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Human Trafficking: Children and Prostitution

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HUMAN TRAFFICKING: CHILDREN AND PROSTITUTION
The Need for Consistency in Law
- Elizabeth Pugliese

“There aren’t too many 13-year-olds who wake up and say ‘I’m going to go out and
prostitute today.’”\(^1\) Yet, that is exactly the current approach of the justice system to
commercial sexual exploitation of children in the form of prostitution – the child chose to
become a prostitute. It is seen as a conscious chose to engage in a criminal activity. The
criminal activity in this case being having sex with multiple men a night in exchange for money.
Other sexually exploited children receive services and support, not incarceration.

Yes, children are arrested for prostitution. Child being a person under the age of 18.
1600 children were arrested for prostitution in 2005, 224 of those arrested were under the age of
14.\(^2\) Despite the fact that a child under the age of 14 is usually considered too young to consent
to sex,\(^3\) they are deemed to have the necessary mens rea to commit the crime of prostitution.\(^4\)
Instead of being protected from the predators who exploit them – both the pimps and johns alike
– they are considered criminals. In fact, they are treated more harshly than the johns.

Finding a solution to the problem of commercial sexual exploitation of children is
complex. There are many avenues of approach. One solution would be to reduce the demand
for child prostitutes. However, until that occurs, the child victim of sex trafficking should be
treated as the victims of this crime. There must be consistency in the justice system approach to

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\(^1\) Claudia Rowe, P-I Special Report: The Youngest Profession, SEATTLE POST-INTELLIGENCER, Dec. 6, 2005,
\(^2\) DEPT. OF JUSTICE, STATISTICAL BRIEFING BOOK, LAW ENFORCEMENT AND JUVENILE CRIME, JUVENILES
2007)
\(^3\) Collins v. State, 691 S.2nd 918, 923 (Miss. 1997)
\(^4\) Mens rea meaning the guilty mind to commit a crime. In Maryland, the mens rea for the crime of prostitution is
“knowingly.” MD. CODE ANN. CRIM LAW §11-306 (1956). The actor is aware that such actions will lead to the
result. MARKUS D. DUBBER, CRIMINAL LAW: MODEL PENAL CODE (FOUNDATION PRESS 2002).
the commercial sexual exploitation and the sexual molestation of children.\textsuperscript{5} Having a general policy that protects children from sexual abuse is meaningless if that policy is not reflected in concrete legislative acts that protect children from all forms of sexual abuse.

This paper will examine the realities of commercial sexual exploitation of children. It will then examine how the current state laws fail to protect the very children the law claims it is designed to protect. Despite this current lack of protection, the steps taken by some service organizations and segments of the justice system to aid children will be discussed. Lastly, this paper will argue that Safe Harbor provisions coupled with consistency in treatment of children who are sexually exploited is one component in solving the problem of commercial sexual exploitation of children.

\textbf{II. Definitions}

Issues about definitions arise in the debates about child prostitution making it harder to discover solutions. For the purpose of clarity, this paper will adopt certain definitions as explained below.

The term "minor" is subject to different meanings in different contexts. In general, a minor is someone who has not reached “full legal age.”\textsuperscript{6} As recently as the beginning of the 20\textsuperscript{th} Century, this was a person under the age of 21.\textsuperscript{7} Later, it was statutorily changed to a lower age (generally 18).\textsuperscript{8} At the age of majority, one may exercise full civic rights and act

\textsuperscript{5} Commercial sexual exploitation refers to the exploitation of a child in a sexual manner in exchange for anything of value, sexual molestation refers to sexual abuse of a child not in exchange for anything of value. Both forms involve sexual abuse of minors, but for the sake of clarity in this paper the separate terms will be used to illustrate the different treatment of minors in the current justice system.

\textsuperscript{6} Hurd v. Ball, 143 N.E.2d 458, 463 (Ind App, 1957).

\textsuperscript{7} Restatement (Second) of Contracts $\S14$ (1979).

independent of one's parents. This paper will concentrate on the meaning of minor as used in relation to sexual activity.

The states exercise their power to regulate activity of those under the age of minority in order to protect them. One of the ways states protect minors is to protect them from adults who wish to take advantage of them. The states especially protect minors from adults in the area of sexual activity. States do this by removing the ability of minors to consent. States have designated various ages by statute at which children are considered too young to consent to sexual activity. If an adult engages in sexual activity with a minor below the state's statutory age of consent, it is called statutory rape. So called because it is rape determined by statute, not the sex act itself, thereby making it a strict liability crime. Children are in need of protection because they cannot, as determined by the state, appreciate the consequences of their actions. The purpose then of statutory rape laws is to protect the children from exploitation by adults for sexual intercourse by "making their consent legally impossible."

The engaging in sexual activity by minors with adults is called statutory rape when money is not involved. When a minor engages in sexual activity with anyone for money, it is called prostitution. Prostitution is “the act or practice of engaging in sexual activity for money or its equivalent; commercialized sex.” The TVPA defines a commercial sex act (commercialized sex) as “any sex act on account of which anything of value is given or received

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9 In re Davidson's Will, 26 NW 2d 223, 225 (Minn. 1947).
11 Id.
12 Caudhill v. State, 69 NE 2d 549, 551 (Ind. 1946).
15 State v. Granier 765 So. 2d 998, 1001 (La 2000).
16 Stevens v. State 332 S.W.2d 482 (Ark. 1960).
by a person.”

Therefore, anyone who accepts anything of value for a sex act is engaging in prostitution. Adding to the complexity of children and sexual activity, is that “[m]ost state laws treat the act of prostitution, as a crime, with no reference to age.”

Human trafficking is modern slavery. It can take two forms: 1) labor trafficking which involves forced labor or services and; 2) sex trafficking. Sex trafficking, in general, is defined as:

A person commits the crime of sex trafficking if that person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person for the use of employment of such person in a commercial sexual activity or sexually explicit performance. (emphasis added)

Sex trafficking of a minor occurs whenever a person “under the age of eighteen [engages] in a commercial sex act or sexually explicit performance.”

For a minor there need be no element of force, fraud or coercion in order to traffic the minor sexually. As children cannot consent in the view of the federal government, they are considered forced, just as in statutory rape. At the state level, the issue of consent is never raised regarding commercial sexual activity of minors. It is assumed if the child is on the street selling her body for sex, she is is out there consensually.

