

## COMBATING CHILD SEX TOURISM IN SOUTHEAST ASIA<sup>1</sup>

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“*[I]f you choose to abuse children at home or abroad you will go to jail. The miles you travel from your home to commit these crimes will not insulate you from justice.*”- Sharon Cohn Wu, attorney at International Justice Mission, Washington, D.C.<sup>3</sup>

### I. INTRODUCTION

Sexploitation, flesh peddling of minors, children for sale, child sex tourism - amongst the fancy phrases for the international market for child sexual abuse, it boils down to a blatant “rape for profit” industry. According to the U.S. State Department, each year more than two million children are exploited in the global commercial sex trade.<sup>4</sup> Before 2006, the top criminal industries in the world were drugs, guns, and sex, ranked in descending order.<sup>5</sup> Recently, illegal commercial sex has surpassed guns and become the second largest black-market in the world – drugs, SEX, guns - and the flourishing industry “shows little sign of abating.”<sup>6</sup>

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1. Coincidentally, after the first draft of this paper, *Dateline NBC* ran a TV special on the *same three perpetrators* featured in this article, which allows the paper to have an outstanding multi-media component. See *Dateline: They Have a Future: New Developments in the Hidden Camera Investigation Exposing a Child Sexual Slavery Ring in Cambodia*, (NBC television broadcast Aug. 8, 2007), available at <http://www.msnbc.msn.com/id/20186675/>.

2. Kelly M. Cotter, J.D. University of Denver Sturm College of Law, 2008; B.S. Miami University of Ohio, 2000. The author spent five months as a legal intern at International Justice Mission during 2007. She wishes to thank IJM’s Gary Haugen, Sharon Cohn Wu, Bob Mosier, Sean Litton, Holly Burkhalter, and Bethany Hoang for their inspirational advocacy for children in sex tourism. Their work galvanized her to write this article. This article reflects the opinions of its author and not necessarily those of International Justice Mission.

3. Press Release, Int’l Justice Mission, Int’l Cooperation Results In Guilty Plea By Canadian Tourist Who Sexually Abused Children 1 (June 2, 2005) available at [http://www.ijm.org/releases/2005/6.2.05\\_Bakker\\_Plea\\_Release.pdf](http://www.ijm.org/releases/2005/6.2.05_Bakker_Plea_Release.pdf).

4. U.S. STATE DEP’T., OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT 24 (June 2008), available at <http://www.state.gov/g/tip/rls/tiprpt/2008/> (hereinafter *Trafficking in Persons*).

5. Nigel Morris, *Boom in Sex Trafficking Prompts Charities to Demand More Safe Houses for Victims*, THE INDEPENDENT (UK), Oct. 14, 2004, available at <http://www.independent.co.uk/news/uk/crime/boom-in-sex-trafficking-prompts-charities-to-demand-more-safe-houses-for-victims-535235.html>.

6. *Locals Fight Against Human Trafficking*, WWAY NEWS, May 30, 2007, [http://www.wwaytv3.com/locals\\_fight\\_against\\_human\\_trafficking/05/2007/](http://www.wwaytv3.com/locals_fight_against_human_trafficking/05/2007/); R. Barri Flowers, *The Sex Trade Industry’s Worldwide Exploitation of Children*, 575 ANNALS AM. ACAD. POL. & SOC. SCI. 147, 148 (May 2001) (documenting the growth in sex-trafficking).

### A. Background

Many men purposefully go abroad to purchase sex acts believing they will be able to remain anonymous.<sup>7</sup> A Norwegian study of men's participation in buying sex acts found that "80 percent of those who bought sex acts did so abroad."<sup>8</sup> Certain cities around the world have become notorious destinations for purchasing sex with children.<sup>9</sup> Indeed, traveling for the purpose of purchasing sex acts is known as sex tourism.<sup>10</sup> The U.N. defines child sex tourism as "tourism organized with the primary purpose of facilitating the effecting of a commercial-sexual relationship with a child."<sup>11</sup>

Americans account for the largest group of foreign "tourists" in Southeast Asia.<sup>12</sup> , Around one-fourth of the 240 tourists who sexually abused and 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.<sup>13</sup> The economic relationship between Western men seeking children and the Asian citizens who often run the supply remains a stronghold in this impervious illegal market.

As the commercial sex industry becomes more widespread and profitable, it enlarges the danger for women and children. One of the largest effects of this shift is the plight of children kidnapped into the industry.<sup>14</sup> For instance, when the tsunami hit South East Asia in 2005, sex traders preyed on the orphaned children and kidnapped them.<sup>15</sup> Although the Indonesian government issued a proclamation that no Indonesian child was allowed to leave the country at that time, experts believed it did not prohibit the traffickers, who often hold onto the "assets" for the long haul.<sup>16</sup>

Few campaigns aim at reducing the *demand* for victims, as many trafficking groups focus on prevention campaigns and warning potential victims. Donna Hughes, a prominent scholar on child-trafficking, purports that abolishing sexual

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7. Sowmia Nair, *Child Sex Tourism* U.S. DEP'T. OF JUSTICE, CHILD EXPLOITATION AND OBSCENITY SECTION (CEOS), <http://www.usdoj.gov/criminal/ceos/sextour.html>; DONNA HUGHES, BEST PRACTICES TO ADDRESS THE DEMAND SIDE OF SEX TRAFFICKING 30 (Aug. 2004), [http://www.uri.edu/artsci/wms/hughes/demand\\_sex\\_trafficking.pdf](http://www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf).

