Tourists Have No Shame: Curbing Child Sex Tourism and Prosecuting Child Sex Tourists in Thailand, the United States, and Internationally

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I. Introduction

“On this trip, I’ve had sex with a fourteen-year-old girl in Mexico and a fifteen-year-old in Colombia. I’m helping them financially. If they don’t have sex with me, they may not have enough food. If someone has a problem with me doing this, let UNICEF feed them. I’ve never paid more than $20 to these young women, and that allows them to eat for a week.” -Retired US Schoolteacher

When asked his opinions about prostitution of children, former United States Secretary of State Colin Powell stated, “[I]t’s the worst kind of human exploitation imaginable. Can you imagine young children…being used as sexual slaves for predators? It is a sin against humanity, and it is a horrendous crime.”

Child sex tourism represents a global crisis that involves questions of human trafficking, law enforcement to curb the supply of children in prostitution, legislative and judicial efforts to deter or prosecute child sex tourists and companies that organize child sex tours, and international attempts to protect the rights of children and bring those guilty of exploiting children to justice. The World Tourism Organization defines sex tourism as “trips organized within the tourism sector, or from outside this sector but using its structures and networks with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination,” while the United Nations defines child sex tourism as “tourism organized with the primary purpose of facilitating the effecting of a commercial-sexual relationship with a child.”

Child sex tourism is particularly prominent in Southeast Asia, a fact that author David Batstone attributes in his book *Not For Sale* to four powerful factors: (1) devastating poverty, (2) armed conflicts, (3) rapid industrialization, and (4)

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2 *Id.* at 483.
explosive population growth. Furthermore, domestic law enforcement efforts to shut down prostitution of children are fraught with corruption and impunity in Southeast Asia; when some destination countries more stringently enforce their laws against child sexual exploitation, child sex tourists merely shift their focus to countries that protect children less rigorously.

While statistics in the areas of human trafficking and prostitution of children are not inherently reliable, one author suggests that the yearly estimated income from prostitution between 1993 and 1995 was $22.5 billion to $27 billion. The author also suggests that around one-fourth of the 240 tourists who sexually exploited children in Asia between 1991 and 1996 and as a result faced arrest, imprisonment, deportation, or fled the country, were American child sex tourists. One must not place too much importance on these statistics, for reasons that will be explained later in this paper, but both Thailand, as a destination country, and the United States, as a supplier country, have taken domestic measures to address human trafficking and child sex tourism. However, despite the spirit with which these measures were adopted, none of these laws have been effective in curbing either supply or demand.

Section II of this paper begins with an explanation of the factors leading to the historical development of human trafficking, prostitution, and child sex trafficking in Thailand, despite Thailand’s criminalization of prostitution. It then continues with an analysis of the current status of child sex tourism in Thailand. This section contains an important note on the nature of statistics in the fields of human trafficking and child sex tourism, advising readers to approach all statistics with skepticism and explaining why reliable statistics on victims and perpetrators are extremely difficult, and at times impossible, to obtain. Section III outlines the international

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6 Cotter, supra note 3, at 495.
7 Edelson, supra note 1, at 495-496.
8 Cotter, supra note 3, at 494.
efforts to protect children from exploitation and forced labor, including the United Nations Convention on the Rights of the Child, the various conventions of the International Labor Organization, the Hague Convention on the Civil Aspects of International Child Abduction, and regional and NGO activities. Section IV looks at the laws that Thailand has enacted to combat human trafficking, prostitution, and child sex tourism and explains the difficulties in combating supply. Section V addresses the efforts that the United States has taken to prevent child sex tourism and prosecute the companies and individuals who engage in child sex tourism, finishing with a note on the barriers to combating demand. Finally, Section VI contains recommendations for Thailand, the United States, and the international community in their efforts to bring about an effective end to child sex tourism.

II. Development of Human Trafficking, Prostitution, and Child Sex Tourism in Thailand

This Section outlines the various factors leading to the development of a thriving child sex tourism industry in Thailand, including poverty, family pressures, a patriarchal system of morality, and the influence of the Vietnam War. It then continues with an outline of the current status of child sex tourism in Thailand, starting with a note on the inherent unreliability of statistics in the fields of human trafficking, prostitution, and child sex tourism. It then addresses the status of human trafficking, prostitution, and child sex tourism in Thailand today, and concludes with a profile of the victims.

A. Factors Leading to the Development of Child Sex Tourism in Thailand

Poverty has long been identified as one of the fundamental reasons why children from
poor backgrounds enter into prostitution.\textsuperscript{9} Many of the young girls comprising the sex trade industry are believed to come from depressed rural areas; these areas have few job opportunities, and young girls migrate to the urban areas for employment. Citing the International Labor Organization’s report “From Peasant Girls to Bangkok Masseuses,” Levan concludes that while many girls may begin in mainstream jobs, the work is hazardous, short-term, and lower paying than prostitution.\textsuperscript{10}

Drawing from the research presented in Bruce Reichman and Ruth Severiens in their article “Child Sexual Exploitation in Developing Countries,” Levan states that though many children are coerced or trafficked into the sex trade, there is a significant amount of self-selling in Thailand due to the more subtle inducements of family pressure. Economic hardships within the household prompt family members to approve of, if not actually take part in, the induction of their children into prostitution. Some researchers suggest that many young girls decide to enter the sex trade to support their families out of a long-standing cultural perception of family obligations.\textsuperscript{11} Asian parents maintain extreme authority over their children; older relatives have “ownership” rights over their children, thus demonstrating this authority in some societies. Therefore, whether due to a family right of ownership, extreme poverty, indifference, or the misguided belief that earnings from prostitution will enable their children to live better lives, it is said that parents in Thailand continue to practice the tradition of selling their children into prostitution.\textsuperscript{12} Again drawing from Reichman and Severiens, Levan concludes that these family pressures also reveal the patriarchal nature of morality in Thailand. Women’s bodies and

\textsuperscript{10} Id.
\textsuperscript{11} Id. at 876.
\textsuperscript{12} Id. at 874-875.
sexuality define their honor; women exist to produce pleasure and labor. Conversely, the honor of men depends on their public interactions, and their sexuality neither defines nor affects their social positions or morality.\textsuperscript{13}

An analysis of the historical development of child sex tourism in Thailand would be incomplete without a discussion of the war influence from the 1960s. Looking at the International Labor Organization’s aforementioned report and Thanh-Dam Truong’s report “Virtue, Order, Health, and Money: Towards a Comprehensive Perspective on Female Prostitution in Asia,” Levan reasons that the presence of the US military in Indochina during the Vietnam War in the 1960s brought tremendous economic opportunities to the region. Thailand’s new regime therefore altered its nation’s economic objectives. Thailand, in conjunction with the United States, developed two new policies: first, a long-term commitment to an open economy, and second, a short-term engineered financial gain achieved through catering to the American military presence through heavy investment in the social industry.\textsuperscript{14} The United States and Thailand signed a treaty in 1967 allowing American soldiers stationed in Vietnam to vacation in Thailand during their Rest and Recreation (R&R) leave. American soldiers flooded Thailand, making this R&R plan extremely lucrative. Servicemen were willing to pay far more for pleasure than the average income, so women anxious to raise their standard of living entered the prostitution industry in droves.\textsuperscript{15}

After the Vietnam War ended, tens of thousands of prostituted women remained in the industry without customers, and the service industry found itself with an overabundance of accommodation facilities. Relying on the International Labor Organization’s report and

\textsuperscript{13} Id. at 876.
\textsuperscript{14} Id. at 870-880.
\textsuperscript{15} Id. at 880.
Truong’s article, Levan describes how Thailand’s economy had become dependent on the profits produced by the sex trade, so the government shifted its focus to tourism to maintain its inflated standard of living.\textsuperscript{16} In 1971, the Thai government entered into an agreement with international organizations to promote tourism in the country, determined to create a more stable source of income. International participants included major transportation giants who were interested in their own financial gain, and the United Nations and the World Bank, focused on the welfare of developing countries. Thailand thus merged its thriving prostitution industry with tourism to create an international tourist industry.\textsuperscript{17} The tourism industry used persuasive marketing techniques to create a highly organized sex industry as part of its development strategy. International and local tour operators discreetly use prostitution in their advertising to attract various types of tourists. Thailand itself markets prostitution for tourism through its airlines and official endorsement.\textsuperscript{18}

As profits from the sex tourism business in Thailand increase, brothel owners must seek out younger prostituted women to satisfy the market. The huge demand for young girls in the sex trade has led to the revival of Asia’s old practice of slave trading, with gangs of Thai men trafficking young girls to Bangkok and other tourist destinations to sell them into the sex trade. As a result, children are scarce in some rural areas of the country.\textsuperscript{19} Looking to Dave Todd’s article “Kids Sold to Brothels in Thailand” and Uli Schmetzer’s article “China Connection Leads Girls to Bangkok Brothels,” Levan illustrates how this practice of child abduction has spread to neighboring countries, so young girls from around the region are now being trafficked into

\textsuperscript{16} \textit{Id.} at 881.
\textsuperscript{17} \textit{Id.} at 882.
\textsuperscript{18} \textit{Id.} at 883.
\textsuperscript{19} \textit{Id.} at 884-885.
Thailand solely to meet tourists’ demand for prostitution of children.20 The combined cults of female virginity and male virility are thought to contribute to the demand for younger and younger girls. An entire sub-industry centers around the deflowering of young girls, so virginity combined with prostitution results in high prices for young girls in the Thai sex market.21

Finally, the AIDS epidemic and widespread misconceptions about the virus contribute to the dramatic rise in the trafficking of young girls in Thailand. Many customers are said to mistakenly believe that young girls are unlikely to be infected with AIDS. Some researches speculate that those who do fear that young Thai girls could be infected look to foreign girls for their pleasure, further feeding the international trafficking of children from other countries in Southeast Asia.22 Until recently, the Thai government was reluctant to address the AIDS problem, fearing that publicizing the problem would damage the tourist industry. However, in 1988 Thailand faced an HIV epidemic, and Thailand realized that the harm to its tourism might be irreparable if the epidemic continued. As a result, Thailand implemented a national AIDS prevention program to increase education about and combat the disease.23 Nevertheless, due to the international nature of sex tourism, AIDS in Thailand is not contained within its borders. Customers come from every region of the world, so they may become infected with the virus while in Thailand and spread it to others when they return to their home countries. Relying on Vitit Muntarbhorn’s report to the United Nations Commission on Human Rights on the sale of children, Levan concludes that this could lead to a global epidemic. Given that this particular problem with Thailand’s sex trade industry has worldwide implications, sending countries and

20 Id.
22 Levan, supra note 9, at 886-887; Li, supra note 21, at 510.
23 Levan, supra note 9, at 887.
the international community as a whole have an interest in ensuring that Thailand enforces its own criminal laws to attack the sex trade industry.\textsuperscript{24}

\textbf{B. Current Status of Child Sex Tourism in Thailand}

Before addressing the current status of child sex tourism in Thailand today, it must be noted that statistics in the fields of human trafficking, prostitution, and child sex tourism are inherently unreliable due to the transient nature of the victims and the underground nature of the sex industry. Once this is noted, this subsection outlines the status of these problems in modern-day Thailand. This section then concludes with a profile of the victims of human trafficking and child sex tourism.