One other note on terminology. Those who are sex trafficked are called “prostitutes” or “sex workers.” The term “sex worker” conveys a tone of legitimacy to the work that is unacceptable in the human trafficking context. Therefore, for the purposes of this paper, a minor female who is sexually trafficked will be referred to as a “prostituted girl,” “a girl who is

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18 22 U.S.C.S. §7102 (3).
20 22 U.S.C.S. §7102 (9).
sex trafficked" or a "victim of commercial sexual exploitation."22

III. The Problem of Victims of Commercial Sexual Exploitation

The girl looked young. She was only 12. The officer charged her with prostitution anyway.23 The Prosecutor saw the case through, arguing that she was “a hardened child who lacked remorse and who would return to her life on the streets unless she was imprisoned."24 Her lawyers argued she was too young to consent to sex and should not face charges. In the alternative, they argued, she at least deserved the same treatment as any other victim of sexual exploitation.25 The judge who was supposed to administer justice agreed with the prosecution, saying the young girl “needed to get proper moral principles."26 That is Nicollete’s story. She got lucky, her lawyers continued to fight for her. On appeal, they won the right to transfer her to a residential treatment center.27 Unfortunately, the only center that would take her was for emotionally disturbed children and it had a high rate of children just walking away.28 When she was interviewed for the story, Nicollete was still there. She was trying, despite all the difficulties.29

Nicollete is just one of many children subjected to commercial sexual exploitation. The number of children in danger of sexual exploitation is between 200,000 and 300,000 according to the only study done to date on the subject.30 This includes all forms of sexual exploitation, not

22 This paper will refer to victims of commercial sexual exploitation in the female gender. In the interest of clarity and brevity, this shall include both female and male victims of commercial sexual exploitation.
24 Id.
25 Id.
26 Id.
27 Id.
28 Kaufman, supra Note 23
29 Id.
30 RICHARD J. ESTES AND NEIL ALAN WEINER, THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE
just sex trafficking. Of all the forms of sexual exploitation, a girl is most likely to be subjected to sex trafficking. If the at risk girl is a runaway, there is a one in three chance she will be “lured toward prostitution within 48 hours of leaving home.” Once forced into prostitution, the girls are trafficking across state lines “along well-worn circuits that include the Southwest …, the Pacific Northwest circuit … and the Northern and Eastern circuit ….” One raided brothel turned out to be part of a nationwide network of brothels encompassing 14 states. The FBI has identified fourteen cities with large problems of juveniles prostitution. Sporting events and conventions are popular spots for pimps to prostitute the girls.

Once prostituted, the girls find themselves on the wrong side of the legal line. Of course, no one wants prostitutes operating in their neighborhood. When responding to complaints however, police choose to arrest the prostitutes rather than solve the problem through other means. The girls on the street are the most visible signs of prostitution, so removing them makes the issue less obvious. Nevertheless, the actual problem still remains. The johns who are looking for the sex for sale and the pimps who provide the girls for sale remain. It is just moved to another place or hidden behind closed doors in hotels. In 2002, over 89% of the arrests in Chicago were of prostitutes, johns made up 10% of the arrests and pimps were less than 1% of the arrests. Even noting that one pimp may be responsible for prostituting several girls,

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31 ECPAT-USA, supra, Note 19 at 3
32 Id.
35 ECPAT-USA, supra, Note 19 at 3.
those numbers still reflected a disproportionate arrest rate for the victims, not the perpetrators. The explanation given by local law enforcement is that the complaints are about prostitutes and not about the johns. Furthermore it is easier to arrest a prostitute.\(^{37}\)

Once an arrest of a prostitute occurs, the prosecutor still has discretion on whether to bring charges. But, with concerned citizens watching closely to ensure these “quality of life” cases are treated with the severity the community demands,\(^{38}\) there is increased pressure to bring all available charges. One jurisdiction is proud of the fact that it has a 99% success rate in getting solicitation arrests to go to prosecution.\(^{39}\) These numbers have not changed even with the enactment of the TVPA and the increasing recognition of prostitutes as victims. In 1995, 1210 women were arrested for prostitution, 62% of them were charged with a 42% conviction rate.\(^{40}\) By contrast, only 228 men were arrested for patronizing a prostitute. While more likely to be charged (98% were charged), there was a mere 8% conviction rate of the johns.\(^{41}\)

In 2000, the same year as the enactment of the TVPA, three times as many prostitutes as johns were arrested.\(^{42}\) A raid in 2005 in San Diego netted 85 women charged with prostitution, 22 men with soliciting sex and only one for pimping.\(^{43}\) Arrests and convictions easily demonstrate a willingness by law enforcement and politicians to “take care of the problem.” Other means of removing prostitution are more costly and not as obvious.

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\(^{37}\) Id.


\(^{39}\) Petula Dvorak, Many Prostitutes Still Juveniles, Police Say; Enforcement Unit Stepped Up Arrests in Past Year, but Lack of Clear IDs Hampers Officers, WASHINGTON POST TO4, Jan. 2, 2003.

\(^{40}\) Fact Sheet, supra Note 36.

\(^{41}\) Id.

\(^{42}\) Id.

\(^{43}\) Joe Hughes, 108 Arrested in Prostitution Sweep; Some of the Girls are 17 or Younger, Police Say, THE SAN
Being a minor is no protection from arrest and criminal prostitution charges. In fact, prosecution of minors for prostitution has increased in recent years. In New York City, 54 minors under the age of 16 were charged with prostitution in 2003. This is double what it was three years before. Over on the West Coast, 41 minors in San Diego were arrested for prostitution in 2003, up from 23 in 2001. Up the road in Orange County, nearly 200 girls have been placed on probation for prostitution since 2001. “The numbers have risen steadily according to the Orange County Probation Department.” In King County Washington, which encompasses Seattle (considered a major hub of child trafficking), during 2005 twice as many girls are incarcerated for prostitution as were incarcerated five years ago.