8. HUGHES, *supra* note 7, at 30.

9. For example Svay Pak, Cambodia; Bangkok, Thailand; Mumbai, India; Peking, China; San Jose, Costa Rica, Tijuana, Mexico. See *World Service: Trapping Cambodia's Sex Tourists* (BBC radio broadcast June 11, 2005), [http://news.bbc.co.uk/2/hi/programmes/from\\_our\\_own\\_correspondent/4078304.stm](http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/4078304.stm); *Child Sex Tourism*, Copper Wiki, [http://www.copperwiki.org/index.php/Child\\_Sex\\_Tourism](http://www.copperwiki.org/index.php/Child_Sex_Tourism); *Sex Tourism*, Wapedia, [http://wapedia.mobi/en/Sex\\_tourism#1](http://wapedia.mobi/en/Sex_tourism#1).

10. HUGHES, *supra* note 7.

11. Flowers, *supra* note 6, at 150.

12. *Id.* (quoting ECPAT Newsletter, 1996).

13. Flowers, *supra* note 6.

14. See Flowers, *supra* note 6, at 148 ("[T]here has been enough research ... to [reveal] that the proliferation of the sex trade industry globally has resulted in an increase in the prostitution and sexual exploitation of children").

15. *The O'Reilly Factor: Transcript: Gary Haugen on Tsunami Children at Risk* (FoxNews television broadcast Jan. 6, 2005), <http://www.foxnews.com/story/0,2933,143643,00.html>.

16. *Id.*

exploitation will require stronger efforts to combat the demand in receiving countries.<sup>17</sup> She thinks that a focus on the demand side means making men personally accountable for their behavior that contributes to the sex trade.<sup>18</sup> This article focuses on the demand side of sex tourism and what national and international steps of enforcement are taking place. Specifically, this paper reviews the recent publicized stories of three “johns” – men who traveled abroad for sexual tourism – in order to show the layout, progress, and “play-by-play” of U.S. and international laws toward perpetrators who seek criminal pedophilia in Southeast Asia.

*B. Factors That Make Southeast Asia a Predominant Location For Sex Tourism: The Supply and Demand of Young Girls*

According to the U.S. State Department, “Cambodia is a source, destination, and transit country for men, women, and children trafficked for the purposes of sexual exploitation.”<sup>19</sup> Unfortunately, Cambodia is not an exception in Southeast Asia.<sup>20</sup> Sex trafficking also occurs rampantly in Thailand, Vietnam, Laos, and Burma.<sup>21</sup> Each of these countries has young children stolen across its borders for the sex industry and each hosts brothels of young imprisoned girls.<sup>22</sup>

In his book *Not For Sale*, David Batstone outlines that sex slavery thrives in Southeast Asia because of four powerful factors: (1) devastating poverty; (2) armed conflicts; (3) rapid industrialization; and (4) an exploding population growth.<sup>23</sup> Political scientists and economists surmise that Southeast Asia’s current period of radical transition may be a dominant factor in sex trading’s growth, because during seismic societal changes, the powerless suffer the most.<sup>24</sup>

The ground-breaking work *Disposable People* expounds on the surge of “new slavery” around the world.<sup>25</sup> Whereas in “old slavery” the owners regarded the victims as valuable and expensive possessions of a family, in the “new slavery” the victims cost little and are easily replaceable.<sup>26</sup> Worldwide population growth has produced a glut of impoverished people, which provides a steady supply of people whom traffickers can manipulate and take advantage of.<sup>27</sup>

Bales also writes about how rapid economic change produces an increase in “modern slavery.”<sup>28</sup> As modernization in developing countries contributes to the

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17. HUGHES, *supra* note 7, at 2.

18. *Id.*

19. U. S. DEPT. OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS TRAFFICKING IN PERSONS REPORT 83 (June 2006), available at <http://www.state.gov/g/tip/rls/tiprpt/2006/index.htm>; see also DAVID BATSTONE, NOT FOR SALE 21 (2007).

20. BATSTONE, *supra* note 19, at 21.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. KEVIN BALES, DISPOSABLE PEOPLE 12 (Univ. of Cal. Press rev. ed. 2004) (1999).

26. *Id.* at 14.

27. *Id.* at 12.

