heller*, 625 F.2d 594 (5th Cir. 1980).

57. *United States v. Bowman*, 260 U.S. 94, 97-98, 43 S. Ct. 39, 41, 67 L.Ed. 149 (1922).

58. *United States v. Mitchell*, 553 F.2d 996, 1001 (5th Cir. 1977).

V. MENTAL HEALTH AND ECONOMIC IMPACTS

Pedophilia is often discussed in cases involving sex with minors, but the mental disorder is also frequently qualified for political rather than scientific reasons. Technically, pedophilia (DSM-IV-TR 302.2) is relating to prepubescent children.⁵⁹ Average ages for attainment of puberty is 9-14 for boys and 8-13 for girls,⁶⁰ and thus 15-17 year olds are generally not victims of pedophiles in itself. Despite the classification of all persons under age 18 as “children” in the CRC and that of all persons between ages 10 and 19 as “adolescents” by the World Health Organization⁶¹ (WHO), there are significant psychological and physiological differences within those groups such that further distinction must be made to satisfy science and the law.

A. *Ill Participants*

Although not all cases involving children or minors are related to pedophilia, a broad assortment of psychological ailments may be present in all sex crime cases including those involving adults. Furthermore, sex crimes and illicit sex trades undoubtedly meet the description of “irresponsible adult sexual behavior” mentioned in the foreword of the optional protocol to the CRC. Paraphilias (DSM-IV-TR 302.9) are commonly associated with prostitution and pornography.⁶² Voyeur websites and peep shows cater to specific desires among the afflicted population. Anal sex is regularly reported among prostitutes and is a genre of pornography, so coprophilia is probably present among consumers of certain sexual services. Sexual service providers and porn actors/actresses may use non-human objects in the course of their work, thus implying that fetishism (DSM-IV-TR 302.81)⁶³ is not likely absent in the group. Sexual sadism (DSM-IV-TR 302.84)⁶⁴ and sexual masochism (DSM-IV-TR 302.83)⁶⁵ are niche segments in the sexual services markets (“S&M”) which are profitable opportunities for some service providers.

59. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: DSM-IV-TR, 4th Edition Text Revision* (2000), Codes in the 302 range relating to sexual disorders were cited in this research, <http://www.psychiatry.org/practice/dsm/dsm-iv-tr>.

60. U.N.EOC. & SOC. COMM. FOR ASIA & PAC., *ADOLESCENT REPRODUCTIVE HEALTH IN THE ASIAN AND PACIFIC REGION*, U.N. Doc.ST/ECSAP/2155, U.N. Sales No.E.02. II. F.18 (2001).

61. *10 Facts on Adolescent Health*, WHO (Sept. 2008), http://www.who.int/features/factfiles/adolescent_health/en/.

62. U.N.EOC. & SOC. COMM. FOR ASIA & PAC., *Sexually Abused and Sexually Exploited Children and Youth in Thailand*, U.N. Doc.ST/ECSAP/2077.

63. *Id.*

64. *Id.*

65. *Id.*

Inside the seedy subculture of illicit commercial sex and near geographical locations where sexual services are frequently offered (e.g. Pattaya, Thailand), transvestic fetishism (DSM-IV-TR 302.3)⁶⁶ may be normalized to the extent that people overlook the psychological aspects of the behavior or merely consider it “culture” because it would be bad for business to make a negative value judgment on the subject. Where gender reassignment surgeries are commonplace, and where “unnatural” or lewd sex acts are big business, gender dysphoria and gender identity disorder including that in children and adolescents (DSM-IV-TR 302.6, 302.85)⁶⁷ may affect relatively large parts of local populations.

In worst case scenarios, frotteurism (DSM-IV-TR 302.89)⁶⁸ among patrons may be “managed” by merely projecting such urges in the direction of a prostitute who may or may not be a legitimately consenting person. Exhibitionism (DSM-IV-TR 302.4)⁶⁹ may be part of an effective marketing scheme for prostitutes and may be further masked by strip shows, or may be part of the process of consumption of commercialized sexual services.