1. \textbf{A Note on the Reliability of Statistics on Human Trafficking, Prostitution, and Child Sex Tourism}

In the areas of human trafficking, prostitution, and child sex tourism, statistics cannot automatically be accepted as reliable or accurate, especially in countries where prostitution is illegal as it is in Thailand and the United States. When dealing with trafficked individuals in general and child victims in particular, there is almost no definitive way of establishing precisely how many individuals are involved in commercial sexual exploitation. Because human trafficking is illegal worldwide and prostitution remains either illegal or an underground industry, victims are unwilling to approach law enforcement because they would be required to admit to engaging in illegal or frowned-upon conduct. Many victims remain controlled by their traffickers and therefore fear the consequences of reporting them to the police.

Similarly, it is not possible to determine the exact number of individuals who travel to a given country and participate in sex tourism, as they are unlikely to admit to this behavior and

\textsuperscript{24} \textit{Id.} at 888.
very few individuals are actually arrested or prosecuted. While it may be possible to track individuals who participate in organized sex tours, it is increasingly difficult to ascertain the exact number of individuals participating in sex tourism because tourism companies that operate sex tours often do so under the radar. Furthermore, many individuals may travel to other countries with legitimate business or cultural interests but participate in sex tourism incidentally. Because of these difficulties, all statistics that are cited throughout this paper are mentioned with the authority that produced them, and all of these statistics must be treated with a grain of salt. The actual numbers of trafficked individuals or individuals who engage in sex tourism may in reality be smaller or, more likely, much larger than the statistics indicate.

2. The Status of Human Trafficking, Prostitution, and Child Sex Tourism in Thailand Today

Thailand is a source, transit, and destination country for human trafficking. As a source country, women and children from rural tribes are internally trafficked to Bangkok for sexual exploitation, but the International Organization of Migration reported that internal trafficking has decreased as Thailand has implemented prevention programs and improved economic opportunities for rural women.\(^25\) Thailand is a transit country because women and girls from Cambodia, Myanmar, and Vietnam are trafficked through Thailand’s southern border to Malaysia for sexual exploitation in Singapore and Johor Bahru.\(^26\) Finally, as a destination country, children are trafficked into Thailand for sexual exploitation and forced labor.\(^27\) Because Thailand has not fully complied with the United States Trafficking Victims Protection Act’s


\(^{26}\) Id.

\(^{27}\) Id.
minimum standards for eliminating trafficking but has made significant efforts to do so, the U.S. Department of State placed Thailand in Tier 2 in its 2007 Trafficking in Persons Report. Furthermore, the Coalition Against Trafficking in Women suggests that human trafficking is more lucrative than the drug trade in Thailand.

Thailand For YOU, a website where sex tourists converse about their activities and make recommendations to fellow travelers, claims that Thailand has the “perfect storm” of appealing factors to sex tourists: cheap sex with women and children, decent food, and good medical care. In the United States, as in other industrialized countries, travel agencies organize sex tours to Thailand, the Philippines, and other developing countries. One author suggests that over twenty-five companies in the U.S. are known to offer sex tours. Travel with these companies for ten-day or two-week tours ranges from $1,800 to $2,500 per person; this includes round-trip airfare to Bangkok or Manila, hotel accommodations, transportation on the ground, a local guide conversant in English, and “introductions to lady companions throughout your stay as desired,” as a brochure from Big Apple Oriental Tours advertises.

While tour companies keep their physical advertisement for sex tours at a minimum, Internet advertisements for sex tours to Thailand are rampant. Innumerable websites offer information on sex tours to Thailand and Southeast Asia, with no subtlety whatsoever. For example, Asian Experiences advertises:

Have you ever thought about escaping to exotic Thailand? Experience for yourself why the ladies of the Far East are considered the most beautiful and sexiest in the world! If this is your first trip to Thailand, we guarantee that you will not find anything like this

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28 Id.
31 Todres, supra note 4, at 4.
anywhere else in the world. Well, what would you say to fourteen days or more where all you have to worry about is which lovely lady will be sleeping with you tonight? Ask yourself this question: would you like to be sitting in a bar, drink in hand, with a beautiful Thai lady on each side of you whilst watching sixty ladies dancing in front of you? Points to remember: every girl in every bar is available, every girl in every bar is affordable.\textsuperscript{32}

This advertisement clearly states that the purpose of the trip is connecting the tourist with a prostituted woman in Thailand, as evidenced by the line “every girl in every bar is affordable.” However, at the bottom of this website Asian Experiences includes a disclaimer, “Sex with children is illegal.” While this disclaimer purports to protect Asian Experiences from any sexual encounters its tourists may have with children in Thailand, Asian Experiences appears to forget that soliciting for a commercial sexual relationship with anyone, including the “lovely ladies” of Thailand, is illegal both in the US and in Thailand.

Another online tour company that organizes adult vacations and erotic vacations for adult males is South India Tours, which advertises for Thailand adult tours. The website describes the adult singles vacation in Thailand as follows:

We desire in our dreams to live a vacation where there is a woman who can take care of you in that ultimate manner where she is your fresh new girlfriend, a companion, a partner who takes care of all your desires. The touch, the massage, the kiss, the ultimate in physical and emotional contact which cannot be imagined but experienced…Yes, we make that experience into a reality. We bring you a holiday, a vacation, which is the ultimate dream of every man.\textsuperscript{33}

Thailand Adult Tours is another online travel company that specializes in sex tours to Thailand. On its website, it claims:

Our tours are perfect for bachelors single gentlemen travelling [sic] alone wanting to meet ladies looking for a casual sex or a casual relationship and single adult holidays for sex or romance or sexy fun with no strings attached. Fantastic singles holiday for adult men with beautiful Thai lady escorts who guarantee a good time. We provide adult only

luxury hotels for great deal sun vacations for adult experiences and escapes with sexy Thai girl companions and holiday escorts. Enjoy adult body and soapy massage, spa.

Finally, Sexy VIP Escorts organizes sex tours to Thailand, supposedly for a higher-class tourist who wishes to experience the finest Thailand has to offer. It describes the women it provides for its tourists as “very intelligent, interesting, sexy, sensual, attractive, lovable, fun, very affectionate, relaxing, genuine, classy, great at putting you at east when you walk through the door and who is great in the bedroom too, addictive and very unique.”34 This tour company offers its tourists “the girlfriend experience,” in which the tourist can relax while his own “personal” assistant looks after his “day to day office needs” and his “intimate needs” while on vacation.35

None of the online tour companies illustrated above specifically mentioned that sex with children is an option for their clients. One can assume that while these companies do not hesitate about advertising the illegal activities that occur on their tours, they are hesitant to go so far as to solicit for tourists who seek to sexually exploit children. However, only Asian Experiences specifically mentions that sex with children is illegal, implying that child sex tourism is officially frowned upon at that company. The other tour companies do not mention children at all, whether to promote or disapprove of child sex tourism. All of the companies, however, ambiguously use the term “girls” to refer to the Thai women that the tourists will meet on their vacations. The use of the word “girls” rather than “women” could merely be derogatory, but it could serve to hide the actual ages of the women with whom the tourists will be connected once they arrive in Thailand.

3. Profile of the Victims

35 Id.
Experts believe that child sex tourists target both young boys and girls, most of whom are poor, homeless, and from abusive families. Commentators do not agree on the number of children involved in the global sex trade, nor can they ascertain the amount of money that child sex tourism generates in a given year. ³⁶ For many children, prostitution allows boys and girls from poor, dysfunctional families to earn money for food and shelter. While some media reports focus on children in prostitution living in brothels, other experts hold that child sex tourists do not find their victims in brothels, although they do not offer alternative methods of seeking out these children. ³⁷

One reason for this inability to determine the number of children involved in child sex tourism is the inconsistency in legal definitions of a child across countries. A universal definition of a child does not exist. The United Nations Convention on the Rights of the Child (CRC) states that eighteen is the age of majority, but it allows countries to establish lower thresholds. Furthermore, many countries establish an age of consent lower than eighteen. ³⁸ Varying ages of consent can hinder the prosecution of a person for sexual crimes committed against a child, as the defendant can raise the defense that the victim legally consented under the laws of the country where the crime took place. ³⁹

The difficulty of estimating the number of victims in Thailand underscores the global complexity in assessing the number of prostituted children worldwide. According to the U.S. Department of State, more than two million children are exploited in the global sex trade each

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³⁷ Edelson, supra note 1, at 490-491.
³⁸ Id. at 488-489.
³⁹ Id. at 489.
year, but it provides no methodology for how it determined this number.\textsuperscript{40} UNICEF estimates that Asia alone holds over one million prostituted children, but it once again provides no explanation as to how it came to determine this estimate.\textsuperscript{41} To end the controversy over the number of children in prostitution in Thailand, Philip Guest of the Institute for Population and Social Research at Mahidol University made an attempt to estimate the number of children in prostitution in 1991.\textsuperscript{42} Guest looked to the population census of 1990 and divided girls below the age of eighteen into four at-risk groups. He then took the total number of women in prostitution from a survey conducted by Sithitrai and Brown in 1991 and estimated that the total number of prostituted women was 150,000-200,000. Of this number, Guest then estimated that around 70,000, or 35\%, because prostituted women before they were eighteen years old. Finally, Guest estimated that the number of Thai children in prostitution in 1991 was 36,000.\textsuperscript{43} However, this statistic suffers from serious flaws, most specifically the complete lack of substantiation for any of the numbers used to estimate the final statistic. All of the estimates taken from the overarching population census, including the statistic on prostituted women from Sithitrai and Brown, are pure estimates based on no quantitative research whatsoever. Therefore, Guest’s estimate, which is one of the most commonly cited statistics on the number of prostituted children in Thailand, is nothing more than a guess.