28. *Id.*

immense wealth of the elite, it also comes with rapid social and economic change that greatly effects the impoverishment of the poor majority. People may push aside traditional ways of life for the cash crop and a quick profit.<sup>29</sup> Modernization and globalization may shatter traditional families and their small-scale subsistence farming. The loss of common land, the shift from subsistence farming to cash-crop demands, and new government policies end up bankrupting millions of peasants and drive them from their land and sometimes into slavery.<sup>30</sup>

Modernization also brings a new pressure for consumer goods.<sup>31</sup> The rationale behind a family selling their daughter into the sex trade has shown to be changing.<sup>32</sup> In Thailand, it had not been unheard of for parents to sell their daughters into prostitution in response to a serious family financial crisis. A family might sell a daughter in order to redeem debt on their rice fields and prevent destitution. For the most part, daughters were worth about as much at home as workers than if they were sold.<sup>33</sup> Bales reports how modernization has made selling a daughter into prostitution not just a response of desperation, but a means to a coveted product.<sup>34</sup> The sale of a daughter might buy a new television set.<sup>35</sup> A survey in the northern provinces of Thailand revealed that two-thirds of families who sold their daughters “preferred to buy color televisions and video equipment,” though they could afford to keep their daughters in the alternate.<sup>36</sup>

Police complicity ranks as another prominent roadblock to combating child sex tourism in Southeast Asia.<sup>37</sup> The officers who should stand as sentries to protect young girls from these crimes often look the other way.<sup>38</sup> The chimera of poorly paid officials amidst opulent sex tourism operations remains an indefatigable impediment to the implementation of Southeast Asian anti-trafficking laws.<sup>39</sup> While many Southeast Asian countries have shown improvement through increased arrests and prosecutions, the U.S. State Department’s “Report on Human Rights Practices 2006” notes that in Cambodia corruption remains a significant

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29. *Id.*

30. *Id.* at 13.

31. *Id.* at 13, 40.

32. *Id.* at 40.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*; *Caught in Modern Slavery: Tourism and Child Prostitution in Thailand*, Country Report Summary prepared by Sudarat Sereewat-Srisang for the Ecumenical Consultation held in Chiang Mai, May 1990.

37. Karoline Kemp, *Rebuilding Cambodia: One Woman at a Time*, THE TRAVEL RAG, 2007, <http://www.thetravelrag.com/docs/10112.asp>; Press Release, Int'l Justice Mission, *International Justice Mission Urges Cambodian Police to Expand and Investigate charges of Police Misconduct 1* (June 18, 2008), [http://www.ijm.org/releases/2008/06\\_18\\_08\\_Cambodia\\_release\\_FINAL.pdf](http://www.ijm.org/releases/2008/06_18_08_Cambodia_release_FINAL.pdf); see Alien Smuggling/Human Trafficking: Sending a Meaningful Message of Deterrence: Hearing before the U.S. Senate Comm. on the Judiciary, 108th Cong. (2003) (testimony of M. Sharon Cohn, Senior Counsel, Int'l Justice Mission), available at [http://judiciary.senate.gov/hearings/testimony.cfm?id=873&wit\\_id=2467](http://judiciary.senate.gov/hearings/testimony.cfm?id=873&wit_id=2467).

38. See Testimony of M. Sharon Cohn, *supra* note 37.

39. *Id.*

problem.<sup>40</sup> Laws are only as effective as the police and judges who enforce them. The Report reviews that corruption and a weak judicial system hampered Cambodia's anti-trafficking efforts stating: "It was widely believed that some law enforcement and other governmental officials received bribes that facilitated the sex trade."<sup>41</sup>

### C. Economics of Child Sex Tourism

According to INTERPOL, a woman can bring in from \$75,000 to \$250,000 per year for her sexual exploitation.<sup>42</sup> Children often bring in more money because their virginity may be sold at a high rate.<sup>43</sup> For example, a mama-san in Cambodia can sell a virgin for \$600.<sup>44</sup> Video evidence of children in Cambodia reveals that one girl may sell for \$30, two girls for \$60.<sup>45</sup>

Kevin Bales also exhibits an extensive chart about the costs of brothels in Thailand in *Disposable People*.<sup>46</sup> He reviews that it costs about \$2.00 to \$3.20 a day per prostitute for food and \$8-\$16 a day in bribes to the police.<sup>47</sup> However, the income monumentally exceeds the expenses. Each girl may have between ten and eighteen clients for \$50-\$90 each, making a single day's return \$1,000 to \$1,800, just on sex, as well as the other ways the brothel had incur fees, such as through drink sales, condom sales, and rent the girl must pay.<sup>48</sup> In total, the expenses for running a brothel in Thailand average about 257,000 baht (about \$10,280) a month, while the total income raked in at about 2,289,000 baht, which is a monthly profit of \$81,280 - a huge return.<sup>49</sup>

The sex industries of Indonesia, Malaysia, Thailand, and the Philippines account for two to 14 percent of these countries' gross domestic product.<sup>50</sup> In Thailand, the yearly estimated income from prostitution between 1993 and 1995 was \$22.5 billion to \$27 billion.<sup>51</sup> In Jakarta, the sex industry makes \$91 million per year and in Indonesia as a whole, the sex industry is estimated to bring in \$1.2

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40. See U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, CAMBODIA: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (2006), <http://www.state.gov/g/drl/rls/hrrpt/2006/78769.htm>

41. *Id.*

42. DONNA HUGHES, DEMAND FOR VICTIMS OF SEX TRAFFICKING 12 (June 2005), available at [http://www.uri.edu/artsci/wms/hughes/demand\\_for\\_victims.pdf](http://www.uri.edu/artsci/wms/hughes/demand_for_victims.pdf).

43. *Id.* at 25; BALES, *supra* note 25, at 56.