B. *Individual Psycho-Social Impacts*

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) in collaboration with an international research team reported various physical and psychosocial health issues present among sexually exploited and abused children in Thailand. Physical health problems seen in 60 cases from 21 provinces included vaginal discharge, painful genitalia, torn vagina, bacterial vaginosis, sexually transmitted disease (STD) and HIV infection, body aches, obesity, skin disease, stomach problems, headaches, chest pains, respiratory problems, fatigue, malnutrition, tooth ache and nose pain from plastic surgery, and fainting. Psychosocial health problems from cases included depression, discouragement, fear, guilt, anxiety, drug and alcohol abuse and addiction, stealing, self-infliction of bodily harm, aggressiveness, irritability, low self-esteem, paranoia, post-traumatic stress, nightmares, loneliness, worry, hyperactivity, destructive tendencies, dishonesty, suicidal tendencies, isolation, boredom, tearfulness, sadness, need of attention, jealousy, overconfidence, absent-mindedness, forgetfulness, insomnia, volatile emotions, and poor hygiene.

Numerous authors found an association between child sexual abuse and various mental health problems including post-traumatic stress, reduced

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

self-esteem, and problems with sexual adjustment in adult life.⁷⁰ Studies suggest that different forms of abuse are often present together (i.e. sexual abuse and domestic or physical violence). All types of abuse and neglect are associated with most major adolescent health risks. Childhood trauma can seriously affect the developing brain, leading to learning and other psychological problems over time. Children exposed to abuse and neglect are at an increased risk of inflicting pain on others and developing aggressive and violent behaviors in adolescence.⁷¹

In the family, all forms of prostitution are potentially devastating. Whether a family member works as a prostitute or if a family member patronizes prostitutes, the bonds of trust and the integrity of the family unit erode. Adultery often involves prostitution, and domestic violence results in numerous cases.⁷² Abortion, prostitution, and adultery are at least casually associated.⁷³ Adultery has long been a leading cause of divorce.⁷⁴ Divorce can cause and contribute to serious problems in children's psychosocial development.⁷⁵ Research has suggested that parental separation and divorce leaves children vulnerable to sexual abuse.⁷⁶ Therefore, a web-work of sexual abuse and exploitation, prostitution, adultery, and dysfunctional family life exists.

C. *Collective Economic Impact*

Socioeconomic threats posed by illicit trades relate primarily to the unrecorded, untaxed financial flows. Criminals make investment decisions with a focus on concealment rather than on attaining the highest possible return. Criminal funds are thus directed away from high quality investments

70. See generally Paul Mullen & Jillian Fleming, *Long-term Effects of Child Abuse*, AUSTRALIAN INSTITUTE OF FAMILY STUDIES, NATIONAL CHILD PROTECTION CLEARINGHOUSE (1998), <http://www.aifs.gov.au/nch/pubs/issues/issues9/issues9.html>.

71. Alister Lamont, *Effects of Child Abuse and Neglect for Children and Adolescents*, AUSTRALIAN INSTITUTE OF FAMILY STUDIES (2010), <http://www.aifs.gov.au/nch/pubs/sheets/rs17/rs17.html>.

72. Dennis Ahlburg, Eric R. Jensen & Aurora E. Perez., *Determinants of Extramarital Sex in the Philippines*, 7 HEALTH TRANSITION REV. 467 (1997); Margo Wilson & Martin Daly, *An Evolutionary Psychological Perspective on Male Sexual Proprietariness and Violence against Wives*, 8 VIOLENCE AND VICTIMS 271(1995).

73. See generally LAURIE SHRAGE, *MORAL DILEMMAS OF FEMINISM: PROSTITUTION, ADULTERY, AND ABORTION* (1994).

74. See e.g., Ilene Wolcott & Jody Hughes, *Towards Understanding the Reasons for Divorce* (Australian Institute of Family Studies, Working Paper No. 20, 1999), available at <http://www.aifs.gov.au/institute/pubs/WP20.html>. (1999).