In 1996, the Center for the Protection of Children’s Rights (CPRC) estimated that Thailand had 800,000 children in prostitution. It explained that its estimate covered all children below the age of eighteen, including boys, girls, and foreign children trafficked into prostitution.

\textsuperscript{40} Cotter, \textit{supra} note 3, at 497.
\textsuperscript{41} Todres, \textit{supra} note 4, at 2.
\textsuperscript{43} \textit{Id.}
The CPRC estimated that Thailand had a total of 2,000,000 women in prostitution. It reached this number by estimating that Thailand had 50,000 prostitution establishments, of which 20,000 were “registered” with about 700,000 women in prostitution working there and 30,000 underground establishments with around 1,300,000 women in prostitution. The 800,000 figure of children in prostitution represents 40% of the total 2,000,000 individuals in prostitution in Thailand. The CPRC employed three indicators to give its study some legitimacy: (1) a proportion of children in prostitution from the total number of women in prostitution in Thailand; (2) information or data with special reference to the age of women when they entered into prostitution; and (3) a proportion of foreign women in prostitution in each province. However, none of these indicators mask the CPRC’s overarching flaw in its research: all of the numbers it employs are pure guesses. Its “estimates” are based on no empirical data whatsoever, so none of the numbers it cites, including its total number of prostituted children in Thailand, can be cited with authority.

The most reliable, albeit under-representative and flawed with regards to children in prostitution, estimate concerning the number of prostituted women in Thailand comes from the Thai Ministry of Public Health. The Ministry identified prostitution establishments through prostituted men and women coming in to health clinics for venereal disease checkups. If a person tested positive and contracted a disease through a sexual encounter, health officials contacted the establishment to obtain information on the number of workers at the establishment and to arrange for free medical checkups. Through this process, the Ministry identified 8,431 known prostitution establishments, including brothels, beer bars, traditional massage parlors, karaoke bars, and restaurants, in Thailand. These establishments employed a total of 69,139

\[44\] Id. at 3.
\[45\] Id. at 4-5.
“confirmed” men and women in prostitution, with another 45,661 staff who did not self-identify as men or women in prostitution.\textsuperscript{46} However, this study is under-representative because it only identified prostitution establishments through men and women receiving checks for venereal disease checks; it does not include those establishments that do not allow prostituted men and women to receive such checkups. Furthermore, the Ministry needed to establish good relationships with the establishment owners in order to obtain information, so it specifically avoided asking questions about children in prostitution because it knew that establishments would not cooperate anymore if it probed into this matter. All of the above conflicting statistics underscore the above-mentioned skepticism with which one must approach estimates and numbers of victims and perpetrators in human trafficking, prostitution, and child sex trafficking.

Because none of the existing studies that estimate the number of prostituted children in Thailand are either representative of the magnitude of the problem or reliable, anecdotal evidence provides the greatest insight concerning the ramifications that forced prostitution have on children. In 1999, Dr. Kevin Bales published an interview with Siri, a young sex slave whom he met and interviewed at a brothel in Ubon Ratchitani, in northeastern Thailand. Dr. Bales reported:

When Siri wakes, it is about noon. In the instant of waking, she knows exactly who and what she has become. The soreness in her genitals reminds her of the fifteen men she had sex with the night before. Siri is fifteen years old. Sold by her parents a year ago to a woman broker from a Northern village, the broker assured her parents they would be well paid for their daughter. After some negotiation, they received 50,000 baht [$1,318] for Siri. This exchange began the process of debt bondage that is used to enslave the girl. The daughter’s labor must pay back the loaned money before she is free to leave the brothel. However, her debt has escalated in a short time to 200,000 baht for her rent, food, drinks, medicine, and fines if she did not work hard enough.

Siri’s resistance and desire to escape the brothel are breaking down, and acceptance and resignation are taking their place. After she was sold and taken to the brothel, she

discovered that the work was not what she thought it would be. Siri had a sheltered childhood and was ignorant of what it meant to work in a brothel. Her first client hurt her and at the earliest opportunity, she ran away. On the street with no money, she was quickly caught, dragged back, beaten, and raped. That night she was forced to take on a chain of clients until the early morning. The beatings and work continued night after night until her will was broken. Now she is sure that she is a bad person. Girls in Thailand, like Siri, are sold into sex slavery by the thousands. Money, culture, and society blend in new and powerful ways to enslave girls like Siri.  

Furthermore, in 1994 Patricia Jennifer Green and Rahab Ministries engaged in qualitative research on child victims of forced prostitution in Thailand. Their methods included observations, information conversations, and some structured interviews with an unidentified number of girls rescued from forced prostitution. Observations and conversations occurred over a period of four years, and further discussions were held with caregivers in homes providing rehabilitation for girls rescued from prostitution. Furthermore, Rahab Ministries examined a sample of files on girls who were rescued from brothels in Bangkok.  

Of the girls interviewed in this study, sixty-three percent of the girls who were sold into prostitution before the age of sixteen reported that they had been sold directly by their parents; twenty-one percent reported being sold by neighbors or friends and sixteen percent were sold by other agents. Of the families that directly sold their daughters, forty-two percent had an annual income above the village poverty level. This reveals that parents sought material goods beyond the necessary living requirements, rather than those goods required to allow the family to survive.

49 Id, at 4.
The interviewed girls revealed horrific experiences that they suffered while in the brothels. The Center for the Protection of Children’s Rights stated that of the unidentified number of girls under seventeen years of age rescued from brothels, eighty percent were HIV positive.50 Girls spoke of being beaten or jumped on when pregnant to force miscarriage. This repeated forced or self-induced abortion with no medical aftercare resulted in severe internal physical damage and sometimes death. Two girls related how they were beaten unconscious when they refused to work while menstruating. Such severe physical mistreatment contributed to chronic health problems, trauma, and poor mental health. Depression levels correlated with the nature, frequency, and severity of physical and sexual abuse.51

Many of the girls interviewed were traumatized and raped into submission. They expressed fear of repeated beatings, starvation, or torture if they refused to comply with customers’ or pimps’ demands or if they tried to escape. In some cases, brothel owners subdued the girls with drugs, and the girls consequently developed drug or alcohol dependency.52 Most of the girls who were interviewed expressed attitudes of self-rejection and hatred for what they had become. They felt that other people rejected them, and experienced humiliation and feelings of deep guilt or shame. Ninety percent of the girls interviewed exhibited very low self-esteem, feelings of inadequacy, and confusion.53 Girls struggled to understand why their families had subjected them to such a horrible lifestyle; one girl said, “I must have been bad or they wouldn’t have sold me.”54

50 Id. at 5.
51 Id.
52 Id.
53 Id.
54 Id.
Rahab Ministries reported that girls fell into two categories depending on how they processed their experienced. Some girls felt that they were broken to a point where they could never regain self-respect or dignity. They were still tearful when relating their experiences during interviews, and they exhibited severe depression and suicidal tendencies. More than fifty percent of the girls interviewed stated that while in the brothel they wanted to kill themselves.\textsuperscript{55} On the other hand, some girls said that they had become desensitized as a defense mechanism. This desensitization blanked out their minds to allow them to cope with the constant trauma of abuse and loss. When interviewed, some girls were unable to even recall their lives in prostitution or any other significant life events that occurred during that time. They became dissociated, choosing to forget what had happened to them because the abuse and trauma had become too painful to bear.\textsuperscript{56}

III. \textbf{International Efforts Relating to Child Sex Tourism}

The international community places particular emphasis on protecting children. The United Nations Convention on the Rights of the Child (CRC) is the primary instrument to ensure the welfare of children worldwide. However, the CRC offers limited protection to child victims of sexual exploitation, as it does not require state signatories to enact legislation to help child victims of sexual trafficking. Other international conventions and efforts to curb sex trafficking and forced labor slavery also prove insufficient to effectively prevent child sex tourism. More comprehensive international conventions are necessary to bring an end to child sex tourism.