Local police are usually the first responders to a trafficking situation. They are the ones mostly likely to encounter the girls being prostituted, whether through complaints, stings or other law enforcement encounters. How they respond can make a critical difference in whether the girl is treated as a victim or a criminal. Without proper training, most officers still respond by arresting rather than investigating. This has long-term consequences for the girls. As Nicolette’s lawyer from the story above observed, “The tragedy is they are victims, and because we treat them like criminals, they never heal, they never trust and no wonder they go back and do

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44 Kaufman, supra Note 23.
45 Id.
46 Joe Hughes, Police Target Juvenile Sex Ring; Prostitution Network in SD involves 100 Girls as Young as 12, THE SAN DIEGO UNION-TRIBUNE B-1, Jan. 25, 2004.
47 McKim, Jenifer B., Pimp Pleads Guilty to Prostituting Minor, ORANGE COUNTY REGISTER, July 12, 2006.
48 Id.
49 Rowe, supra Note 1.
51 Id.
52 Id. At 33.
The police are not the only ones to blame for not responding to these girls as victims. Even if prosecution with some form of incarceration appears to be the best solution to force the girls into getting the necessary rehabilitative services, there are still obstacles. “[A]n overwhelmed family court, a lack of mental health services, treatment programs that place children in group homes that serve as recruiting grounds for enterprising pimps” all present barriers to truly helping these girls recover their lives.\(^5\)

The original idea behind the juvenile court system\(^5\) was rehabilitative rather than punitive.\(^6\) Proponents believed that a separate court could grant sanctions more appropriate to aiding the juvenile in making better decisions than merely punishing them for acts considered harmful to society.\(^7\) Acts committed by minors that would be crimes if committed by adult are called delinquent acts.\(^8\) However, community outrage at the alleged lenient sentences handed out by the juvenile courts have led to courts being more punitive.\(^9\) Which then has led to criticism that such courts are punishing children, rather than rehabilitating them.\(^10\) The juvenile justice system still does the best it can in the face of this criticism. Those involved in it attempt to impose the least restrictive disposition that the act and the minor's responsibility for the act allows.\(^11\)

\(^5\) Kaufman, *supra* Note 23.

\(^6\) *Id.*

\(^5\) All references to disposition of minors through the justice system presumes intake, processing and adjudication in the juvenile justice system. This presumes all the protections of the juvenile justice system are afforded the minor. The prevalence of the use of fake identification documents by child victims of sexual exploitation could lead to them being tried in adult court and sentenced to adult incarceration.


\(^7\) *Id.* at 486.

\(^8\) *Id.* at 486-487.

\(^9\) *Id.* at 565.

\(^10\) *Id.*

\(^11\) Ramsey & Abrams, *supra* Note 56 at 572.
adjudication of a case is ten minutes, as found by an ABA report in 1998. Informal adjudication allows for more time to be spent determining the best disposition for a particular minor's situation. However, this option usually requires the juvenile to admit the charge -- accept guilt for the act. Should a finding of delinquency (conviction) lead to the minor being incarcerated, they are placed in a training school, reformatory or group home rather than sent to prison. These are still lock-down facilities, where the child victim of commercial sexual exploitation is held in detention with those who may have committed crimes of violence. Given all these obstacles, the first step in helping these girls is seeing them as victims. Then developing appropriate programs to assist them in rebuilding their lives. The first step in doing this changing the laws to reflect this reality.

IV. Laws and the Current Approach Regarding Victims of Commercial Sexual Exploitation

A. Federal and State Laws Regarding Child Victims of Commercial Sexual Exploitation

In 2000, the federal government passed the Trafficking Victims Protection Act. This Act enhanced penalties for labor and sex trafficking, as well as providing assistance to the victims of trafficking. Most importantly, it contained a provision prohibiting victims of trafficking from being held in a facility incompatible with their status as victims. This provision, coupled with the one prohibiting prosecution of crimes of victims of trafficking which were committed as a result of being trafficked, set the standard for victim protection in anti-human trafficking efforts. It is not without its flaws, however. The federal TVPA,

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\begin{itemize}
  \item \textit{Id.} at 492.
  \item \textit{Id.} at 534.
  \item \textit{Id.} at 489-490.
\end{itemize}
although ostensibly providing protections for all victims of trafficking, created a system more intent on serving victims of international trafficking than domestic victims.\textsuperscript{69} Therefore, the issue of protecting US citizens from trafficking and its consequences falls mainly on the individual states. This has resulted in disparities of treatment for those subjected to trafficking based solely on one’s citizenship. A child brought to this country and forced to perform commercial sex acts cannot be charged with a crime, receives shelter and other needed services to allow the child either to remain in this country or re-integrate back into the child’s home country.\textsuperscript{70} On the other hand, “an American child who flees abusive parents and ends up selling her body on the streets is labeled a criminal and sent to the juvenile equivalent of prison.”\textsuperscript{71}

Only one state at this time offers complete victim protection from prosecution for acts that occur as a result of being trafficked – Indiana.\textsuperscript{72} In the other states, a minor trafficking victim of commercial sexual exploitation may be charged with prostitution simply because the law allows such charges. As noted above, engaging prostitution is a crime regardless of the age of the prostitute. Arrest and prosecution if prostituted children occurs despite the fact that many state trafficking laws were enacted for the purpose, among others, of protecting children from exploitation.\textsuperscript{73}

This desire to protect children is present in the history of other laws such as statutory rape. Statutory rape laws exist to protect the child from adult predatory practices. Several

\textsuperscript{67} 22 U.S.C.S. §7105.
\textsuperscript{68} Id.
\textsuperscript{69} Id. The difficulties of the system created by the TVPA are beyond the scope of this paper.
\textsuperscript{70} ECPAT-USA, supra Note 19 at 13.
\textsuperscript{71} Id.
\textsuperscript{72} Ind. Code Ann. §35-42-3.5-4 (Burns, 2007)
\textsuperscript{73} e.g. “This act shall be known as an Act to Protect North Carolina's Children/Sex Offender Law Changes, 2006
states will be specifically examined in order to illustrate the conflict between the stated policy to protect children and the actual practice.

In Delaware one judge put it thusly, “Delaware policies have always protected all victims and afforded special protections to the young. Delaware policies have always looked to protecting the young against violations from adults.”\(^\text{74}\) In regard specifically to statutory rape, the same judge previously stated in his ruling in the same case, “special treatment of consensual intercourse with a child is warranted not only because the immature require protection and to prevent outrage and community feelings, but also because an adult male’s proclivity for sexual relations with children is a recognized symptom of mental aberration called pedophilia.”\(^\text{75}\) In children, “sexually improper behavior … is more a reflection of inadequate adult supervision, immaturity, inappropriate media exposure, or a prior history of emotional abuse than it is of irremediable sexually predatory inclinations.”\(^\text{76}\) Under this categorization, the adult is a sexual predator, but the child can be saved through appropriate interventions. The child is a victim in need of services. However, once money is accepted for the sexual act, the child is transformed from a victim into a criminal.