44. Dateline NBC, *Children For Sale: Dateline Assists International Justice Mission In Investigating And Rescuing Children From Sexual Slavery In Cambodia* (NBC television broadcast Jan. 23, 2004); see also NBC News, *Children for Sale: Dateline Goes Undercover with a Human Rights Group to Expose Sex Trafficking in Cambodia*, DATELINE NBC, Jan. 9, 2005, <http://www.msnbc.msn.com/id/4038249/>.

45. Dateline NBC, *supra* note 44.

46. BALES, *supra* note 25, at 55.

47. *Id.* at 54.

48. *Id.* at 55.

49. *Id.*

50. HUGHES, *supra* note 42, at 12 (citing LIN LEAN LIM, THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTHEAST ASIA (International Labour Organization) (1998)).

51. *Id.*

billion to \$3.3 billion per year.<sup>52</sup> Prostitution in the Philippines is now the fourth largest source of gross national product for the country.<sup>53</sup> The production of child pornography in the Philippines is a \$1 billion industry. Understanding the financial aspects of sex trafficking is a vital part in the strategies to disrupt the market. In order for exploiters to lose interest in trafficking, the economic incentive must decrease.<sup>54</sup>

## II. CASE STUDIES: THREE WESTERN "TOURISTS" IN SOUTHEAST ASIA AND THE EFFECT OF THE LAW ABROAD

This section outlines the activities of a few of these sex tourists. By following specific cases of tourists, this paper intends to show how U.S. laws, international laws, and trans-national legal solutions can coordinate to suppress the rapidly growing sex tourism industry. Mr. Albom, Mr. Bakker, and Mr. Smith all sought child sexploitation in Southeast Asia, and for the most part, all were counting on getting away with it. This section will illuminate how the laws against foreign pedophiles abroad are getting stronger.

### A. *Jerry Albom*

American doctor Jerry Albom commented that he came to Southeast Asia for its "remarkable architectural finds," such as the temples of Angkor Wat.<sup>55</sup> NBC *Dateline* reporters recorded Albom's remarks during their initial footage of general Phenom Phen tourism.<sup>56</sup> The legendary temples were not the only things that drew Dr. Albom to Cambodia, however.<sup>57</sup> When *Dateline* moved its story to Svay Pak, a smaller town seventeen miles from Phenom Phen and known for its specialty of child-aged prostitutes, again they observed Dr. Albom at a local bar. It turned out that Dr. Albom visited Cambodia for another kind of tourism.

In Svay Pak, Dr. Albom bragged about his exploits: "Usually I buy out three girls for 50 bucks, take them for the whole night," he unknowingly informed an undercover camera.<sup>58</sup> Dr. Albom described his covert plan for pedophilia abroad – he tells his American friends that he's traveling to Bangkok, so they won't be suspicious of a Cambodia trip.<sup>59</sup> Then, he crosses the border to Svay Pak, Cambodia, where he buys 14, 15, and 16-year-old girls for the night.<sup>60</sup>

In 2003, not much could be done to legally reprimand Dr. Albom's actions with Cambodian child sex slaves. Unfortunately, Dr. Albom knew this as well, and this is what drew him to a country like Cambodia, which has little enforcement on its own anti-trafficking and anti-slavery laws. Besides poor enforcement and

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52. *Id.*

53. *Id.* at 13 (citing Arnie C. Trinidad, *Rapid Appraisal of Child Pornography in the Philippines*, PHIL. RESOURCE NETWORK, 2005).

54. See BALES, *supra* note 25, at 51-52.

55. *Dateline* NBC, *supra* note 44.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

police complicity in sex-trafficking rings in Cambodia, in general, the case against Albom wasn't strong enough to begin with. Although undercover tape revealed Albom *talking* about buying girls, this evidence was not strong enough: no evidence had been obtained as to which girls, when, or other substantiation.

Prosecuting Albom was difficult for another reason, though. His actions occurred before a U.S. law went into place that made sex tourism abroad illegal.<sup>61</sup> Before the law, a U.S. citizen could only be prosecuted for sex tourism if he or she traveled abroad with the *intent* for sex tourism. As revealed in the *Dateline* story on Albom, he knew of this *intent* loophole.<sup>62</sup> During the undercover Cambodia footage, Albom told the investigator he took as another tourist, “[Y]ou don’t get in trouble unless they can prove that you traveled with the *intent* of having underage sex . . . . If you did it by accident, it’s OK . . . . It’d be hard to prosecute you. You’d get the papers, but they’ll hardly get a conviction.”<sup>63</sup>

Although no Cambodian or trans-national legal reprimands were taken against this man who bought underage girls, a few months later the *Dateline* producers decided to follow-up with Albom to see what he had to say about his actions in Cambodia. Journalist Chris Hansen found Albom in Guam and confronted him about his trips to Cambodia.<sup>64</sup> Albom responded that, yes, he had been to Cambodia many times, but that he had not interacted with underage girls.<sup>65</sup> Hansen showed Albom the video statements about “buy[ing] out three girls” and Albom denied any participation.<sup>66</sup> Albom again repeated his *intent* defense: “I don’t go down there with the *intent* of trafficking or participating in sex with underage girls.”<sup>67</sup>