\textbf{A. The United Nations Convention on the Rights of the Child}

\textsuperscript{55} \textit{Id.} at 6. \\
\textsuperscript{56} \textit{Id.}
The CRC was entered into force in September 1990, and has been adopted and ratified by almost every country in the world except the United States and Somalia.\textsuperscript{57} Articles 19, 34, and 35 of the CRC directly address sexual exploitation of children. They require ratifying states to ensure that their existing legislative and enforcement measures adequately protect and treat child victims of sexual abuse.\textsuperscript{58} Furthermore, article 9 mandates that children shall not be separated from their parents against their will; article 20 says that states must provide special protection and assistance to children when it determines that it is not in the child’s best interest to remain in his or her current environment; and article 36 requires that state parties protect children against all forms of exploitation that are prejudicial to any aspect of the child’s welfare.\textsuperscript{59}

The CRC is limited in that it does not establish any laws or guidelines to govern the problems outlined in its provisions. Rather, it only recognizes that these problems exist and that a multinational response is necessary to cure them. It does not create any international body to monitor compliance with the requirements of the treaty, so state signatories can merely sign the aspirational treaty and then continue to operate as they always have.\textsuperscript{60}

The international community realized that there was a need for more specific measures to protect the rights of children guaranteed in the CRC. As a result, the General Assembly ratified the Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography on May 25, 2000. Ratified by 101 countries, the Protocol requires signatories to ensure that their domestic legislation allows for the prosecution of their nationals for crimes of child sexual exploitation, whether committed domestically or internationally. The

\textsuperscript{57} Cotter, \textit{supra} note 3, at 509; Svensson, \textit{supra} note 36, at 646.
\textsuperscript{58} Edelson, \textit{supra} note 1, at 501.
\textsuperscript{60} Id. at 638.
Protocol also states that parties may establish jurisdiction over child sexual exploitation when either the perpetrator or the victim is a national of that signatory state.\textsuperscript{61}

Thailand’s actions generally mirror international standards, as it is a signatory to some significant conventions, including the CRC. However, Thailand has attached reservations to the CRC with regards to three key provisions designed to prevent prostitution of children. These provisions require states to provide every child with birth registration, guarantee assistance to any child who attempts to find his or her natural parents, and furnish education to prepare children for responsible adulthood.\textsuperscript{62}

\textbf{B. Conventions of the International Labor Organization}

The International Labor Organization (ILO), now a specialized agency of the United Nations focusing on workers’ rights, applies its labor standard to children working in Thai brothels. When the Committee of Experts on the Applications of Conventions and Recommendations, the ILO’s supervisory body, finds a violation of an ILO convention in Thailand, it submits recommendations to the Thai authorities on how to better comply with ILO standards.\textsuperscript{63} The ILO implements the terms of its conventions through its Committee and a special rapporteur who issues recommendations and comprehensive reports in response to complaints about an individual country’s compliance.\textsuperscript{64}

Thailand is a party to the Convention Concerning Forced or Compulsory Labor (Convention 29), which advocates for the eradication of forced child labor, including prostitution of children. It has also ratified the Elimination of the Worst Forms of Child Labor and the

\textsuperscript{61} Svensson, \textit{supra} note 36, at 647.
\textsuperscript{62} Levan, \textit{supra} note 9, at 900-901.
\textsuperscript{63} \textit{Id.} at 902-903.
\textsuperscript{64} \textit{Id.} at 904.
Minimum Age (Underground Work) Convention. Article 25 of this Convention declares that forced labor is a penal offense, further stating that parties to the Convention must ensure that sanctions imposed on violators are sufficient.

The enforcement record under Convention 29 reveals how these treaties relating to prostitution of children could potentially be effective, but in reality they are plagued by weak enforcement. The reports issued to Thailand concerning its prostitution of children problem stress that the sale of children to brothels has continued because police fail to inspect brothels, prosecute employers, and otherwise enforce the laws. For example, a 1992 report revealed that, out of the low number of prosecution, the punishment (imposition of fines for thirteen out of fourteen cases) was insufficient considering the physical and psychological harm that the children suffered. Another report concluded that Thailand only prosecuted six individuals for child sexual exploitation, indicating that the Thai police did not make a good faith effort at enforcing prostitution of children laws. These reports suggest that the situation in Thailand has regressed, so the Committee has requested frequent progress reports from the Thai government.

C. The Hague Convention on the Civil Aspects of International Child Abduction

The 1980 Hague Convention on the Civil Aspects of International Child Abduction requires signatory countries to cooperate in returning abducted children to their parents or to any other custody situation in which the children lived before the abduction. The Hague Convention

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65 Id. at 904.
66 Id.
67 Id. at 904-905.
68 Id. at 905-906.
provides no provisions for a substantive custody determination; it is merely a procedural device.\textsuperscript{69}

The Hague Convention applies to all children under the age of sixteen who have been abducted and transported across national borders. This Convention, however, deals solely with parental abductions in violation of a custody agreement. Unless the trafficker is the child’s parent and he takes his child across national borders, the Hague Convention will not apply to child trafficking. Furthermore, the Hague Convention is a civil convention; there are no criminal penalties attached to violations of its provisions.\textsuperscript{70}

\textbf{D. Other International, Regional and NGO Efforts to Curb Sex Trafficking and Forced Labor Slavery}

The Working Group on Contemporary Forms of Slavery is a United Nations body that monitors compliance with UN conventions, specifically those related to slavery and slave-related practices. The Group on Slavery is devoted to exposing violations of slave-related practices, including the solicitation of prostitution and trafficking of children for sexual exploitation.\textsuperscript{71}

In 1996, delegates from 122 countries convened the World Congress Against Commercial Sexual Exploitation of Children in Stockholm to create an Agenda for Action. This Agenda is a non-binding resolution signed by all 122 nations, including the United States. The signatories obliged themselves to develop legislation against the sexual exploitation of children, including legislation to enable extraterritorial jurisdiction over individuals who sexually exploit

\textsuperscript{69} Higgins-Thornton, \textit{supra} note 59, at 633.

\textsuperscript{70} \textit{Id.}

\textsuperscript{71} Levan, \textit{supra} note 9, at 903.
children. In addition, these countries pledged that they would develop National Plans for implementing the Agenda by 2001.\textsuperscript{72}

In 1997, the Council of the European Union adopted the Joint Action Program, which called for member states to review their laws and judicial procedures concerning child sexual exploitation. Citing the CRC, previous EU Resolutions, and the World Congress Against Commercial Sexual Exploitation of Children, the Program asked states to enact and enforce extraterritorial jurisdiction legislation against child sex tourists.\textsuperscript{73}

A number of non-governmental organizations (NGOs) have taken action in the area of child sex tourism and child sexual exploitation in general. The International Justice Mission, a global organization of lawyers and investigators, works with local authorities to stop sex trafficking and forced labor slavery.\textsuperscript{74} Furthermore, End Child Prostitution, Child Pornography, and Trafficking of Children For Sexual Purposes (ECPAT) International is a global network of organizations and individuals collaborating to end prostitution of children, child pornography, and the trafficking of children for sexual exploitation.\textsuperscript{75}

\section*{IV. Combating Supply: Addressing Human Trafficking, Prostitution, and Child Sex Tourism in Thailand}

This Section addresses the measures that have been taken in Thailand to combat human trafficking, prostitution, and child sex tourism. On paper, Thailand possesses all of the necessary pieces and legislation to put an end to child sex tourism within its borders. However, a closer look at these laws reveals they are insufficient. Therefore, this Section concludes with an

\textsuperscript{72} Edelson, \emph{supra} note 1, at 501-502.
\textsuperscript{73} Edelson, \emph{supra} note 1, at 502.
\textsuperscript{74} Cotter, \emph{supra} note 3, at 509-510.
\textsuperscript{75} \textit{Id.} at 510.
examination into the factors that hinder Thailand’s ability to combat the supply of prostituted children.

A. **Domestic Laws on Human Trafficking, Prostitution and Child Sex Tourism**

Thailand possesses all of the necessary tools to combat human trafficking, prostitution, and child sex tourism within its national borders. Its extensive laws directly address trafficking of women and children, prostitution of children, and statutory rape. Thailand also has provisions requiring protection of victims of human trafficking, with particular laws focused solely on children. However, as the conclusion of this Section will reveal, these laws are insufficient to bring an end to these practices because of corruption and uneven enforcement.

1. **The 1997 Prevention and Suppression of Trafficking in Women and Children Act**

The 1997 Prevention and Suppression of Trafficking in Women and Children Act criminalizes trafficking for sexual exploitation; penalties range from a year to life in prison and fines of $50-$1,000. The Act criminalizes the acts of “trafficking, the buying or selling, vending, bringing form or sending to, receiving, detaining, or confining any woman or child or arranging for any woman or child to act or receive any act, for sexual gratification of the third person, for an indecent sexual purpose, or for gaining any illegal benefit for him/herself or another person, with or without the consent of the woman or girl.”

However, the Act states that the end purpose for committing any one of the prohibited acts must be to gain any illegal benefit for him/herself or for another person. This provision makes prosecution difficult, as proof of such a benefit must be presented. If the Act had merely

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stipulated that the commission of certain acts would incur penal sanctions without any particular end result in the mind of the perpetrator, then the prosecution would only need to prove that the acts took place. The imposition of a specific intent therefore impedes prosecution; while this Act may initially appear to be a key piece of legislation curbing the trafficking in women and children, it in fact limits itself through its requirement that the perpetrator be seeking some additional benefit.

2. The Prevention and Suppression of Human Trafficking Bill of 2003

The Prevention and Suppression of Human Trafficking Bill of 2003 sought to amend the 1997 Act, which as noted above focused entirely on trafficking for sexual purposes while omitting trafficking for other purposes. Furthermore, the 1997 Act charged the victims of human trafficking themselves with criminal offenses, such as illegal entry and possession of fake passports. This draft law would allow for prosecution of all forms of trafficking; it was finalized in 2006, but awaits passage in the Thai legislation.

Under this Bill, human trafficking was broadened to include “the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of a position of vulnerability or of the giving and receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” The Bill also makes the consent of a victim of trafficking in women and children to the intended exploitation irrelevant when any of the aforementioned means were used.