75. Dr. Phil, *Post-Divorce Parenting Mistakes and Strategies* (2012), <http://www.drphil.com/articles/article/242>.

76. Monash University Medical, *The Well Being of Children Following Parental Separation and Divorce Research Consortium*, <http://www.med.monash.edu.au/childwellbeingrc/childwellbeingliteraturereview.pdf> (last visited Dec. 27, 2012).

and toward less-productive activities which yield lower rates of return, resulting in negative economic impacts and short-term orientation. Criminal finance encourages investment in non-productive sectors such as bars, restaurants, cars and transport companies. As organized crime methodology and activities increase and become normalized into the economic structure, hotels, restaurants, night clubs and other such businesses may easily become fronts for criminal activities beyond prostitution such as drugs, guns, gambling, etcetera. Price distortion, strengthened economic disparity, corruption, and market volatility follow as effects of criminal financial flows.⁷⁷

D. *Weakened Public Institutions*

Relationships between CST/CSE and corruption should not be underestimated. In Thailand and the Philippines, for example, police have been known to guard brothels and procure children for prostitution.⁷⁸ Victims of sex trafficking are sometimes forced into being prostitutes for military personnel who may also own and manage commercial sex establishments and profit from child trafficking.⁷⁹ Studies have shown that when officials are not directly involved in the criminal activity, brothel owners and recruiters form networks with corrupt public servants to get administrative-level protection.⁸⁰

Dunn found that “developing countries were more likely to use sex in their tourism promotion materials” than were developed countries.⁸¹ Fraley said “corrupt politicians, police, armed forces and civil servants...receive bribes, demand sexual favors [of the children] and are themselves customers or owners of brothels.”⁸² It follows facts relating to prevalence of sex industries, including those involving minors and children, that public authority figures would play a significant role in owning, operating, and protecting the industry. If the legal institution was strong, the illicit trade would not survive so easily.

77. *Estimating Illicit Financial Flows from Drug Trafficking and Other Transnational Organized Crimes*, UNODC (2011), http://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf.

78. *Child Sex Tourism*, DEPARTMENT OF JUSTICE OF UNITED STATES, CHILD EXPLOITATION AND OBSCENITY SECTION, (2011), <http://www.justice.gov/criminal/ceos/subjectareas/trafficking.html>.

79. *Sex Trafficking Fact Sheet*, DEPARTMENT OF HEALTH AND HUMAN SERVICES OF UNITED STATES, NATIONAL HUMAN TRAFFICKING RESOURCE CENTER (Aug. 2, 2012), <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-sex-trafficking-english>.

80. TRADING WOMEN (DOCUMENTARY EDUCATIONAL RESOURCES 2003); Karen C. Tumlin, *Trafficking in Women and Children: A Regional Overview*, ILO (2000), <http://staging2.ilo.org/public/english/region/asro/bangkok/paper/background/trafficking.pdf>.

81. SUNITED STATESN DUNN, TOWARD EMPOWERMENT: WOMEN AND COMMUNITY-BASED TOURISM IN THAILAND 24 (Dec. 2007) (unpublished M.A. thesis, University of Oregon).

82. Fraley, *supra* note 53.

E. *Hopelessness*

Unluckily for victims, legislation and philosophy have very little power in locales where some people cannot read and others cannot comprehend academic literature. International agreements have less power, and application of such “highfalutin” rules in the impoverished rural villages and city districts is sometimes considered an offence itself. Fatalism, pessimism, and cynicism are abundant where very little real economic and social opportunity is present. Apparently, many of the older teenagers who work in sex industries do so with some element of freewill, and they have rationalized their behavior by focusing on profit and, in many cases, freedom from their dysfunctional homes.

Through years and generations of abuse and distorted logic, many of the participants in these illicit trades learn to abuse themselves. But when prostitution is basically the only way that young people can rise in social class, or earn a living wage in many cases, it is virtually impossible to make them understand that what they are doing is *wrong*. Dunn explained that many women in Thailand “find themselves in the sex industry, while others end up working in low wage factory jobs”.⁸³ Ford and Lyons drew attention to a radical feminist approach to the Indonesian sex industry in an article entitled “Making the best of what you’ve got: sex work and class mobility in the Riau Islands”,⁸⁴ where “It’s about Bang for your Buck, Bro” – the title of a later Lyons and Ford article regarding Singaporean online conversations about sex in Batam, Indonesia.⁸⁵

Tales of adventure capitalism the likes of which inspire images of Vaudeville shows or, at worst, little orphan Annie singing “Tomorrow” do not seem to be accurate depictions of commercial sex industries, regardless of how many service providers moved up the socio-economic ladder last quarter. The coyness of euphemism has simply ceased to have effect on critics of the sex industries, at least since the dawn of the 21st century. While the verdant conjecture of the casual pundits has gained some footing in the arts and social sciences, and the plight of the obstinate sex market makers some sympathies from some international governmental organizations like Committee on the Elimination of Discrimination against Women (CEDAW),⁸⁶

83. *Id.* at 1.