Later in 2003, Albom’s intent defense became irrelevant when President Bush signed the Prosecutorial Remedies and Other Tools Against Exploitation of Children Today Act (PROTECT Act) into law.<sup>68</sup> The PROTECT Act changed the standard of evidence against foreign child-sex-crimes.<sup>69</sup> Prosecutors have to prove that a traveler like Dr. Albom had sex with someone younger than 18, and intent for traveling abroad is irrelevant.<sup>70</sup> Some worried that the extra-territorial

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61. Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2003, Pub. L. No. 108–21, 117 Stat. 650 (2003) [hereinafter *PROTECT Act*]; see also Press Release, Dep’t of Justice, Fact Sheet PROTECT Act (Apr. 30, 2003), available at [http://www.usdoj.gov/opa/pr/2003/April/03\\_ag\\_266.htm](http://www.usdoj.gov/opa/pr/2003/April/03_ag_266.htm).

62. *Dateline* NBC, *supra* note 44.

63. *Id.* (emphasis added).

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* (emphasis added).

68. PROTECT Act, *supra* note 61, § 105; Dr. Mohamed Mattar, Executive Dir., The Protection Project: John Hopkins School of International Studies, Child Sex Tourism in Anti-Trafficking Laws: Recent Developments at the Customs and Border Protection *Stop Human Trafficking* Symposium 4, (Sept. 9, 2008), available at <http://www.protectionproject.org/docs/Child%20Sex%20Tourism%20Speech%20U.S.%20Border%20Officials%20Sept%202008.pdf>; see also Dept. of Justice, *supra* note 61.

69. Mattar, *supra* note 68, at 4.

70. *Id.* at 4, 8.

jurisdiction allowed in the PROTECT Act may have constitutional concerns, but in 2006, the PROTECT Act was upheld as constitutional.<sup>71</sup>

*B. Donald Bakker*

During December 2003, Vancouver police received a call about a naked woman crying, screaming, and running through a park.<sup>72</sup> When the officers arrived, the woman said that Donald Bakker had been following her, describing him as a “bad date” who had videotaped an assault on her.<sup>73</sup> The police arrested Bakker, a 40 year-old hotel worker with a wife and young child, and found videotapes in his bag and car.<sup>74</sup> The footage showed hours of violent sexual assaults in Vancouver and Cambodia.<sup>75</sup> Bakker had attacked women with whips and he repeatedly kicked one woman between her legs.<sup>76</sup> One video showed a woman pleading with Bakker to remove alligator clips he placed on her genitals.<sup>77</sup> The police said the evidence contained more than 60 images, including videos from Cambodia.<sup>78</sup>

After watching the confiscated videotapes that Bakker recorded of his abuses with children in Cambodia, an officer saw the *Dateline* show and found similarities between the Bakker case and the footage on the program.<sup>79</sup> The officials then contacted International Justice Mission (IJM), whose investigation had been featured on *Dateline*.<sup>80</sup> The girls who appeared on Bakker’s tapes matched up as the same girls whom IJM had rescued at a later date.<sup>81</sup> With this evidence, Canadian police were able to charge Bakker on multiple counts of sexual assault on children, through the newly enacted Canadian Protect Act.<sup>82</sup>

Bakker became the first person to face trial under Canada’s newly amended Criminal Code, which strengthened its “sex tourism” laws to enabled police to prosecute sex offenses committed by a Canadian on foreign soil regardless of that country’s own laws.<sup>83</sup> Bakker pleaded guilty in a Vancouver court on June 1, 2005, to 10 counts of sexual assault, seven counts relating to sex crimes against

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71. *Id.* at 5.

72. Daniel Girard, *First Conviction in Sex Tourism Case*, TORONTO STAR, June 2, 2005, at A01.

73. *Id.*

74. *Id.*

75. *Id.*

76. Daniel Girard, *B.C. Man Gets 10 Years for Sex Crimes*, TORONTO STAR, June 3, 2005, at A03.

77. *Id.*; Girard, *supra* note 72.

78. Canadian Press, *Sex-assault Suspect’s B.C. Home Searched*, TORONTO STAR, Jan. 20, 2004, at A07.

79. Press Release, Int’l Justice Mission, International Cooperation Results in Guilty Plea by Canadian Tourist Who Sexually Abused Children (June 2, 2005), available at: [http://www.ijm.org/releases/2005/6.2.05\\_Bakker\\_Plea\\_Release.pdf](http://www.ijm.org/releases/2005/6.2.05_Bakker_Plea_Release.pdf).

80. *Id.*; *Dateline* NBC, *supra* note 44.