Delaware’s own human trafficking law states that sexual servitude of a minor occurs when a person knowingly causes a minor (defined as under 18) to enter into a commercial sexual activity.\(^\text{77}\) No force, fraud or coercion is required. The fact that the child is performing the sexual activity through the efforts of another is enough. Yet, the law contains no protections for

\(^{74}\) N.C. Sess. Laws page. no 247.
\(^{75}\) Delaware v. Sapp, 820 A.2d. 477, 503 (Del. Fam. Ct., 2002).
\(^{76}\) Id. At 482
\(^{77}\) Id. At 499
victims of trafficking from being charged with crimes committed as a result of being trafficked.\(^{78}\) So, the child who is seen as a victim under the human trafficking law can still be charged with prostitution. The child is prosecuted for participating in a crime to which she cannot consent to such participation.

Arkansas has the same basic policy. As noted in *Winkle v. Arkansas*, “one of the most obvious duties of the General Assembly is to protect children from sexual crimes against which children are virtually defenseless.”\(^{79}\) The court reasoned this is why statutory rape is a strict liability crime.\(^{80}\) The court then made a comparison between the state’s statutory rape laws and the federal Mann Act. In the Mann Act the intent was “to protect the minor from being taken across state lines and made to engage in sexual activity with anyone whether through prostituting the minor or by other means.”\(^{81}\) This specifically recognizes that the child may be subjected to prostitution from which the child should be protected. However, the state law at issue in *Winkle* “was directed at criminalizing the actions of the defendant.”\(^{82}\) So, the need to protect the child did not truly enter into the matter. Nevertheless, the court found, despite being a minor, the child was deemed to have consented to the commercial sexual activity.\(^{83}\) The minor was not charged with prostitution here, but the issue of consent is troublesome since the court seems to be saying that when money is involved, the child is a willing, consenting participant in the exploitation.

Arkansas’ human trafficking law requires force, fraud or coercion be used to exploit the

\(^{78}\) *Id.*

\(^{79}\) *Winkle v. Arkansas*, 2006 WL 1284427

\(^{80}\) *Id.*

\(^{81}\) *Id.*

\(^{82}\) *Id.*

\(^{83}\) *Id.*
person through a commercial sex act regardless of the age of the victim.\textsuperscript{84} The federal TVPA requires force, fraud or coercion only for commercial sexual activity for adults in order for it to be considered trafficking. Under Arkansas law, for a child to be considered trafficked, the minor must be forced, coerced or some fraudulent act occur that causes the child to become prostituted. If there is no force, fraud, or coercion, the minor might be considered a willing participant rather than a victim based on the \textit{Winkle} decision. Regardless of the age of the child to actually consent to the sex act as determined by the state’s statutory rape law. Furthermore, there is no protection for victims from prosecution under the Arkansas anti-human trafficking statute.\textsuperscript{85} Even if the child were considered a trafficking victim, the child victim of commercial sexual exploitation could still face criminal charges.

Illinois is beginning to recognize that children who are prostituted have been subject to exploitation by predatory adults. In 2006, the Predator Accountability Act was passed. It allows those (adults and children) who are prostituted to sue those who exploited them for damages, both johns and pimps.\textsuperscript{86} It does not require that the prostituted person make a specific showing of coercion.\textsuperscript{87} The Act “recognizes that all who become prostitutes are coerced.”\textsuperscript{88} Unlike the criminal law which is intended to protect the public from the harm caused by others, this statute is aimed specifically at compensating those who are prostituted for their damages suffered as a result of the exploitation.\textsuperscript{89} It, however, does nothing to actually end the exploitation through tougher criminal sanctions against the exploiters and predators.

\textsuperscript{84} ARK. CODE ANN. §5-11-108(b) (2007)
\textsuperscript{85} Id.
\textsuperscript{87} Id. At 1048
\textsuperscript{88} Id.
\textsuperscript{89} Id. At 1060
Furthermore, it does nothing to protect the women from the being charged with the crime of prostitution that they allegedly commit as a result of being exploited. While the Predator Accountability Act is a good step towards assisting those who exploited by compensating them, the actual exploitation of the children by adults continues. The charging of minors for a crime they did not consent to committing continues.

The Predator Accountability Act is not the only law in Illinois addressing child prostitution. The definition of a trafficking victim includes minors who are subjected to sexual servitude.\(^{90}\) There need be no force, fraud or coercion in this subjugation.\(^{91}\) However, although recognized as victims – and eligible for victim assistance funds – there is no protection provision.\(^{92}\) A child could still be subject to the prosecution for prostitution, albeit with the ability to sue for civil damages. However, if adjudicated delinquent, the predators could then claim consent and no liability for any harm.

In May of 2007, New York State finally passed an anti-human trafficking law after two years of effort.\(^{93}\) The original version of the bill contained a Safe Harbor provision that protected trafficking victims from prosecution.\(^{94}\) The version signed by the governor did not contain a Safe Harbor as it was removed from the final bill. The governor in his statement at the signing stated, “New York is finally joining the ranks of other states in ensuring that those who exploit innocent people and children and cause extreme suffering are subject to strict punishment under state law.”\(^{95}\) He made this statement even though those same children whom


\(^{91}\) Id.

\(^{92}\) Id.


\(^{94}\) A08679 NY State Ass. (2007-2008 Reg. Sess.)

\(^{95}\) Hakim and Confessore, *supra* Note 93.
he said were exploited could still be subject to criminal prosecution for prostitution. As the New York Times pointed out in an editorial when the bill became law, “[The law] does not include the proposed Safe Harbor law, which would place young children exploited by pimps and johns in safe houses, instead of sending them to the juvenile equivalent of prison.”

There is opposition to the Safe Harbor. Prosecutors are resistant to the idea of not having the option of prosecution as a way to ensure the girls testify against their pimps. The promise of dropping criminal charges is a valuable tool for prosecutors that they are loathe to give up. In addition, many prosecutors claim, it is often the only way to ensure the children will participate in needed services that would allow them to rehabilitate and reintegrate. A lock down facility may also be best option for a girl to stay away from her pimp and rebuild her life. Prosecutors, while operating from good motives, need to see that they are taking away the child's freedom of choice. No one would dream of locking up a child victim of sexual molestation for her own good or coercing them into testifying against their abusers. Yet that is exactly what occurs with victims of commercial sexual exploitation. The prostituted children must not be further exploited by the system under the guise of helping her. If Safe Harbor is seen as a means of protecting child victims of sexual exploitation regardless of the exchange of money rather than letting prostitutes get away with their crimes, there may be less opposition.