84. Michele Ford & Lenore T. Lyons, *Making the Best of What You’ve Got: Sex Work and Class Mobility in the Riau Islands*, in *WOMEN AND WORK IN INDONESIA* 173, 173-94 (M. T. Ford & L. Parker eds., 2008).

85. Sophie Williams, Lenore Lyons & Michele Ford, *It’s About Bang for Your Buck, Bro: Singaporean Men’s Online Conversations About Sex in Batam, Indonesia*, 32 *ASIAN STUDIES REV.* 77 (2008).

86. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee called for decriminalization of prostitution in certain countries where trafficking and prostitution are rampant, such as in China. See *A fact Sheet on CEDAW: Treaty for the*

the compelling state interest as demonstrated by legislation and at least limited enforcement, has been primarily in prevention and suppression of prostitution in general. Obviously, various conflicts of interest remain in existence.

VI. EVIDENCE OF FAILURE TO PROTECT

Continuing and increasing sexual exploitation of girls, boys, women, and men worldwide is evidence that laws have been ineffective through the present day. Proof of governmental failure is in the numbers of abused children. Svensson quoted the US Department of State and UNICEF, stating that each year there are between one and two million children exploited by sex tourists and traffickers. Svensson said that in developing countries, where sex tourism and exploitation are more common than in wealthier nations, “government corruption, extreme poverty, civil unrest, and numerous other factors” make it difficult to enforce anti-exploitation laws.⁸⁷

A. *Extraterritorial Legislation*

Considering that international sex tourists in general, including child sex tourists, are rarely prosecuted under domestic laws in receiving countries, the burden of enforcement in crimes committed by citizens of nations like the US and Canada lies on the home nation of perpetrators. However, innumerable obstacles prevent such nations from policing their own people abroad. Domestic law enforcement entails significant procedural prerequisites for prosecution and conviction; international enforcement then has several additional procedural barriers to swift and easy prosecution, which also help maintain a fair balance for alleged perpetrators. Canada and the US have issues with budget in their own states, provinces, and local jurisdictions; deploying law enforcement agents abroad is not a real option.

ECPAT reported very low numbers of extraterritorial case convictions in nations which have extraterritorial legislation. A main conclusion was that extraterritorial laws are not really working, and despite the low motivation certain nations have toward prosecuting foreign sex tourists, the best option is still domestic prosecution in the nation where the crime occurred, where the evidence and victim are located, and where the local police hold jurisdiction. If the perpetrator has fled that jurisdiction where the offense occurred, then extradition back to that country is the best option, according

Rights of Women, AMNESTY INTERNATIONAL (Aug. 5, 2005),
http://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf.

87. Naomi L. Svensson, *Extraterritorial Accountability*, 28 LOY. L.A. INT’L & COMP. L. REV. 641 (2006).

to ECPAT.⁸⁸

B. *Trouble in America*

Despite the American legislative commitment to protecting children at home, even in the world's wealthiest nation there have been considerable complications in taking action on the issue of sexual exploitation of minors. In a testimony before the US House of Representatives' Subcommittee on Crime, Terrorism, and Homeland Security, Ernie Allen stated that "as many as one-third of teen runaways/throwaways will become involved in prostitution within 48 hours of leaving home". Although the US has an advanced law enforcement system which is far better funded than most ASEAN systems, Allen said that law enforcement may enter missing child data into the FBI database slowly or fail to do so altogether. Even in the United States, laws are not implemented consistently.⁸⁹

C. *Involvement of Government Employees*

According to multiple sources, the sex industry in Thailand began, or was given a big boost, during the Vietnam War period when American soldiers were stationed in the ASEAN region. When the troops left, the sex markets continued operation. Servicemen continue to patronize, organize, procure, transport, and otherwise support prostitutes worldwide. Active and retired military men are still regularly the subjects of news reports relating to their illicit conduct with prostitutes. All four branches of service in the United States have been affected by child sex scandals, indictments, and convictions.⁹⁰

88. Catherine Beaulieu, *Extraterritorial Laws: Why They Are not Really Working and How They Can Be Strengthened*, ECPAT (2008), http://www.ecpat.net/worldcongressIII/PDF/Journals/EXTRATERRITORIAL_LAWS.pdf.