3. The Thailand Criminal Code on Prostitution and Statutory Rape

78 ILO Report, supra note 76, at 101.
79 Id. at 102.
80 Coalition, supra note 29.
81 ILO Report, supra note 76, at 102.
Thailand’s Criminal Code officially prohibits prostitution overall. It has enacted extensive laws that impose penal and monetary damages for prostitution practices. This signifies its efforts to criminalize activities underlying the prostitution trade, and these regulations also suggest the Thai government’s willingness to heighten efforts to combat the problems permeating its society caused by this illegal trade.\textsuperscript{82}

The Prohibition of Prostitution Act prohibits all forms of prostitution in Thailand. It holds all parties involved in prostitution criminally liable, but it creates an exemption for customers. However, the penalties under this Act are lenient, ranging from a jail term of no more than one year and a fine of not more than 4,000 baht ($160). Other laws impose stiffer penalties than this Act, but the police often elect to apply this law to serve their own economic interests. Thus, while the law itself is flawed, the primary problem with this Act arises from its inconsistent enforcement. Because this Act has been ineffective in prohibiting prostitution, the Thai government has initiated legislative reforms.\textsuperscript{83}

Unlike the Act, Thailand’s statutory rape law allow for prosecution of customers. Sexual intercourse with a girl aged fifteen or younger is considered statutory rape. Any person found guilty of statutory rape is subject to a jail term of seven to twenty years or a fine of 4,000 to 40,000 baht ($160 to $1,600). If the girl is younger than thirteen, the penalty is life imprisonment. While this law does not specifically target prostitution of children, it is an option for law enforcement to deter the illegal practice of prostitution. However, similar to the Act, the statutory rape law suffers from weak enforcement. For example, intermediaries, such as pimps or brothel owners, are usually convicted, while customers are not.\textsuperscript{84}

\textsuperscript{82} Levan, \textit{supra} note 9, at 872, 889.
\textsuperscript{83} \textit{Id.} at 889-890.
\textsuperscript{84} \textit{Id.} at 890.
Thailand has made several attempts to address trans-frontier trafficking of women and children from countries such as Myanmar, Laos, Cambodia, and China. For example, the Trafficking of Women and Children Act of 1928 criminalizes the buying and selling of women and children for prostitution. However, the maximum sentence for this offense is seven years in prison or a 1,000 baht ($40) fine. Additionally, the Immigration Act of B.E. 2522 increased the protection of children by preventing foreigners who are suspected of trafficking children from entering Thailand. This law further provides for the revocation of permits from foreigners who are suspected of trafficking.\(^\text{85}\)

Thailand also has various laws that seek to reduce the number of places where prostitution can occur. The Entertainment Places Act of 1966 imposes criminal liability on those who control the operations of certain kinds of entertainment venues. This Act further requires that any prostituted woman undergo both punishment and rehabilitation for one year at a reform house. Thai officials claim that the rehabilitation program is rife with weak enforcement. However, even when the program is rigidly enforced, the program’s occupational training consists entirely of lessons on how to be a domestic servant. Therefore, neither former prostituted women nor law reformers consider the program to be rehabilitative or otherwise helpful.\(^\text{86}\)

According to the ILO, in 2004 the government reported 307 trafficking-related arrests, sixty-six prosecutions, and twelve convictions under the Penal Code and the 1997 Prevention and Suppression of Trafficking in Women and Children Act. This represented an increase in arrests over the previous year. Sentences for trafficking remained light, with an average sentence of three years in prison. However, some sentences in trafficking cases were severe, with

\(^{85}\) *Id.* at 891.
\(^{86}\) *Id.* at 891-892.
imprisonment of up to fifty years. For example, in March 2005, a Thai court convicted a Cambodian woman for trafficking eight Cambodian girls into Thailand, and sentenced her to eighty-five years in prison.\textsuperscript{87}

The Criminal Procedure Code has been amended to include procedures that may help combat trafficking and protect victims. In terms of child protection in particular, the law prescribes that the child’s statement must be taken in privacy in a suitable place for the child and a psychologist or social worker, any other person whose presence the child has requested, and a public prosecutor. Provisions have been made for video and audio recording of the child’s statement, which may be used later as evidence, to avoid the children having to appear in court.\textsuperscript{88}

The Code and its amendments also provide that before an accused is prosecuted, the public prosecutor may file an application to the court requesting an order to examine any witness immediately if he has reasonable grounds to believe that the witness will travel out of the country, has no fixed residence or resides in a distant country from the court, will be tampered with, or there are any other reasons arising from necessity that will make bringing that witness to testify in the future more difficult. If the accused is later prosecuted, this testimony may be admitted as evidence.\textsuperscript{89}

Despite these significant advances in the criminal procedures regarding the prosecution of traffickers, a number of amendments remain to be made. In Thailand, cases of trafficking are often published in the newspaper and are open to the public. This offers no consideration to the privacy of the victims. Such publication also renders it difficult for the victims, particularly children, to reintegrate into society, as they may be subject to discrimination and placed at a

\textsuperscript{87} ILO Report, supra note 76, at 103.
\textsuperscript{88} Id. at 104.
\textsuperscript{89} Id.
disadvantage. Therefore, trials must be closed and publication of personal details of the victims must be prohibited.  


The Thai government provides victim protection to foreign victims of sex trafficking and Thai citizens who have returned from trafficking situations abroad. The government provides financial support for shelters that give victims psychological counseling, food, housing, and medical care. In 2005, the government allocated 500 million baht for trafficking victim care, but since then it has only authorized 100 million baht.

However, the Immigration Act of 1979 poses a significant barrier to the protection of trafficking victims. The Act considers any foreigner without a legal document in Thailand to be an illegal immigrant. Presence in Thailand without proper immigration documents is a legal offense punishable with two-years’ imprisonment and a fine. Trafficked people have often been charged under this Act and have been treated as illegal immigrants. Therefore, these victims may have to pay a fine or remain in prison, after which they are detained in an immigration detention center and then sent home. This treatment gives little attention to the trauma that many women and children trafficking victims underwent as a result of their being trafficked.

5. Memoranda of Understanding

Thailand has created numerous Memoranda of Understanding (MOU) concerning human trafficking. The Memorandum of Understanding on Common Guidelines of Practices Among Concerned Agencies for Operation in Case Women and Children are Victims of Human Trafficking B.E. of 1999 is a non-binding agreement signed by the Prime Minister’s Office,

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90 Id. at 105.
91 IOM, supra note 25.
92 ILO Report, supra note 76, at 105.
police, the Ministry of Public Welfare, and NGOs. It recommends that police and public welfare officials take measures to promote cooperation regarding the treatment of trafficked persons, both Thai citizens and citizens of other countries, and to improve chances of successfully prosecuting traffickers.\(^9^3\) In defining trafficking, this MOU adds elements of slavery-like labor practices, forced begging, and “other inhumane acts” to the definition. It also states that foreign women and children who have been trafficked into Thailand should not be treated like illegal immigrants. It therefore stipulates that after a statement from a victim has been taken, the official must submit information to the Immigration Service to grant leniency under the Immigration Act and give the victims any assistance they may need.\(^9^4\) In according with this MOU, the Deputy Minister of Labor announced in February 2000 that Thailand would start hosting the trafficked women and children in Department of Welfare shelters rather than detention facilities.\(^9^5\)

Other MOU include the Memorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking of 2003, the Memorandum of Understanding on Operations Between State Agencies and Non-Governmental Organizations (NGOs) Engaged in Addressing Trafficking in Children and Women 2003, and the Memorandum of Understanding on Common Operational Guidelines for Government Agencies Engaged in Addressing Trafficking in Children and Women 2003.\(^9^6\)

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\(^9^3\) Id.
\(^9^4\) Id.
\(^9^5\) Id.
\(^9^6\) Id. at 106-107.

The Child Protection Act of 2003 creates institutions specifically charged with protecting children and grants more responsibilities and duties to pre-existing institutions. The Act concretely defines a “child” as a person below eighteen years of age, but it does not include “those who have attained majority through marriage.” The Act forbids some of the end products of trafficking more generally, stating:

Regardless of a child’s consent, a person is forbidden to act as follows: commit or omit acts which result in torturing a child’s body or mind; force, threaten, induce, encourage, or allow a child to adopt behaviors and manners which are inappropriate or likely to be the cause of wrongdoing; force, threaten, induce, encourage, consent to, or act in any other way that results in a child becoming a beggar, living on the street, or use a child as an instrument for begging or committing crimes, or act in a way that results in the exploitation of a child; use, employ, or ask a child to work or act in such a way that might physically or mentally harm the child, affect the child’s growth or hinder the child’s development; use or allow a child to gamble in any form or enter into a gambling place, brothel, or other place where children are not allowed; and sell, exchange, or give away liquor or cigarettes to a child, other than for medical purposes.\(^\text{97}\)

The Act creates the Child Protection Committee, which acts to implement, monitor, and evaluate the Act’s welfare, safety, protection, and rehabilitation measures. It also issues regulations on child safety. The Act’s emphasis centers on Bangkok and not on the rural regions. While it is true that child victims of trafficking typically end up in Bangkok, making it a site of particularly vulnerability, rural areas should not be ignored, as they are frequent sites of origin for victims. However, the Act’s emphasis on protection rather than prevention might explain this emphasis on Bangkok rather than on rural regions.\(^\text{98}\)

\(^{97}\) Id. at 112-113.

\(^{98}\) Id. at 113.
7. International Organization of Migration Activities in Thailand

The International Organization of Migration (IOM) works in Bangkok to develop a program designed to counter human trafficking. This program aims to: (1) protect trafficked persons by providing identification and assistance, (2) prevent trafficking and reduce the likelihood of re-trafficking, (3) partner with government and law enforcement officials to prosecute traffickers, (4) conduct research, and (5) provide training and technical assistance to government counterparts. The IOM provides resettlement for trafficked victims, as well as psycho-social assistance to trafficked victims prior to their resettlement.

B. Barriers to Enforcement: The Problems of Combating Supply

Police complicity ranks as the prominent roadblock to combating child sex tourism in Southeast Asia. Officers who should stand as sentries to protect children from these crimes look the other way. Police tend to be poorly paid, and the draw of the opulent sex tourism trade remains an insurmountable impediment to the implementation of Thailand’s anti-trafficking and child protection laws. Furthermore, affluent foreign officials may escape prosecution by bribing Thai officials and then fleeing the country. The Thai government has attempted to prevent corruption by rotating policemen to different locations to prevent the formation of protection rackets. In addition, a government edit places police commissioners on inactive duty if the government discovers child prostitution rings operating in their districts.