81. Int’l Justice Mission, *supra* note 79.

82. *Id.*

83. Jennifer Wells, *Canada’s Offshore Child Sex Law Faces its First Test*, TORONTO STAR, Aug. 29, 2004, at A02 (Bakker was the first prosecution under Section 7 (4.1) of Canada’s Criminal Code, which deals with offshore sexual offences against children or, as it’s colloquially known, child sex tourism).

children in Cambodia.<sup>84</sup> Chief constable of the Vancouver Police Department, Jamie Graham, commented that “[t]his conviction was obtained through the combined efforts of our dedicated investigators and IJM’s team [of law enforcement officials].”<sup>85</sup> Sharon Cohn Wu, Senior Vice President of Justice Operations for IJM remarked: “This case states it plainly – if you choose to abuse children at home or abroad you will go to jail. The miles you travel from your home to commit these crimes will not insulate you from justice.”<sup>86</sup> Bakker began serving a 10-year sentence on June 2, 2005.<sup>87</sup>

### C. Terry Smith

The Terry Smith investigation revealed another complex case of an American sex offender fugitive. In 1984, fifty-four-year-old Oregon resident, Terry Darnell Smith, was released from prison after serving 15 months for convictions of multiple charges that he used children in displays of sexual acts.<sup>88</sup> To avoid arrest and continue his patterns of abuse, Smith fled to the Philippines, and then to Cambodia.<sup>89</sup> In Sihanoukville, Cambodia, a destination known for international sex tourism, Smith setup “Tramp’s Palace,” a place where he brutalized girls himself, videotaped his sexual assault on young Vietnamese girls, and prepared them to be sold for sexual assault to other foreigners.<sup>90</sup> The girls at Smith’s bar, estimated between the ages of 11 and 14 years olds, danced topless for the customers and then were offered for sexual activity.<sup>91</sup>

The detainment of Smith began with an undercover investigation by IJM.<sup>92</sup> In totality, Smith’s capture required the international coordination of U.S. state laws, U.S. federal laws, Oregon state police, Virginia state police, Cambodia laws, Cambodia courts, Cambodia police, the U.S. Embassy in Cambodia, the U.S. Marshals Service in Portland, and IJM. The investigation began when IJM recorded undercover video of Smith compelling the girls to dance topless and offer themselves for sexual activity.<sup>93</sup> Confiscated videos also revealed Smith videotaped every sexual act he had with the young girls.<sup>94</sup> Based on the investigation evidence, and led by the police chief of Sihanoukville’s Anti-Human

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84. Press Release, Int’l Justice Mission, Vancouver Police Department Recognizes International Cooperation Resulting in Sex Tourist Conviction (Jul. 10, 2006), *available at* <http://www.ijm.ca/articles/VPD%20Press%20Release.pdf>.

85. *Id.*

86. *Id.*

87. *Id.*

88. Bryan Denson, *Asian Bust Nets Oregon Fugitive*, THE OREGONIAN, Sept. 21, 2006, at C01.

89. *Id.*

90. James Welsh & Prak Chan Thul, *Suspected Pedophile Disappears*, THE CAMBODIA DAILY, Sept. 12, 2006, *available at* <http://ki-media.blogspot.com/2006/09/suspected-pedophile-disappears.html>; Kevin Doyle, *Cambodia’s Child Sex Crackdown*, TIME (World), Oct. 5, 2006, <http://www.time.com/time/world/article/0,8599,1543174-3,00.html>.

91. Press Release, Int’l Justice Mission, International Collaboration Brings Down American Pedophile (Sept. 20, 2006), *available at* [http://www.ijm.org/releases/2006/9.20.06\\_Smith\\_Arrest\\_Release.pdf](http://www.ijm.org/releases/2006/9.20.06_Smith_Arrest_Release.pdf).

92. *Id.*

93. *Id.*

94. Welsh & Thul, *supra* note 90.

Trafficking Bureau, Cambodian police arrested Smith on July 31, 2006.<sup>95</sup> On August 3, Cambodian police charged Smith with debauchery for having sex with two girls, aged 13 and 14 years, at his bar in Sihanoukville.<sup>96</sup> Smith's Police also charged Smith's Cambodian girlfriend with debauchery for allegedly procuring and facilitating Smith's abuse of children at his establishment.<sup>97</sup>

Following the arrests in Cambodia, IJM's chief investigator called the Oregon police to search Smith's records.<sup>98</sup> Smith's sex-crimes charges had a familiar ring to Oregon authorities.<sup>99</sup> On August 5, 2006, Oregon officials reported that Smith had active warrants: a total of thirteen charges of child sexual abuse in Oregon, including sodomy, sexual abuse, and using child in a display of sexually explicit conduct.<sup>100</sup> Five years earlier, Smith had served fifteen months in prison, and when released he failed to register as a sex offender.<sup>101</sup> He fled to the Philippines.<sup>102</sup> Armed with this new evidence, the fugitive task force in Oregon secured jurisdiction and obtained a federal warrant to detain Smith and to prevent him from unauthorized flight.<sup>103</sup>

They were too late. Unexpectedly, on August 31, Sihanoukville's court director quietly *released* Smith from his pre-trial detention.<sup>104</sup> The director issued a "warrant of temporary release" based on a letter from a neurologist at a Phnom Penh hospital.<sup>105</sup> The doctor claimed Smith suffered from a head injury sustained when he was a marine in the late 1970s, which was now causing him headaches.<sup>106</sup> Cambodian papers released stories with the headlines: "Suspected Pedophile Disappears,"<sup>107</sup> "Pedophilia Suspect Hurt Head: Doctor,"<sup>108</sup> and "Pedophile Missing; Ministry, Police Shed Blame."<sup>109</sup> Many anti-trafficking NGOs on the case assumed the release was a result of bribery, as Smith had posted a \$20,000 bond, nearly every penny he had.<sup>110</sup>

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95. *Id.*

96. International Justice Mission, *supra* note 91.

97. Welsh & Thul, *supra* note 90.

98. The chief investigator had status as deputy sheriff in Virginia, which allowed him access to Oregon records.

99. Denson, *supra* note 88.

100. *Id.*; International Justice Mission, *supra* note 91.