B. Views of Society Regarding Sexual Activity of Children

All states publicly proclaim a desire to protect children. However, the actual laws and their application mean that some children are more protected than others. Without victim protection laws that ensure a child will be seen as a victim of trafficking, not as a perpetrator of prostitution, there will continue to be contrary treatment of children who are exploited by adults.

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A minor who has sex with an adult boyfriend is seen as a victim. A minor who is prostituted is seen as a criminal. As ECPAT report in 2002 baldly states, “the only difference between statutory rape and juvenile prostitution is the exchange of money for sex, where the victim is treated as an offender.”

Law enforcement personnel are usually the first ones to encounter prostituted children. It is this first encounter where the biggest problems arise. Police officers may view them as victims. However, the reality is that in the police records, “juveniles appear considerably more often as offenders than victims. Older teens .. are considerably less likely to be categorized as victims.” Part of the problem for officers is determining who is a victim and who is there “voluntarily.” One officer stated, “It is difficult to determine a case without talking to the victim … to know if they are forced into prostitution or not. It is often easier to assume they are willing to be in prostitution.” The easier way continues to exploit the child through failing to see the real crime being committed. It is easier to pursue a misdemeanor charge of prostitution against the child than to build a felony case of sex trafficking against an adult. It is easier to see the criminal in the child rather than the victim. If officers were taught that all prostituted children were automatically victims, they would not have to make any assumptions – they would know. They wouldn’t have to choose the easy way, there would only be one way. But, the policies must change.

The perceptions of society also varies. Some may see the girls as victims. Others

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97 ECPAT-USA, supra Note 19 at 40.
98 Clawson, Dutch & Cummings, supra Note 50 at 25 (When questioned, law enforcement officers defined human trafficking as “Person deprived of liberty and forced into labor or prostitution; People who are forced or coerced to work for another for profit; The trafficking of victims through force, fraud or coercion for purposes of forced labor or sex.”)
consider prostitution a "victimless" crime. No one gets really hurt since everyone participating is doing so willingly. For minors who are prostituted, "... they are seen as willing participants, mostly inner city girls, who know just what they are getting into.... These girls are often depicted as the same [as] unmarried teenagers who get pregnant in order to collect welfare checks."\(^{101}\) They are seen as taking advantage of a system to get material things, not fighting for survival on the streets. Even if they are "voluntarily selling sexual favors, there is usually little individual choice involved."\(^{102}\) The girls themselves may not endear themselves to those who wish to help them rather than persecute them [not that cute, adorable is necessary to be considered a victim]. "[Their] demeanor and behavior … may be distasteful to well-meaning socially concerned people and groups who are not trained to recognize and deal with the suffering embedded in their defensive, aggressive and mistrusting conduct."\(^{103}\) However, prostitution is not a victimless crime. Minors are harmed by it, just as surely as if they were molested by a family member or trusted family friend. They become hardened to protect themselves. The "socially concerned" need to move beyond out moded beliefs regarding prostitution and child victims and into reality.

Even if law enforcement and society could agreed on a approach for these victims of commercial sexual exploitation, the justice system is not equipped at this time to handle their specialized situation. While juvenile court is intended to focus on rehabilitation rather than punishment, the reality is sometimes different. The courts system seems to "often operate as if its main function is to get them in and out as speedily as possible without having to recognize

\(^{100}\) Clawson, Dutch & Cummings, supra Note 50 at 33.
\(^{101}\) ECPAT-USA, supra Note 19 at 19.
\(^{102}\) Id. At 27.
\(^{103}\) Id at 20.
their needs."  They are sent off to juvenile detention centers where the approach is more to "force them to face up to where they are in their lives and what they have done" as if the exploitation were a result of their choices rather than through the actions of the true criminal. Partly this reflects a belief that prostituted children need a "to be given basic discipline that their families never gave them" rather than giving them therapy. While structure is necessary, a more assistive rather than moral approach is needed. On the other hand even if the system did take a more victim-centered approach, there may not be an appropriate facility for the girl. There is a "lack of transitional housing or places for girls to go other than back out on the street." Without a safe place for them to go, "some police believe charging juveniles with a crime may be the only way to place them in a secure location." Security is important. But, so is the girl's acceptance of the services offered. This focus on providing services only through the justice system may actually be working to the girls' detriment. "Many juvenile prostitutes might be reluctant to seek out services or participate in programs that could benefit them because they perceive the programs as Government services." A government they have learned to distrust through its treatment of them.

Officers may wish to help but without specific protocols to follow or adequate placements for the children, their hands are tied. As long as society sees the girls as responsible for their own victimization, it will be difficult to fund the needed resources, tweak the juvenile court system to a better approach for child prostitutes and ensure officers have the

104 Id. At 7.
105 Kaufman, supra Note 23.
106 Id.
107 Id.
108 ECPAT-USA, supra Note 23 at 42.
110 Kittling, supra Note 34 at 923.
protocols and options for assisting the girls.

C. Current Attempts to Aid Victims of Commercial Sexual Exploitation

The current situation is not all bleak. Many service organizations and prosecutors are doing what they can to assist the victims of commercial sexual exploitation. These ad hoc approaches, doing what they can within the law, are to be commended.

One of the difficulties to not incarcerating prostituted children is that there is sometimes no other safe, secure place for them. Juvenile detention centers may not be perfect, but it is better than sending them back out on the streets into the arms of their pimps. Service organizations have stepped in to do what they can, sometimes with the assistance of the court system, sometimes in spite of a lack of cooperation from that quarter.

The Salvation Army promotes a nationwide initiative to assist prostituted children called the PROMISE Initiative (Partnership to Rescue Our Minors from Sexual Exploitation). Through collaborative efforts on the state and local level, this Initiative aims to end the exploitation of children. It is formed around two core principles of the Salvation Army’s U.S. National Anti-Trafficking Council. First, that “prostitution and related activities are not forms of work, are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking persons.” The second principle is that “No one agency can single-handedly defeat or provide for all the needs of trafficking survivors, and therefore, collaborations must be developed at the local, regional, national and international levels to achieve these.”

111 ECPAT-USA, supra Note 19 at 41.
114 Id.
PROMISE Initiative concentrates on the state and local levels for collaboration as the way to form an action plan to address immediate needs tailored to the specific community.