89. Ernie Allen, *Domestic Minor Sex Trafficking*, Paper presented at the Testimony before the US House of Representatives Subcommittee on Crime, Terrorism and Homeland Security, Committee on the Judiciary, (Sept. 15, 2010), http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=4339.

90. A simple Google search yields hundreds of articles from a variety of sources on the subject of criminal sexual behavior among active and former military men. For example, Ellis Eskew, *Air Force Lieutenant Pleads Guilty to Child Sex Crimes*, FOX 54 (Dec. 8, 2011), <http://www.fox54.com/story/16214687/air-force-lieutenant-pleads-guilty-to-sex-crimes>; *Air Force sergeant sentenced to 46 months for possessing child pornography*, ICE (Dec. 15, 2010), <http://www.ice.gov/news/releases/1012/101215albuquerque.htm>; Erik Slavin, *Atsugi CPO gets 6 years for sex assault of child*, STARS AND STRIPES (Mar. 31, 2012), <http://www.stripes.com/news/navy/atsugi-cpo-gets-6-years-for-sex-assault-of-child-1.173171>; *Army Recruiter from Midland, Texas Arrested on Federal Child Sexual Exploitation Charges*, FBI (May 3, 2012), <http://www.fbi.gov/albuquerque/press-releases/2012/army-recruiter-from-midland-texas-arrested-on>

Police, military, and other public officials are reportedly involved in the sexual services industries in ASEAN and globally. Considering the direct involvement of government agents, there can be no clear success on the part of the parent governments. When the same personnel and organizations that are charged with enforcing the law are some of the primary violators of it, failure to accomplish the official task at hand is the only possibility.

D. *Deliberate Indifference in Thai Schools*

Whereas written public policy and moral rhetoric favor risk assessments and proactive initiatives designed to protect minors, in practice there is little concern for the youth in Thailand. I worked in more than one dozen primary and secondary schools in more than ten provinces during more than six years in Thailand, and I discovered that there is often callous disregard for the human rights and psychological wellbeing of children under the care of public and private school workers. On a daily basis at schools, minors fight and engage in lewd sexual acts – often of a homoerotic nature – exhibiting disorderly and perverse conduct while faculties, staffs and administrations sit idle to the rampant disarray among their students. Student-student inappropriate touching and commentary is so frequently seen that it is considered normal, whereas criticism of the hyper-sexualized flair is considered offensive. Faculty-student and faculty-faculty conduct of a similar nature is surprisingly common.

Corporal punishment is very frequently administered in Thai schools, although the CRC and implementing laws and regulations prohibit such abuse. The lives of young people are routinely devalued by persons in positions of authority who self-righteously impose their will upon youngsters. A system of abuse and senseless ignorance of emotional states of others are staples in an institution which overlooks the sex trade, in a state where children are bought and sold into sex slavery, but as long as people smile and act polite,⁹¹ nobody seems to pay much attention to another side of the story.

VII. DEVELOPING A PLAN OF ACTION

According to the US government, Southeast Asia is the number one

federal-child-sexual-exploitation-charges.; *ICE arrests US Army soldier on child pornography charges*, ICE (May 9, 2011), <http://www.ice.gov/news/releases/1105/110509elpaso.htm>.; *Marine pleads guilty in Japan sex crime*, CNN (May 16, 2008), <http://edition.cnn.com/2008/WORLD/asiapcf/05/16/japan.marine/index.html>.

91. Rushing & Urbina, *supra* note 12, at 112. “[in the ‘land of smiles’], sex workers often use laughing and flirting as a coping mechanism and to attract clients in order to remain in good graces with their manager.”

source region of trafficking victims worldwide, due in large part to the growth and popularity of sex tourism in the region, including “large-scale child prostitution”.⁹² The magnitude of the sex tourism problem, including that involving children, has reached alarming proportions. Sex tourism is inextricably linked to exploitation. Given that prohibition on all prostitution is in place in the most severely affected nations, police should enforce anti-prostitution laws *ex officio* and/or the courts should issue writs of mandamus for laws to be enforced and prosecutions commenced. But what *should* happen may not actually happen. For each great idea there are multiple opposing forces, hurdles, and stalling-points which give rise to complications.