101. Denson, *supra* note 88.

102. *Id.*

103. *Id.*; International Justice Mission, *supra* note 91.

104. Denson, *supra* note 88.

105. Welsh & Thul, *supra* note 90.

106. *Id.*

107. *Id.*

108. Prak Chan Thul & James Welsh, *Pedophilia Suspect Hurt Head: Doctor*, THE CAMBODIA DAILY, Sept. 13, 2006, available at <http://ki-media.blogspot.com/2006/09/pedophilia-suspect-hurt-head-doctor.html>.

109. James Welsh, *Pedophile Missing; Ministry, Police Shed Blame*, THE CAMBODIA DAILY, Sept. 14, 2006, available at <http://ki-media.blogspot.com/2006/09/pedophile-missing-ministry-police-shed.html>.

110. Denson, *supra* note 88.

In a maelstrom of finger-pointing, Cambodia's Minister of Justice, the court director, and the hospital all rejected responsibility for the disappearance of Smith.<sup>111</sup> We didn't ask for the release," the neurologist stated, "but he should receive treatment when he gets sick." The neurologist added that he had no idea why the court's director released the suspect from prison.<sup>112</sup> The court director said she had "no choice but to release [Smith] and his girlfriend . . . . If we kept him, it would have been dangerous to him and would even have been dangerous to me," she said without elaborating.<sup>113</sup> The court director denied receiving any money to grant the release.<sup>114</sup> She said that if Smith were to flee Cambodia it would be the failing of the country's border police for letting him escape.<sup>115</sup> The chief of Sihanoukville's Anti-Human Trafficking and Juvenile Protection Bureau stated that police were not looking for Smith, adding that it was up to the court to decide whether to arrest him again: "The onus is on the court, it is out of our hands already."<sup>116</sup> Cambodia's Minister of Justice emphasized that the case no longer "concern[ed] the Ministry of Justice, it concerns the police,"<sup>117</sup> and he thought the police should track him down if Smith did not return on his own.<sup>118</sup> Cambodia's former minister of women's affairs stepped up to say that everyone involved was responsible for Smith's disappearance.<sup>119</sup>

On September 20, 2006, Smith appeared at the U.S. Embassy in Phnom Penh, hoping to replace the passport Cambodian police had confiscated in July.<sup>120</sup> Aware that Smith might show up, the U.S. State Department summoned Cambodian police, who arrested Smith outside.<sup>121</sup> Smith was flown back to Oregon in handcuffs to face his charges.<sup>122</sup>

In spite of the Cambodian governmental finger-pointing around Smith's case, *The Cambodia Daily* released a story the next day, September 13, 2006, celebrating Smith's arrest and reviewing that Smith's was at least the ninth arrest that year of foreign men on charges of child sex abuse ("Arrests of Suspected Pedophiles Reflect New Will").<sup>123</sup> The U.S. also celebrated the global efforts involved in this arrest. Bob Mosier, chief investigator IJM who worked with the initial investigation, the Cambodian authorities, the U.S. Embassy, and the U.S. Marshall Service to obtain the necessary federal warrant, stated that "Cooperative, global law enforcement community efforts drove this arrest. Smith believed he

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111. Welsh, *supra* note 109.

112. Thul & Welsh, *supra* note 108.

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*; Welsh, *supra* note 109.

117. Welsh, *supra* note 109.

118. *Id.*

119. *Id.*

120. Denson, *supra* note 88.

121. *Id.*

122. *Id.*

123. Prak Chan Thul & Adam Pire, *Arrests of Suspected Pedophiles Reflect New Will*, THE CAMBODIA DAILY, Sept. 13, 2006.

could flee the U.S. to escape conviction and continue abusing children in Cambodia. He believed the Cambodian authorities would allow this. But he was very wrong."<sup>124</sup> In Oregon, Smith faced two counts of first degree sodomy, first-degree sexual abuse, using a child to display sexual conduct related to photographs he took, and two counts of failure to register as a sex offender.<sup>125</sup> On July 7, 2007, Smith was sentenced to more than twenty-two years in prison.<sup>126</sup>

Smith's case highlights a success of global legal cooperation, but it also brings forth the reality that Cambodia remains a place where pedophiles hoping to find anonymity might find a new start.<sup>127</sup> Many instances of corruption almost barricaded Smith's capture. It is most likely that Smith's \$20,000 bought off the Cambodian court director who released him because of his "headache." In another Cambodian case in August 2006, evidence emerged strongly suggesting that Cambodia had granted citizenship to Thomas Frank White, a U.S. multi-millionaire currently in a Mexican prison on charges of child abuse.<sup>128</sup> White received citizenship without meeting any of the official criteria required of foreigners wishing to hold a Cambodian passport.<sup>129</sup> "The policies are improving, but the court is still very weak," said a worker from the anti-trafficking organization Action Pour Les Enfants (APLE).<sup>130</sup> Cambodia's authorities worry that pedophiles will become "smarter and [also] harder to track, as they branch out of Phnom Penh and Sihanoukville and into the provinces, such as the tourist towns of Siem Reap and [free-wheeling] Koh Kong and Poipet on the Thai border."<sup>131</sup> The executive director of the Cambodian Women's Crisis Center fears that foreign pedophiles will still find ways to enter Cambodia for purposes of sexual tourism.<sup>132</sup>