Furthermore, there is a disconnect between the Prevention and Suppression of Trafficking in Women and Children Act of 1997 and other legislation dealing with children, such as the

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99 IOM, supra note 25.
100 Id.
101 Cotter, supra note 3, at 496.
102 Li, supra note 21, at 514.
Child Protection Act of 2003. There are different penalties when the victims are under fifteen than when they are between fifteen and eighteen, despite the fact that the Thai government itself considers children to be any person under the age of eighteen. These different penalties reflect a consideration of the “maturity” of the child, which apparently renders child sexual exploitation less heinous. However, this goes against both Thai law and Thailand’s international obligations.103

V. Combating Demand: Addressing Sex Tourism Providers and Sex Tourists in the United States

A focus on the demand side means making men personally accountable for engaging in behavior that contributes to the sexual exploitation of children.104 This Section outlines the domestic laws of the United States to address human trafficking and child sex tourism. These laws, in particular the Mann Act, the Trafficking Victims Protection Act, and the PROTECT Act, focus on prosecuting individuals who engage in those prohibited activities. The U.S. also attempts to provide education and awareness to prevent child sex tourism. This Section concludes with an assessment of the difficulties of combating the demand for child sex tourism.

A. Domestic Laws on Human Trafficking and Child Sex Tourism

The United States has three primary laws designed to prevent child sex tourism and prosecute individuals who engage in child sex tourism: the Mann Act, the Trafficking Victims Protection Act, and the PROTECT Act. The Mann Act provides the main avenues for prosecution of child sex tourists. The Trafficking Victims Protection Act and the PROTECT Act aim to provide assistance to victims of human trafficking.

103 ILO Report, supra note 76, at 103-104.
104 Cotter, supra note 3, at 495.
1. The Mann Act

The White Slave Traffic Act, more commonly known as the Mann Act, offers the most promising option for prosecuting sex tour operators under federal law in the United States.\footnote{Todres, supra note 4, at 5; Li, supra note 21, at 517-518.}

While the Mann Act initially applied only to commercial vice, the Supreme Court, in \textit{Caminetti v. United States}, “upheld convictions under the Act where there was no evidence (1) that the women were prostituted, (2) that their actions were involuntary, or (3) that the defendants derived any profit.”\footnote{Todres, supra note 4, at 5-6.} However, in the area of prostitution, since this decision the Mann Act has focused on criminalizing the behavior of the prostituted women rather than that of the customers.\footnote{Id. at 6.}

The Mann Act contains three possible means for prosecuting sex tour operators. Such operators could be prosecuted: (1) for transporting under §2421, (2) for inducing or enticing under §2422, or (3) for aiding and abetting an individual convicted of engaging in sexual activity with a minor under §2423(b).\footnote{Id. at 7.} Section 2421 states, “Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than ten years, or both.”\footnote{Id.} Prosecuting a sex tour operator under §2421 requires a slight twist: instead of transporting the prostituted woman, the sex tour operator transports the customer to the woman in prostitution. However, the second part of §2421 allows for the application of the Mann Act to sex tour operators. Read in this light, §2421 applies to
any person (a sex tour operator) who knowingly transports any individual (a sex tourist) to another location with “the intent that such individual (the sex tourist) engage in any sexual activity for which any person can be charged with a criminal offense.” Because this second half of §2421 covers the actions of sex tour operators, the question remains whether the tour operator transported sex tourists with the intent that the sex tourists engage in illegal sexual activity. To overcome this burden, many prosecutors interpret the Mann Act as requiring that the prostitution or illegal sexual activity be a “dominant” purpose of the travel.111

A second option under the Mann Act for prosecuting sex tour operators lies within §2422. This section reads in part, “Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce…to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense…shall be fined under this title or imprisoned not more than ten years, or both.”112 Under §2422, the prosecution must prove two elements: (1) the interstate transportation of the individual, and (2) the defendant intended, at the time of the transportation, to have the individual engage in illegal activities.113 This burden renders prosecution under §2422 difficult.

The third avenue for prosecuting sex tour operators under the Mann Act is §2423(b), which reads, “A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act with a person under eighteen years of age…shall be fined under this title, imprisoned not more than ten

110 Id. at 8.
111 Id. at 9.
112 Id. at 10.
113 Id.
years, or both.” The intent element of this aiding and abetting section is difficult to prove, as sex tour operators have become more discreet about advertising their child-sex activities. However, under this section sex tour operators cannot claim ignorance of the tourists’ illegal sexual activity with minor. One advantage of prosecuting under this section is the possibility of convicting sex tour operators of a crime involving minors, which carries a heavier sentence and allows the state to condemn the sexual exploitation of children. However, there have been few prosecutions under §2423(b) due to the problematic intent requirement.

The Act for extraterritorial prosecutions, as it does not contain a double criminality requirement. The law applies to U.S. citizens and permanent residents; experts note that applying extraterritorial jurisdiction to resident aliens closes a loophole that child sex tourists could use to evade prosecution. The Department of Justice has further interpreted the intent requirement of the Mann Act to mean that the defendant must form his intention to engage in sexual activity with a child prior to meeting the child. This interpretation facilitates prosecution, as a U.S. citizen or resident alien can be prosecuted regardless of whether the sex tourist formed his intention while in the U.S. or once he entered the destination country. Furthermore, the Act does not require any proof that a sexual act with a child actually occurred; rather, the prosecution must only prove that engaging in such an act was a significant purpose, but not necessarily the sole purpose, of the sex tourist’s travel. Despite these liberal interpretations of the Mann Act’s requirements, the U.S. has only prosecuted one U.S. citizen under the Mann Act, for commercial exploitation of underage boys in Honduras; even here, such exploitation was only one of nine

114 Id. at 11.
115 Id. at 12.
116 Id. at 12-13; Li, supra note 21, at 535.
117 Edelson, supra note 1, at 527-528.
118 Id. at 528-529.
counts with which the defendant was charged. The U.S. has never tried any U.S. citizen or permanent resident for child sex tourism in Thailand.\textsuperscript{119}

The Mann Act does not completely protect children ages sixteen and seventeen because it only criminalizes sexual activity with children age fifteen and younger unless the conduct involves force, the serious threat of force, or other means to incapacitate the victim.\textsuperscript{120} In 1994, the U.S. extended the Mann Act with the Child Sexual Abuse Prevention Act, thereby criminalizing traveling in foreign commerce with the purpose of committing any sexual act with a person under the age of eighteen that would violate the federal laws of 18 U.S.C. 109A. This Act criminalized traveling overseas or, through any overt act, conspiring to travel overseas with the intent of engaging in illegal sexual activity with a child. The Act could enable to the U.S. to prosecute a child sex tourist before he ever harmed a child.\textsuperscript{121}

2. The Trafficking Victims Protection Act and the PROTECT Act

The Trafficking Victims Protection Act (TVPA), adopted in 2000, focuses on prevention of human trafficking, prosecution of traffickers, and protection of victims. The TVPA allows the U.S. to impose sanctions and withhold non-essential foreign aid for countries that fail to make “significant efforts” to eliminate trafficking within their borders.\textsuperscript{122} Congress addresses sex tourism within its definition of trafficking. The TVPA’s minimum standards require that countries prescribe measures to reduce the demand for commercial sex acts and participation in international sex tourism by its nationals. It further mandates that countries adopt measures to ensure that nationals who are deployed abroad do not engage in trafficking or exploit victims of trafficking. Additionally, an Interagency Task Force must examine the role of the international

\textsuperscript{119} Id. at 530-532.
\textsuperscript{120} Id. at 527-528.
\textsuperscript{121} Id. at 526-527.
\textsuperscript{122} Cotter, supra note 3, at 506.
sex tourism industry in tracing traffickers and those who exploit trafficking victims in each country.\textsuperscript{123}

In 2003, the U.S. strengthened its ability to combat child sex tourism by passing the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act as a subset of Operation Predator, a government-wide effort to punish US citizens who commit possession, manufacture, or distribution of child pornography; child sex tourism; and sex trafficking of children for prostitution anywhere in the world. The PROTECT Act imposes a maximum penalty of thirty years in prison for engaging in child sex tourism; citizens who commit sex trafficking of children could serve a life sentence.\textsuperscript{124} Operation Predator has a fairly high conviction rate for those offenders it manages to capture. Working cooperatively with Immigrations and Customs Enforcement (ICE) attaché offices worldwide, ICE agents had made sixty-seven arrests under the child sex tourism provisions of the 2003 PROTECT Act by 2010. Of these, forty-seven offenders have been convicted and others are still being prosecuted.\textsuperscript{125} For example, in October 2008, a New Jersey man pleaded guilty in Newark to three counts of traveling to Thailand with the intent to engage in illicit sexual conduct, and one count each of producing and possessing child pornography. This man, Wayne Nelson Corliss, was the subject of a worldwide INTERPOL alert, based only on his anonymous photo. As a result of this alert, ICE agents located and arrested Corliss. Since then, two other men in Alabama have pleaded guilty to traveling with Corliss to Thailand to sexually exploit young boys. All of these men are

\textsuperscript{123} Id.
\textsuperscript{125} ICE Fact Sheet.
awaiting sentencing.\textsuperscript{126} Despite these successes, the problems of inter-governmental cooperation hinder ICE’s efforts to capture and punish offenders under Operation Predator. To increase its enforcement abilities, ICE publishes a toll-free telephone number and an email address so anyone anywhere in the world can report suspicious activity to them.\textsuperscript{127}

3. **Education and Awareness Efforts**

The travel and tourism industry has been gradually responding to the problem of child sexual exploitation in tourism by raising awareness among tourists and staff about child sex tourism. The industry uses leaflets and posters, sets up focal points for reporting instances of child sexual exploitation, promotes the ECPAT-WTO Code of Conduct, formulates industry declarations, creates in-flight videos as part of education campaigns, and trains students and personnel at tourism schools on ways to identify and deal with child sex tourists.\textsuperscript{128}

4. **Prosecution of Sex Tour Companies**

While logically it may appear that online tour companies are openly soliciting for prostitution by encouraging prospective tourists to choose their companies because they will introduce them to willing and affordable Thai girls, the New York Supreme Court of Appeals held that such companies cannot be held liable for any illegal activities in which their clients engage when they arrive in their vacation destinations. In *People v. Barabash*, the defendants operated Big Apple Oriental Tours, a New York-based tour company that provided trips to the Philippines and procured “tour guides” to take tourists to locations where women were available to have sex for money.\textsuperscript{129} The tour guides also provided tourists with instructions on how to approach women in the Philippines about having sex for money. The price of the tour included

\textsuperscript{126} *Id.*

\textsuperscript{127} *Id.*

\textsuperscript{128} *Id.* at 512.