Many service organizations confine their activities to one city. This is mostly due to a lack of resources. Some are small, such as the 15-bed Spruce Street Center in Kings County, Washington. The other alternative to this small facility is a jail cell. Near Tolleson, Arizona, Arizonans for the Protection of Exploited Children and Adults (APECA) have built Natalie’s House, named after the Christian singer Natalie Grant. It is only eight beds, but “it makes a really big difference in the kids being able to make it and stay off the streets” according to the Executive Direct of APECA. Prostituted girls will be able to stay there until they are legal adults. They will be provided with needed services, including counseling appropriate to their situation. They will be home schooled at the facility, so they will not have to face their peers with the attendant problems of stigmatization.

Chicago is one city where the government and the service organizations have teamed up, although less than ideally. The Chicago Crime Commission formed the “Coalition Against the Exploitation, Prostitution and Trafficking in Children in 2004” to work with service organizations, law enforcement and the courts to assist prostituted children. Yet, as long as Illinois lacks a Safe Harbor provision in its anti-trafficking law, this Coalition will have difficulty succeeding. As one law journal article noted “The group cannot be successful in the fact that

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115 Rowe, supra Note 1.
116 Id.
118 Id.
119 Id.
120 Id.
121 Id.
122 Kittling, supra Note 34 at 924
the Government’s failure to include in its new victim-centered approach a commitment from law enforcement agencies that they will cease arresting and prosecuting juvenile prostitutes.”

As long as children are sent through the justice system without appropriate referrals, all the talk of victim-centered approach and desiring to end the exploitation of children are so many words. One of the groups that works with the Commission is the Young Women’s Empowerment Project (YWEP). Founded in 2002, it seeks to aid children who have been involved in prostitution and wish to escape. It provides its services mainly through peer-based support groups. As of 2006, it has “assisted more than 1000 girls who have had a direct contact in the sex trade.”

In Brooklyn, the District Attorney’s office has partnered with the community to stop the cycle of prostitution. The Girls Re-entry Assistance Support Project (GRASP) provides “mentoring and comprehensive services for high-risk and court-involved females that were placed with OCFS and other placement or correctional facilities.” These services are provided through a network of faith based community groups. The aim of the Project is to “address the unique needs and problems of female adolescents as they re-enter their communities and their lives with family members.” If a girl has no skills other than selling her body and is not given the transitional help she needs to leave the streets, she will continue to use the one skill she has to survive. Since, the Project works with girls who have been in the justice system, it still leaves open the possibility of minors being charged for prostitution.

Over in San Francisco, Standing Against Global Exploitation Project (SAGE) works with

123 Id.
124 Id. At 923
125 Id.
127 Id.
law enforcement, public health, and other service agencies to help children and adults who have been commercially exploited.\textsuperscript{128} Started by survivors of commercial sexual exploitation, SAGE seeks to help others transition back to their communities.\textsuperscript{129} It has also partnered with the District Attorney’s Office and the Police Department to start the First Offender Prostitution Program to educate johns on the harm their activities do.\textsuperscript{130} The fees the johns pay for this program (rather than be adjudicated in court) funds the other programs that provide services to the prostituted minors.\textsuperscript{131} As important as providing services such as housing and counseling, SAGE has a “transition to work” program to aid those it serves in attaining jobs other than selling their bodies on the streets.\textsuperscript{132}

Atlanta is a popular spot for pimps.\textsuperscript{133} To rescue the minors exploited by the pimps, The Center to End Adolescent Sexual Exploitation (CEASE) works with the juvenile justice system.\textsuperscript{134} It advocates on their behalf in the courts and tries to get the girls into alternative facilities other than detention.\textsuperscript{135} Besides providing direct services to the minors, CEASE also ensures that they receive the psychological evaluations and other assessments ordered by the courts.\textsuperscript{136} Unfortunately, to access CEASE’s services, the girl must be processed through the justice system. This means she has been arrested and charged with prostitution. However, CEASE does try to find alternatives to penal incarceration, if possible. This cooperative

\textsuperscript{128} The Sage Project, \textit{About Sage}, http://www.sagesf.org/html/about_main.htm (last visited October 19, 2007)
\textsuperscript{129} \textit{Id.}
\textsuperscript{131} \textit{Id.}
\textsuperscript{132} \textit{Id.}
\textsuperscript{133} ECPAT-USA, \textit{supra} Note 19 at 3; Kittling, \textit{supra} Note 34 at 921.
\textsuperscript{134} The Juvenile Justice Fund, \textit{CEASE}, http://www.juvenilejusticefund.org/initiatives_cease.asp (last visited October 19, 2007)
\textsuperscript{135} \textit{Id.}
\textsuperscript{136} \textit{Id.}
agreement can only lead to better solutions for children who are commercially sexually exploited.

Governmental agencies also have their own efforts to aid prostituted children, besides their work with social service organizations. Despite the lack of formal protection from prosecution in the law, the government tries to provide services to prostituted children. This approach is based on the “bedrock principle .. that victims of trafficking in the United States are not perpetrators of crime – they are victims of crime, and they ought to be allowed to rebuild their lives.” 137

The biggest governmental effort to assist domestic victims of trafficking is the FBI’s Innocence Lost Project. It is a “collaborative effort with the Child Exploitation and Obscenity Section … of DOJ’s Criminal Division and the National Center for Missing and Exploited Children .. to address the growing problem of child prostitution.” 138 Begun in 2003, 80 children have been recovered through this Project as of 2005. 139 However, actions undertaken pursuant to Innocence Lost are under the auspices of the victim protections accorded by the TVPA.

The federal government does fund local efforts through the Department of Justice’s Bureau of Justice Assistance and Office for Victims of Crimes grants. These grants go to local task forces that, among other things, assist victims during criminal proceedings. 140 This provides assistance to the victims while they cooperate in proceedings against their pimps. Again, it appears the focus is more on prosecuting the pimp rather than aiding the victim.

137 Kittling, supra Note 34 at 916 (quoting former Secretary of Health and Human Services Tommy Thompson).
139 Id.
140 Clawson, Dutch & Cummings, supra, Note 50 at 10.
proposed reauthorization of the TVPA contains a provision for those who are unable due to trauma related to the trafficking to testify against their traffickers to still receive benefits.  

Until there is victim protection from prosecution for crimes committed as a result of being trafficked, government efforts for prostituted children will be limited. At this time, the discretion on whether to charge a child with prostitution rests solely with the district attorney. While some may be reluctant to do so, preferring to seek to aid the child without the stigma of a criminal record, others may feel that not charging will not set well with a community who wants prostitution out of their neighborhoods. Police will continue to arrest until there is a change in attitude that sees children as victims not perpetrators of prostitution. One way to give prosecutors the help they need to face their communities and to change police attitudes is to provide Safe Harbor Provisions in human trafficking laws.