A. *Debate Legalization and Regulation*

Legalization of adult prostitution is an option which many European countries have utilized or contemplated. Generally, support for legalization and decriminalization comes from the political left, which perceives liberal legislation as a straightforward and pragmatic step toward solving a millennia-old problem of abuse. The religious-right along with many voters argue that compelling government interests lie in protecting minors from the sex trade, and that this mission is more adequately served by a prohibition of all prostitution. In reality, prohibition has not come close to eradicating the problems, and in any given democratic society the majority opinion may lie more toward the middle, preferring a legitimate cure.

Exigent circumstances relating to the safety, health, and wellbeing of children and communities suggest that, under the prohibition strategy, wide-ranging arrests and persistent engagement of the commercial establishments would benefit individuals and society. The overwhelming size and influence of sex trades, once again, make reduction and prevention onerous tasks. Many nations half-heartedly conclude that the prostitution industry in general is unmanageable for police, and legislatures like those in Italy⁹³ have debated legalizing and regulating the industry. Under a system of regulated prostitution, in theory, at the very least workers may be registered, screened for diseases, and contribute to tax bases while establishments may be regularly and transparently inspected for underage workers.

Landlord liability, hotelier liabilities, and community accountability may be easier to sustain with regulated adult prostitution, whereas the illicit trade of the modern era is so taboo, the communities so dishonest, the

92. CRS REPORT FOR CONGRESS, *supra* note 14, at 4.

93. Esohe Aghatise, *Trafficking for Prostitution in Italy: Possible Effects of Government Proposals for Legalization of Brothels*, 10(10) VIOLENCE AGAINST WOMEN 1126 (2004).

political discourse so opaque that it is nearly impossible to discuss clear and ever-present problems. Governments play a significant part in spreading panic or calming sensitive social conditions.⁹⁴ With more discussion on the issues in public office, including debates on decriminalization, legalization and regulation options, progress on issues of abuse and trafficking may be realized.

B. *Be Proactive*

An ounce of prevention may well be worth a pound of cure when it comes to combatting CSE and CST. Reactive systems are generally more popular than proactive ones in the Occidental world, but due to increased pressures to tackle child sex exploitation, many western police agencies are initiating more proactive investigations at the community level.⁹⁵ In cases of international child sex tourism and exploitation, several complex obstacles make proactive demand reduction initiatives difficult if not impossible. However, at the local levels on the supply side, there is hope for success in such programs as those designed by ECPAT, UNWTO and IH-RA. Europol⁹⁶ recommended simple remedies like internet controls (i.e. child pornography blocks and chat room predator investigations), improved investigations into claims and increased initiation of prosecutions.

Education is likely a solution to various fundamental problems related to CSE and CST. We can make an informal association between the high supply of child sex workers in the GMS and the low levels of education among populations of the region.⁹⁷ Unfortunately, government budgets in developing ASEAN countries cannot support modern, progressive,

94. Ronald Weitzer, *Legalizing Prostitution: Morality Politics in Western Australia*, 49 BRIT. J. CRIMINOL. 88 (2008).

95. Helen Brayley & Eleanor Cockbain, *Child Sex Exploitation: Implementing Responses*, UCL JILL DANDO INSTITUTE (2012), <http://www.ucl.ac.uk/jdibrief/crime/child-sex-exploitation>.

96. *Child Sexual Exploitation Fact Sheet 2012*, EUROPOL (2012), <https://www.europol.europa.eu/content/publication/child-sexual-exploitation-fact-sheet-2012-1727>

97. *Human Development Report, Table 13: Education*, UNDP (2010) http://hdr.undp.org/en/media/HDR_2010_EN_Complete_reprint.pdf. Both Singapore (27th) and Brunei (37th) were in the group of nations with “very high human development”. Among the population aged 25 and older, 59.1% of Singaporeans had at least a secondary education; net secondary enrolment in Brunei for years 2001 through 2009 was 88.2%; 50.5% of people aged 25 and older had a secondary education in Malaysia (57th), which had “high human development”, where net secondary enrolment was 68.7% between 2001 and 2009; “medium human development” nations included Thailand (92nd), where only 20.6% of citizens aged 25 and older had at least a secondary education; 53.6% aged 25 and older had a secondary education in Philippines (97th), where net secondary enrolment for years 2001-2009 rate was 59.9%; 26.8% age 25 and older had secondary education in Indonesia (108th), where net secondary enrolment was 69.7%; net secondary enrolment in Vietnam (113th) was 62.3%, and 36% in Laos (122nd), and 34.1% in Cambodia (124th); only 16.6% of people aged 25 and older had a secondary education in Myanmar (132nd, “low human development”) which had a net secondary enrolment rate of 46.4% for years 2001-2009.

innovative, high-tech schools in every district. Neither are present government revenues sufficient to support expansive high-quality compulsory education, nor are near-future macroeconomic policies in the poorest seven ASEAN countries likely to sustain such ambitious education goals.