\textsuperscript{129} *People v. Barabash*, 35 A.D.3d 873, 874 (N.Y. App.2nd. 2006).
the money that tourists paid for sex. The state of New York charged Big Apple with promoting prostitution in the third and fourth degrees, but after a grand jury indicted Big Apple on these charges the County Court granted Big Apple’s motions to dismiss the indictment on the grounds that the evidence was not legally sufficient to support the charges.

The court here held that the County Court properly dismissed the first count of the indictment charging Big Apple with promoting prostitution in the third degree because the evidence presented did not establish that Big Apple managed, supervised, controlled, or owned a prostitution enterprise. However, the court held that the evidence was legally sufficient to establish that Big Apple knowingly advanced prostitution, so the indictment charging Big Apple with promoting prostitution in the fourth degree was correct. Despite this negative press, Big Apple continues to operate its tours.

In 2010, the New York Supreme Court of Appeals again addressed the issue of sex tour companies, with an outcome that shows the promise of eventually shutting down companies that offer sex tours. In People v. Ahmed, the defendant operated a website that advertised sex tours to the Dominican Republic. He was charged with promoting prostitution in the third degree under Penal Law § 230.25, which was amended four months after the defendant’s conviction to expressly include as proscribed conduct “advancement or profiting from prostitution by managing, supervising, controlling, or owning business that sells travel-related services knowing that such services include or are intended to include to facilitate travel for the purpose of

\[130\] Id.
\[131\] Id.
\[132\] Id.
\[133\] Id.
patronizing a prostitute.” The defendant contended that the evidence was legally insufficient to establish his guilt. However, Equality Now, an advocacy group that investigates possible instances of human trafficking, prostitution, and sex tourism, testified for the prosecution. Ken Franzblau, an employee of Equality Now, located a posting for sex tours on JumpOff Destinations, which arranged for wild party tours to the Dominican Republic. The website described package tours that included travel, lodging, and meals, and featured photographs of undressed women. Using a pseudonym, Franzblau initiated email correspondence with the defendant, who identified himself as JumpOff’s customer care representative. The defendant ensured Franzblau that he could provide him with as many women as he wanted; he claimed that he procured the women by telephoning them prior to the tour’s departure. Payment for the tour would be made to “Saeed Ahmed/JumpOff Destinations.”

Franzblau contacted the defendant via telephone and made arrangements for the tour; the District Attorney’s Office recorded the conversation. Thereafter, an undercover detective visited the defendant at his apartment to book a trip. After he was arrested, the defendant admitted to organizing tours and providing women for customers on other occasions. The court denied the defendant’s motion to dismiss because this evidence was legally sufficient to establish that the defendant knowingly managed and controlled “a prostitution business or enterprise” within the new meaning of Penal Law § 230.25.

136 Id.
137 Id. at 502-503.
138 Id. at 503.
139 Id.
140 Id.
141 Id. at 504.
The Ahmed case represents a great leap forward in prosecuting tour companies that operate sex tours. However, the tour company involved in Ahmed allegedly did not organize trips specifically for the purpose of engaging in commercial sexual exploitation of children. The adoption of more state laws similar to New York’s Penal Law §230.25 would greatly aid in the prosecution of sex tour companies. Through combining such new legislation with ICE’s activities under Operation Predator and the PROTECT Act, the United States could bring both sex tour companies and individual sex tourists themselves to justice.

B. Barriers to Enforcement: The Problems of Combating Demand

Prosecution can be one of the most effective tools for deterring child sex tourism. The International Justice Mission, during the course of its work in Southeast Asia, noticed that even a few convictions and jail sentences for perpetrators can have powerful deterrent effects. Convictions send a clear message to child sex tourists that exploiting children will not go unpunished. However, some organizations argue that convictions will not deter perpetrators because the real issues lie in the poverty and social structures of the destination countries. Perpetrator accountability is only one aspect of a wider strategy needed to effectively deter child sex tourism; this strategy also involves victim relief, structural prevention, and victim aftercare. Without these other three elements, prosecutions are insufficient to bring an end to child sex tourism.

In addition to the lack of prosecutions, combating demand is difficult due to the particular nature of child sex tourists, many of whom are pedophiles who engage in criminal sexual activity with minors even while not on vacation. Child sex tourists are divided into two categories: (1) situational or circumstantial child sex tourists, who will sexually exploit children when given the

142 Id. at 511.
143 Id.
opportunity to do so but do not necessarily seek out children for sexual purposes, and (2) preferential child sex tourists, who exclusively seek out sexual activity with children close to or below the age of puberty.\footnote{144 Edelson, \textit{supra} note 1, at 486-487.} While prosecutions and efforts in destination countries to limit the supply of prostituted children may deter situational child sex tourists, preferential child sex tourists are unlikely to be deterred from engaging in child sex tourism no matter what kind of penalties they may face. The only method of keeping preferential child sex tourists from engaging in sexual exploitation of children is closely monitoring their travels and apprehending them, putting them in jail away from any children. Therefore, more effective tracking of preferential pedophiles is necessary.

VI. Recommendations

This final Section outlines recommendations for Thailand, the United States, and the international community to aid in their efforts to end child sex tourism, prosecute child sex tourists, and curb the demand for sexual exploitation of children. Recommendations for Thailand focus on cooperation with the U.S. government to share information, law reform to better protect child victims, and efforts to reduce corruption among law enforcement officials. On the other hand, recommendations for the U.S. include ratifying the CRC, amending the rules of evidence to facilitate prosecutions of child sex tourists, and subjecting child sex tourists to extraterritorial jurisdiction. Finally, recommendations for the international community center around the creation of an all-encompassing international criminal law convention on child sexual exploitation, creating new and strengthening existing mutual legal assistance treaties, and
creating uniformity in international laws on the age of children, the age of consent, and the intent requirement.

A. Recommendations for Thailand

In order for any country to have an opportunity to prosecute child sex tourists, the Thai government must first coordinate its activities with the U.S. government and law enforcement to gather information on child sex tourists and share any evidence that could be material to the prosecution of those tourists. To ensure that the Thai government has any information to share, however, Thailand must first reduce corruption among law enforcement officials. Many law enforcement officials either have a financial interest in prostitution of children or receive bribes from pimps or brothels. The Thai government has occasionally engaged in crackdown periods during which police make concerted efforts to thwart the trafficking of children.\textsuperscript{145} The rotating schedule that law enforcement agencies have been employing are a good start, but officers will continue to be seduced by the opulence of prostitution so long as the financial inducements exist. Law enforcement agencies must thus reduce the monetary incentives to turn a blind eye to illegal activities by rewarding officers who report sexual exploitation of children and subjecting those who ignore it to harsh disciplinary proceedings.

Thailand also needs extensive legal reform to better address the rampant sexual exploitation of children within its borders. Until recently, parents were not held liable for engaging in the sale of their children into prostitution. Furthermore, children are not currently protected from the violence of their traffickers or customers. The current criminal laws against prostitution of children should be expanded to cover those inherent abuses of the trade.\textsuperscript{146}

\begin{footnotesize}
\begin{enumerate}
\item Levan, \textit{supra} note 9, at 895-896.
\item Id. at 892-893.
\end{enumerate}
\end{footnotesize}
One way to counter foreign tourists’ involvement in sexual exploitation of children is to require the perpetrators’ national governments to prosecute those pedophiles upon their return from sex tours in Thailand. Thus, bilateral agreements between Thailand and the home country of the child sex tourist to punish foreign involvement in Thailand’s prostitution could be beneficial.\textsuperscript{147} Furthermore, Thailand must make its existing laws that protect children against sexual exploitation more stringent, particularly through imposing harsher penalties on anyone who sexually exploits a child.\textsuperscript{148}

\textbf{B. Recommendations for the United States}

First, the U.S. must ratify the CRC. While the CRC is merely aspirational and does not establish an enforcement mechanism for the provisions it contains, ratifying the convention would demonstrate an indefatigable dedication to the promotion of child welfare. The U.S. and Somalia are the only two countries in the world not to have ratified the CRC, and this represents a true travesty for a country that claims to be developed and enlightened.\textsuperscript{149}

Next, the U.S. must make the necessary changes to the Rules of Evidence to allow for certain types of evidence to be admitted in prosecutions of child sex tourists. The U.S. should ensure that its court system does not traumatize child victims by allowing them to testify via video link when physical presence in the court could cause serious psychological damage to the child or bringing the child to the U.S. for the trial would be unduly burdensome. As the Rules of Evidence stand now, obtaining evidence from abroad that is admissible in U.S. courts is very difficult and provides a significant barrier to prosecuting sex offenders in the U.S.\textsuperscript{150} Several other factors, such as the foreign language and the lack of contacts between the U.S. and Thai