V. Solutions For the Future to Aid Victims of Commercial Sexual Exploitation

While many groups and prosecutors work within the current laws to do what they can, this is not a permanent solution. Prosecutors change. Social organizations can only work within existing laws and as funding allows. Only a lasting change to the laws and society's view as child prostitutes as victims will improve the situation.

A. Current Attempts to Help Prostituted Girls That Will Not Improve Their Situation

One of the most common suggestions made to address prostitution in the community is to legalize or decriminalize prostitution. Legalization is not the same as decriminalization. If prostitution is legalized, it is regulated, with appropriate enforcement measures for violations of

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Decriminalization means that prostitution would not be a crime as in legalization, but it also would be outside the regulatory scheme. It “prohibits the state and law enforcement officials from intervening in any prostitution related actives or transactions, unless other laws applies.”

Leaving aside all the other issues related to decriminalization/legalization of prostitution, the worst effect of this would be felt by young girls. This will be so even if only adult prostitution were decriminalized. In Berkeley – the one city in the US to attempt a decriminalization law in recent years – there has been “an increasing number of underage girls for prostitution, some as young as 13.” If prostitution were to become an accepted activity through no longer being illegal, that trend would only increase. Brothels will not find enough adult women willing to become prostitutes, so sex trafficking will increase. Prostitution is a demand driven business, if the person wishing to use the services of a prostitute wants young girls, the brothel will supply it. Since no authorities will be checking to see if the brothel were operating properly – absent a violation of some other law – it will be very easy to traffic minors into the brothels and provide them with fake identification documents.

Prostituted girls are already being supplied with such documents and lie about their ages when

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143 Id.
144 Raymond & Hughes, supra Note 33 (spread of diseases, lack of condom use, lack of other economic opportunities for women, violence against women, increase in prostitution).
145 Hughes, supra Note 43.
146 Id.
148 MARY SULLIVAN, WHAT HAPPENS WHEN PROSTITUTION BECOMES WORK? AN UPDATE ON LEGALISATION OF PROSTITUTION IN AUSTRALIA, 3 (Coalition Against Trafficking in Women, Australia 2005).
arrested. If no authority is concerning itself with what goes on in the brothel, they will not be checking to ensure everyone’s identification is in order. They will not be looking for anything amiss at all. “Decriminalization of the sex trade will do nothing to help escape, instead it will ensnare them more tightly.” At least while prostitution is illegal, there is some hope that when a girl is arrested she will be rescued.

A Safe Harbor provision is not the same as decriminalization of prostitution. By making it not a crime for a child to be a prostitute, it merely will ensure that children who are forced into prostitution are not charged. Those who exploit the minors, both pimps and johns, would still be subject to prosecution for prostitution and other crimes.

At the other end of the spectrum is possibility of creating special courts for prostitutes. New York City has tried this – twice. One attempt concerned its Women’s Night Court earlier in the century. Currently the City is attempting to solve the problem through its Midtown Community Center. The reason for the creation of both courts was community outcry over prostitution. Most recently, the outcry focused on the belief that the downtown criminal court “treated prostitutes too leniently” with the usual sentence being time served. The community members behind the outcry make sure the court knows the “people” are watching to ensure that sentencing is in accordance with what the “people”, not the court, believe is appropriate. The Court utilizes “varied community service and social service sentences” to

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149 Dvorak, supra Note 39.
150 Hughes, supra Note 43.
151 Quinn, supra Note 38 at 672.
152 Id. At 699.
153 Id.
154 Id. At 703.
155 Id.
give back to the community that the prostitutes have harmed.\textsuperscript{156} When performing their community service (sometimes at night to keep them off the streets), the convicted prostitutes wear distinctive jackets so the neighborhood can see the women are working hard to give back.\textsuperscript{157} Should a woman fail to complete her community service, she still faces incarceration. “The Court seems proud of the fact that when it does impose incarcerative sentences …. jail terms are significantly longer than those imposed at the downtown court.”\textsuperscript{158}

The effect of the court’s actions is that prostitution has disappeared from the midtown area – at least the visible signs of it.\textsuperscript{159} Prostitution continues alive and well in New York City itself. The other boroughs have seen a 47\% increase in prostitution since the Midtown crackdown.\textsuperscript{160} In Midtown itself, prostitution continues through other means such as internet ads, pagers and other means of meeting up with johns besides street soliciting.\textsuperscript{161} It has done nothing for the prostitutes themselves. One researcher discovered “it had largely negative effects on the street prostitutes … without providing sufficient means for those who were entrenched in the life to make meaningful changes.”\textsuperscript{162}

While the Midtown Court presumably only deals with adult prostitutes, its effects are most likely also felt by prostituted minors. Given that minor prostitutes lie about their ages, unless it is caught by the system, the girls are processed through the court. In addition, prostitutes feel the effects of the court as a whole. They are all stigmatized as “damaging the

\textsuperscript{156} Id.
\textsuperscript{157} Id at 703-704
\textsuperscript{158} Id.
\textsuperscript{159} Quinn, supra Note 38 at 709.
\textsuperscript{160} Id. At 708.
\textsuperscript{161} Id.
\textsuperscript{162} Id. At 709.
fabric of the neighborhood"\textsuperscript{163} regardless of the age of the alleged prostitute. No one wants to help people whose mere presence is seen as detrimental to the neighborhood. Furthermore, by driving the sex trade underground, it removes the prostituted women and girls from the eyes of authorities. As noted above with regard to decriminalization, if the authorities have trouble finding the girls, they cannot help them. Driving the trade underground plays right into the hands of the pimps and leaves them in control.

Neither decriminalization nor stigmatization work. Both only make it more difficult for prostitutes to escape from their exploitative situation. For young girls, it is even worse. They are trapped by their pimps, then removed from sight. It is the visibility of prostitution that provides one of their few chances of escape. Approaches to solving the problem of prostitution that further entrap minors are worse than no approach at all. The law at this time may not make it easy for a girl to escape, but it does not need to make it harder. As difficult as it is to rescue the girls now, some organizations and governmental authorities are doing what they can.