C. *Offer Treatment and Rehabilitation*

In the absence of comprehensive rescue, enforcement, and relief operations undertaken by law enforcement agencies, victims are left with few options – consumption of mental health services being one. Unfortunately, persons engaged in sex trades are not generally wealthy and often lack sufficient funds for purchases other than those related to their basic needs. In other cases, disposable income goes toward cosmetic surgery or nonessential items, and self-esteem or other factors deter use of counseling services.

Where subsidized national health programs exist (e.g. Thailand), governments should try to provide more socialized outpatient mental health care. Through a process of becoming conscious of the self, and after a rebuilding of self-worth and confidence, with the help of trained professional psychologists, psychiatrists and social workers, many prostitutes will be able to exit the profession independently. After a successful exit from the industry, former sex workers may help prevent others from entering the trade and assist in others' attempts to exit. For example, at the Standing Against Global Exploitation Holistic Rehabilitation Center, peer counselors – former prostitutes – help provide current prostitutes access to mental health and drug addiction services.⁹⁸ In cases where services are consumed without a career change, at the very least support may be available and given to persons engaged in the trade often associated with mental disorders. Management of psychological illnesses in prostitutes can help reduce safety risks for both consumers and providers of sexual services.

D. *Provide Substitute Career Options*

Creating further economic advancement, growth, and financial stability is the most appealing approach, though this option requires further education, better health care, functional capitalist markets, and more transparent government. This type of integrated, multifaceted plan of action is needed for the long-term. Considering that the illicit sex trade is an

98. Melissa Dittmann, *Getting Prostitutes off the Streets*, 35 APA MONITOR ON PSYCHOLOGY 71 (Oct. 2004).

historical one where social roles are well-defined and rigid, the idealist agenda may not be swiftly or resolutely served. Macro-level initiatives require the unified efforts of myriad private and public bodies, and a level of harmonization of individual and collective goals, which is impractical. Limited progress in raising the basic standards of living is likely to occur, but the emergence of a utopian society is utterly improbable.

E. *Think Together*

Independent and organizational efforts are required to solidify partnerships which transcend this particular issue and focus on a combination of criminal, economic and social topics. The first step is acknowledgement of the present conditions and recognition of a problem. Institutions of higher learning, hospitals, community and other special interest groups can facilitate a social discussion which raises awareness. Shedding the social stigmas relating to prostitution may not be entirely possible, so fierce determination and high levels of commitment are needed for constrained successes. Where there is inadequate licit employment available, people will most probably always witness various forms of criminal enterprise, and so within current economic paradigms the best many people can do is learn to live with certain unappealing behaviors. Beyond some forms of acceptance of the immortal characteristics of certain human behaviours, which does not necessarily mean acquiescence or enjoyment of such behaviors but rather peace with reality, people can still make consistent efforts to influence changes at some level.

F. *Make an Immediate Impact*

In the short term, more enforcement, mental health and social services are crucial. If and where authorities have knowledge of a brothel, or one posing as a bar or massage or entertainment complex, regular inspections need to take place to check the ages of all persons on the premises. Minor raids can serve as a deterrent for underage entry into and participation in prostitution. If minors are regularly cleared out of establishments where they are not legally allowed to be, and if managers and owners of clubs, bars, etcetera are punished for employing minors or allowing them to “loiter” on the premises, then child procurement and exploitation may be reduced.

G. *Get Organized*

Despite their apparent weaknesses, American and European systems offer strong models of information access and dissemination, reporting and

records-keeping. Nationwide and ASEAN-wide missing children databases are essential tools of law enforcement. With minimal information technology infrastructure, police and military can cooperate in search and tracking initiatives. If parents and community members have a little more hope that their worries and concerns will not go untended to at institutional levels, maybe more transparent private-public participation will result. In the communication age, there is no reason not to be connected.