\textsuperscript{147} \textit{Id.} at 893-894.
\textsuperscript{148} \textit{Id.} at 894-895.
\textsuperscript{149} Li, \textit{supra} note 21, at 532.
\textsuperscript{150} Edelson, \textit{supra} note 1, at 539; Li, \textit{supra} note 21, at 523.
governments, make communication and prosecution difficult. Furthermore, pimps and brothel owners often forge identification cards for their children in prostitution, so obtaining birth certificates to prove a child’s age may be complicated. Finally, establishing the defendant’s identity may also be troublesome. A mutual legal assistance treaty (MLAT) may help the U.S. and Thai governments gather evidence for prosecution in the U.S.\textsuperscript{151}

In prosecuting U.S. citizens for sexual exploitation of a child committed abroad, the largest obstacle is obtaining the child’s testimony and ensuring its admissibility in U.S. courts. Under the Federal Rules of Evidence, the hearsay rule shows a strong preference for testifying under oath, in person, at trial, and subject to cross-examination. This rule excludes any out-of-court statements offered as evidence to prove the truth of the matter asserted. Stated another way, the Confrontation Clause implies that physical presence and cross-examination of a declarant are necessary when extrajudicial statements are admitted under the hearsay exceptions.\textsuperscript{152} Excited utterances may be admitted as evidence when the occurrence of a particular event is so startling that the declarant’s normal reactions are disrupted. The declarant’s spontaneous response to an event is sufficiently reliable if the time between the event and the excited utterance is not so attenuated as to allow reflective thought and possible fabrication. In child sexual abuse cases, however, courts have liberally interpreted the length of time allowable between the event and the child’s excited utterance.\textsuperscript{153}

Videotaped testimony offers the jury an opportunity to observe the child’s demeanor, even if it occurs at a delayed time. Establishing a video link between the U.S. and Thailand

\textsuperscript{151} Li, \textit{supra} note 21, at 525.
\textsuperscript{152} \textit{Id.} at 526-527.
\textsuperscript{153} \textit{Id.} at 528.
could be the best way to ensure that the child’s testimony is heard in court.154 However, videotaping is only useful if it is structured as a recording of a child’s deposition, which in itself is a written record of testimony taken under oath and subject to cross-examination.155

There has been a general movement toward creating hearsay exceptions for cases involving sexual exploitation of children. However, children’s statements must still be found to be sufficiently reliable, as out-of-court statements may be allowed only if they are trustworthy and necessary. Furthermore, a showing of the child’s potential for emotional trauma is typically required to justify use of videotaped testimony or live remote testimony.156 These rules must be relaxed to facilitate the prosecution of child sex tourists in the U.S.

Another necessary action that the U.S. must take to ensure that child sex tourists do not go unpunished is to apply extraterritorial jurisdiction to prosecute child sex tourists. Extraterritorial legislation is legislation that a sovereign country applies to activity by its nationals that takes place outside its territorial borders. Such legislation can be based on the personality principle (jurisdiction is exercised in the interest of the victim, who is a national, or the perpetrator, who is a national or resident), the protective principle (jurisdiction is exercised to protect a state’s own interests), or the universality principle (jurisdiction is exercised where a state is willing to prosecute an individual for engaging in universally punishable crimes, such as piracy, genocide, or torture).157

Extraterritorial jurisdiction allows the U.S. to prosecute citizens who travel to destination countries and violate U.S. laws against sexual exploitation of children. It increases the likelihood of successfully prosecuting child sex tourists, as it denies the tourists a safe haven in

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154 *Id.* at 526.
155 *Id.* at 529.
156 *Id.* at 530-531.
the U.S. Experts believe that extraterritorial legislation is crucial to prosecuting child sex tourists because destination countries are often unwilling or unable to prosecute child sex tourists who commit crimes within their jurisdictions.\textsuperscript{158} Currently, there are over twenty countries with extraterritorial legislation prohibiting sexual exploitation of children.\textsuperscript{159}

Some countries have double criminality requirements written into their extraterritorial legislation, while others do not. A double criminality requirement states that a country will only extradite or prosecute a citizen for a crime committed in another country if the person’s action violated the laws of both countries. Removing this requirement facilitates prosecutions of child sex tourists in their own countries, because they cannot raise the defense that their actions were legal in the country where the crimes occurred.\textsuperscript{160} Furthermore, in certain countries, conviction or acquittal in a destination country for sexual exploitation of a child bars prosecution of the child sex tourist in his home country for the same crime. Some countries reserve the right to prosecute child sex tourists regardless of whether the tourist was already tried in the destination country, where the crime occurred. In the absence of a treaty, courts are generally not bound to recognize the decision of another country’s court.\textsuperscript{161} Such a right would allow the U.S. to prosecute a child sex tourist even in the rare instance in which Thailand tried the tourist first.

While over twenty countries have extraterritorial legislation against sexual exploitation of a child, some countries use that legislation to prosecute child sex tourists more often than others. For example, while the United Kingdom has only one conviction and Japan has none, both Australia and Germany have initiated numerous prosecutions under their extraterritorial

\textsuperscript{158} Edelson, \textit{supra} note 1, at 493-494.
\textsuperscript{159} \textit{Id.} at 496.
\textsuperscript{160} \textit{Id.} at 497; Svensson, \textit{supra} note 36, at 655-656.
\textsuperscript{161} Edelson, \textit{supra} note 1, at 495-496, 498.
legislation, resulting in several convictions.\textsuperscript{162} The U.S., as one of the primary sending countries for child sex tourists, should follow in the lead of Australia and Germany, initiating as many prosecutions for child sex tourists under its extraterritorial legislation as there are child sex tourists.

Other sundry recommendations could facilitate the prosecution of child sex tourists and put an end to child sex tourism. First, the U.S. should shut down all tourist companies that organize or promote sex tours. Prosecutions of tour operators will reduce the number of sex tourists, and shutting down agencies that organize sex tours will eliminate situational sex tourists’ means of gaining access to children. As a result, some individuals may not become involved in child sex tourism. However, many sex tourists do not go on organized tours. In some instances, tourists have legitimate business interests abroad and then take advantage of the opportunities for child sex tourism while overseas. For these individuals, convictions of sex tour operators and individual tourists will raise awareness about the issue and deter tour operators and some potential sex tourists from engaging in this illegal activity.\textsuperscript{163}

The U.S. should also place passport restrictions on individuals who have traveled to Thailand or other countries and participated in sexual exploitation of a child. Such restrictions would ensure that child sex tourists cannot travel to take advantage of trafficked children. The U.S. should also increase AIDS education to counter the presumption that children are less likely to be infected with the virus. Furthermore, U.S. law enforcement should help train Thai police officers in best practices in responding to child sex tourism. Courts should also recognize cultural differences between child victims and the U.S. The U.S. should ensure that language

\textsuperscript{162} Id. at 498-499.
\textsuperscript{163} Todres, \textit{supra} note 4, at 20.
and cultural differences do not prejudice the court against a child victim’s testimony.\textsuperscript{164} Finally, while the U.S. should continue to prohibit traveling overseas with the purpose of engaging in sexual exploitation of a child, criminalizing the intention alone limits the U.S.’s ability to prosecute child sex tourists who travel without the requisite intention but nevertheless take advantage of vulnerable child trafficking victims for their vacation enjoyment.\textsuperscript{165}

C. Recommendations for the International Community

An all-encompassing international criminal law convention on human trafficking, with particular emphasis on children, is necessary. The CRC and other international efforts to protect the rights of children do not impose any enforcement mechanisms on violating states, and currently no convention criminalizes human trafficking or sexual exploitation of children. While hints of a global commitment are evident in joint cooperative efforts, such as the 1990 World Summit for Children and its Plan of Action to improve the quality of the family, education, and methods to reduce poverty,\textsuperscript{166} an inclusive international criminal law convention on sexual exploitation of children and human trafficking more generally would permit child sex tourists to be brought before international criminal tribunals. Such a form of global deterrence could prove both a powerful deterrent for individual child sex tourists and a significant inducement for states to prosecute any of its citizens who engage in such criminal behavior.

In addition to this comprehensive treaty, mutual legal assistance treaties (MLATs) could be useful in promoting international cooperation in the prosecution of child sex tourists. Creating new and strengthening existing MLATs would ensure that the government whose citizen committed the crime and the government of the country where the crime occurred

\textsuperscript{164} Edelson, supra note 1, at 535.
\textsuperscript{165} Id. at 536-537.
\textsuperscript{166} Levan, supra note 9, at 911-912.
cooperate in sharing information and ensuring that child sex tourists are brought to justice. Promoting NGO involvement in information-sharing, education, and prevention measures would also be advantageous to curbing child sex tourism. Observers have found that NGO presence through monitoring processes are a positive influence over local authorities in enforcing the law; this is evidence that such collaboration is effective.167

The final recommendation for the international community hinges on the creation of uniformity in certain key areas of the laws concerning child sex tourism. First, the international community must come to a consensus on the age of children, as the current age of protected children under varying laws is inconsistent.168 Furthermore, governments must create uniformity in the intent requirement, as the extraterritorial legislation of some countries currently contains provisions that criminalize both sexual conduct with a child and traveling with the intent to commit sexual exploitation of a child. Some commentators suggest that such legislation enacted to combat child sex tourism must include provisions like that in the PROTECT Act that allow for the prosecution of those traveling with the intent to commit acts of engaging in sexual activities with children.169 Extraterritorial legislation designed to prosecute child sex tourism would be more effective if it included an optional intent requirement, wherein a government could prosecute both child sex tourists who travel with the intent of sexually exploiting a child as well as those who commit sexual exploitation of a child regardless of whether they traveled with that intent or not.

167 Id. at 908-909.
168 Svensson, supra note 36, at 656.
169 Id. at 657-658.
Laws in this area must be as flexible as possible, as individuals who commit child sex
tourism, described by Colin Powell as “the worst kind of human exploitation imaginable,”¹⁷⁰
must be brought to justice. Governments must cooperate with one another to the greatest extent
possible to ensure that child sex tourists are prosecuted for their crimes and their child victims
have the opportunity to tell their stories and receive the protection they desperately need to
ensure their safety, welfare, and happiness.

¹⁷⁰ Cotter, supra note 3, at 504.