B. Solutions that Will Work To Aid Victims of Commercial Sexual Exploitation

\textit{i. Consistency in Human Trafficking Laws}

Prostitution is as old as time. Human trafficking, specifically sex trafficking, as the current incarnation of slavery is just entering society's consciousness. The connection between prostitution and human trafficking is still being made by law enforcement and others in government. “The local police agencies are familiar with traditional crimes, like prostitution, but human trafficking requires officers to look through a different filter at a situation they once thought they understood.”\textsuperscript{164} The traditional filter is that prostitutes are perpetrators of a crime

\textsuperscript{163} Id. at 701.
\textsuperscript{164} Clawson, Dutch & Cummings, \textit{supra} Note 50 at 41.
that negatively affects the whole community. Using the human trafficking filter, prostitutes – especially prostituted children – are seen as victims of a crime that affects all of civilization.

“Without a mindset that views girls as victims, there is little incentive to investigate, prosecute and sentence pimps and johns with more than a fine and a warning.” As long as prostituted children are seen as people in need of “good moral” training as the judge said in Nicolette’s case described above, they will continue to be charged with crimes and incarcerated. However, as one scholar noted, “It is illogical to prosecute child prostitutes …”

First and foremost, prostituted children must be seen and identified as victims. One of the basic principles underlying the TVPA and all human trafficking laws is protection of victims. “The first step in providing adequate protection to trafficked women is recognizing them as victims of crimes instead of criminals.” Once identified as victims, both the government and social service organizations must come together “to act quickly on behalf of trafficking victims and to provide long-term assistance.” Once processed through the justice system, they are stigmatized as criminals which makes access to needed services more difficult because of restrictions of crime victim aid funds. Quick action in identify them as victims avoids the justice system which in turn avoids the stigmatization. Long term assistance helps them rebuild their lives and overcome the trauma of being trafficked.

Although making it difficult to reintegrate, incarceration of some sort is seen by many as

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165 ECPAT-USA, supra Note 19 at 7.
166 Kittling, supra Note 34 at 925.
168 Id. At 14.
169 See D.C. Superior Court Crime Victims Compensation Program Rule 7, ("Denial is appropriate due to the nature of the victim's or secondary victim's involvement in the events leading to the relevant crime"); NY CLS Exec § 62.4, ("A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive an award with respect to such claim.")
the current best way to get the prostituted children off the streets and into services. In fact, “many formerly prostituted girls … refer to time in jail as the main impetus in their exiting the life.” 170 The FBI has identified the needs to truly assist these girls in escaping, with safe housing away from their traffickers and a range of placement options, including locked facilities if necessary topping the list. 171 The TVPA does not even exclude the possibility that locked facilities may be necessary, stating only that victims will not be held in a facility incompatible with their status as victims. 172 But, the TVPA also advocates the non-stigmatizing of victims. Therefore, detention in a juvenile facility as a punitive measure could leave a permanent stigma against the girls that will follow them the rest of their lives.

Safe Harbor provisions ensure a trafficked victim does not face prosecution. As Professor Mattar states in his Five Elements Incorporating the Five Basic Elements of a Model Anti-trafficking in Persons Legislation in Domestic Laws, “the law must excuse the victim from criminal liability for the acts committed as a result of being trafficked. Victims of trafficking will be immune from such liability every time they commit an illegal act as long as those acts are related to their trafficking.” 173 Since, as stated earlier, all children who are prostituted are trafficked, this would mean no child would face prostitution charges. Instead, the focus would be on getting the child the services needed for recovery and reintegration without going directly to jail first.

170 ECPAT-USA, supra Note 19 at 24.
As long as incarceration remains an option and those attempting to aid the prostituted children see it as a viable means to provide services to the girls, law enforcement will see no need to stop arresting the prostituted children and placing them in detention. As long as incarceration is seen as the only way of helping the prostituted children, prosecutors will continue to charge the children. Coupled with the belief that the offer to drop charges against the girl is the best way to ensure cooperation, some prosecutors may have little incentive to find other means to assist victims of commercial sexual exploitation. Safe Harbor provisions can provide this incentive. With a Safe Harbor Provision that protect prostituted children from criminal charges, law enforcement and the juvenile justice system will be forced to find “a way … to detain and offer girls better services.”\(^{174}\) The system will be forced to find a way that befits the girls status as a victim rather than a criminal.

Safe Harbor provisions provide several functions. They emphasize that trafficked persons are victims, not criminals. They make it easier to provide services to them as victims, with easier reintegration without the stigma of a criminal record. Most importantly, they remove a powerful tool from the hands of the pimps.

One of the ways the pimps control the children is by telling the child that no one will help them because they are criminals. By recognizing that children are victims of sexual exploitation when they are prostituted, society can help to remove this fear. The very credible fear of prosecution based on society's ambiguity towards child prostitutes keeps the children from seeking help.\(^{175}\) With the removal of this fear, there is one less barrier to the children’s escape.

\(^{174}\) ECPAT-USA, supra Note 17 at 8.  
\(^{175}\) Id.
It is hard enough for adults to be seen as victims of human trafficking. For prostituted children it is doubly difficult rather than easier given their protected status as minors.

The social and legal status of juveniles involved in prostitution is somewhat ambiguous. On the one hand, they are offenders involved in illegal and delinquent behavior. On the other, they are children who are being victimized by unscrupulous adults …. Accordingly, from both a child protective and law enforcement strategy, our goal should be the same – the eradication of the sexual exploitation of youth.  

Currently, those who are sexually molested and those who are sexually exploited are viewed differently. The former receives therapy and community support. The latter receives a criminal record and shunning. However, there is no difference for the child. Sexual molestation and sexual exploitation have the same effect on the victim. By taking a victim-centered approach, the child will receive appropriate services regardless of the instigating act.

VI. Conclusion

“For 860 million children of world, the future is an unknown and the present is a nightmare that lies on the conscience of adults.”  

It is adults who populate the state legislatures. It is the state legislatures who determine whether our laws protect our children or drive them further into exploitation. These selfsame legislators all loudly proclaim their aim is to protect children from exploitation. Nevertheless, the laws do not live up to their rhetoric. Law enforcement and the justice system would like to do better by prostituted children, but the law limits their choices. Services organizations provide what services they can, but their resources are limited. As long as prostituted children continue to be stigmatized as criminals, service organizations, law enforcement and district attorneys will continue to fight a losing battle.

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176 Juvenile Justice Bulletin, supra Note 101 at 1 (sidebar).
against child prostitution. Safe Harbor provisions are not the magic bullet that will cause the problem to completely disappear. They are a step towards a solution. They change the filter from seeing child prostitutes as perpetrators of crime to victims of crime.