H. *Be Realistic*

Not everyone can or will be “saved”. Some people do not want to be rescued. Although strides have been made toward making an environment supportive of human rights, exploited and abused people are still considered “damaged goods” in many societies and cultures. Where and when people are treated as not only commodities but also low-quality or defective ones, there will be resistance to changes to the debased system. The abused themselves will sometimes embrace their victimhood and reject help from outsiders.

Authorities should notice the element of conscious behavior among the mid- to late-teens, which is quite different from that of the pre-pubescent and pubescent children whose cognitive functioning is much lower, thus suggesting more external than internal factors leading to behavior among the youngest. Apparent freewill among persons in their later teenage years does not indicate that coercion is not present, and as such protection is still essential, but the extremity of offenses against adolescents aged 15-17 will vary considering that many of those children go to great lengths to disguise their age and identity as part of their profit strategy.

VIII. CONCLUSIONS

Fraley considered the sexual exploitation of children for economic purposes “among the worst forms of human rights abuses”⁹⁹ Human rights abuses discussed in this article are initiated, incubated, habituated, and perpetuated in and very near the home. Parents, friends, and families need to value their safety and rights more for any positive changes to occur. Authorities and government agencies need to give effect to their legislative commitments if transparency is to be achieved. Some finances can be found in judicial settlements with brothel, massage parlor, gambling establishment, and bar owners and operators. International aid and assistance is also available through UN agencies, secular governments, and NGOs. Religious

99. Fraley, *supra* note 53, at 445.

organizations alone provide millions of man hours annually to help with moral issues like sex exploitation of minors.

The view of this problem from the top-down is complex, cumbersome, and largely unmanageable. Millions of people and families are caught in exploitative industries and all have unique needs. There is no guarantee that any strategy will function as it is intended because it requires the alignment of individuals' ideals with collective and institutional goals. Successful implementation of a plan to reduce, prevent, and suppress prostitution in any dimension requires willful compliance among the victims, professionals, patrons and offenders, which is virtually impossible to gain. Authorities can neither directly access nor convince the entire population of anything. A dogmatic, paternalistic authoritarian super-state is an inappropriate leader for the ASEAN group.

From the bottom-up, the problem appears much simpler. From the nuclear family level, in small villages, on a certain city block, the number of potential victims and perpetrators is sufficiently bounded. Parents, siblings and extended family members can instill senses of social values and self-worth in children whereas strangers cannot. Schools and community members have access to physical social networks which are the true power to raise a respectable human environment. Community crime watch and advisory groups can assist the police. Any plan to reduce or eliminate harmful environmental factors relies on the faithful service of unpaid, independent stakeholders who do the best for themselves and others out of pure kindness and goodwill. Leadership must come from the places where life starts and first takes root – in the homes, in the neighborhoods, in the schools, and in the places where children first develop themselves.

“Where, after all, do universal human rights begin? In small places, close to home...Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.” – Eleanor Roosevelt¹⁰⁰

100. Eleanor Roosevelt, Franklin and Eleanor Roosevelt Institute (Aug. 5, 1998), <http://www.udhr.org/history/Biographies/bioer.htm> .

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違法的供給與需求： 兒童性剝削在東南亞

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摘 要

隨著移民增加和世界各國邊界更加開放，兒童的性剝削問題正日益受到關注。較多的人口和較差經濟條件製造了個人在性產業中被剝削的機會，而國際旅行則提供了持續的需求和在交易中使顧客保持匿名的感受。性旅遊業每年創造數十億美元的商機，這使得一些國家的經濟是部分依賴於包括和剝削兒童有關的非法收益之上。在理論上內國法和國際法均對兒童有所保護，但在現實中這個產業卻在部分受到執法人員的協助的狀況下擴散。本文著重於分析東南亞國協之成員國作為涉及未成年人非法性服務的主要供應者，以及美國人和加拿大人作為這些服務主要消費者之狀況。本文並且回顧與國際條約、心理及社會理論與經濟和犯罪的統計資料，並對作為研究課題的十二個國家的內國法進行比較。本文並討論由外在力量改變目標群體社會條件的可能，並且嘗試提出一個動態的新改革方案。

關鍵詞：戀童癖、兒童保護、兒童性剝削、性旅遊業、組織犯罪、東南亞國協