### III. TRANS-NATIONAL EFFORTS AGAINST CHILD SEX TOURISM

When asked why he thought laws against child sexual tourism were important, then Secretary of State, Colin Powel, responded: "Because it'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."<sup>133</sup>

As shown in the situations with perpetrators Jerry Albom, Donald Bakker, and Terry Smith, the legal remedies against "sex tourists" can be complex, incomplete, and difficult to orchestrate. The efforts to combat sex tourism take place at three broad levels: globally, nationally, and locally.<sup>134</sup> Further efforts to

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124. International Justice Mission, *supra* note 91.

125. Paris Achen, *Sex Offender Brought to Justice*, MAIL TRIBUNE, July 7, 2007, available at <http://www.mailtribune.com/apps/pbcs.dll/article?AID=/20070707/NEWS/707070313/-1/rss01>.

126. *Id.*

127. Thul & Pire, *supra* note 123.

128. *Id.*

129. *Id.*

130. *Id.*

131. Kevin Doyle & Phnom Penh, *Cambodia's Child Sex Crackdown*, TIME, Oct. 5, 2006, available at <http://www.time.com/time/world/article/0,8599,1543174,00.html>.

132. *Id.*

133. Dateline NBC, *supra* note 44.

134. See ECPAT INT'L, QUESTIONS & ANSWERS ABOUT THE COMMERCIAL SEXUAL

tackle child sex tourism will include enforcing current laws and strengthening these laws legislatively.<sup>135</sup> Additionally, NGOs should fortify their international cooperative action and organize their grassroots efforts.<sup>136</sup> This section outlines some of the legal provisions that attempt to battle the continual growth of child exploitation.

#### A. *Laws In The United States*

##### 1. TVPA and TIP Report

In 2000, the 106th Congress passed the Trafficking Victims Protection Act (TVPA) to specifically address the problem of human trafficking.<sup>137</sup> TVPA's approach focuses on prevention, prosecution, and protection.<sup>138</sup> The Act allows the U.S. to impose sanctions and withhold non-essential foreign aid for those countries that fail to show "significant efforts" to eliminate trafficking in their countries.<sup>139</sup> The Act created the State Department's annual *Trafficking in Persons Report* (TIP Report), which evaluates government responses in each country with severe forms of trafficking in persons.<sup>140</sup> Countries are rated in tiers, based on government efforts to combat trafficking.<sup>141</sup>

- Tier 1 countries fully comply with the Act's minimum standards for the elimination of trafficking.
- Tier 2 countries do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance.
- Tier 3 countries neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance.<sup>142</sup>

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EXPLOITATION OF CHILDREN 32 (4th ed. 2008), available at [http://www.ecpat.net/EI/Publications/About\\_CSEC/FAQ\\_ENG\\_2008.pdf](http://www.ecpat.net/EI/Publications/About_CSEC/FAQ_ENG_2008.pdf); See also ECPAT INT'L, COMBATING CHILD SEX TOURISM: QUESTIONS & ANSWERS 27 (2008), available at <http://www.ecpat.net/EI/Publications.asp?groupID=5>.

135. See, e.g., Polaris Project, *Strategies*, <http://www.polarisproject.org/content/view/37/55/> ("We work to protect all victims of human trafficking by advocating for stronger federal and state laws and supporting legislators with research, training, and technical assistance.").

136. *Id.*

137. Trafficking Victims Protection Act of 2000, P.L. 106-386, §§ 101-113, 114 Stat 1464, 1467-91 (codified as amended at 22 U.S.C. §§ 7101-110 (2000)) [hereinafter *TVPA*]; see also Polaris Project, *Trafficking Victims Protection Act Fact Sheet*, <http://www.polarisproject.org/images/docs/newest%20tvpa%20fact%20sheet%20july%202008.pdf> (describing key provisions of the Victims of Trafficking and Violence Protection Act of 2000 and subsequent additions and amendments) [hereinafter Polaris, *TVPA Fact Sheet*].

138. Stephanie Richard, *Note: State Legislation and Human Trafficking: Helpful or Harmful?* 38 U. MICH. J.L. REFORM 447, 451-53; Polaris Project, *Trafficking Victims Protection Act Fact Sheet*, <http://www.polarisproject.org/images/docs/newest%20tvpa%20fact%20sheet%20july%202008.pdf>.

139. TVPA, *supra* note 137, § 110, 114 Stat. at 1482-83 (codified as amended at 22 U.S.C. § 7107).

140. TVPA, *supra* note 137, § 110(b)(1), 114 Stat. at 1482 (codified as amended at 22 U.S.C. § 7107 (b)(1)).

141. OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, THE FACTS ABOUT HUMAN TRAFFICKING, (Dec. 7, 2005), available at <http://www.state.gov/g/tip/rls/fs/2005/60840.htm>.

142. *Id.*

Congress defines sex tourism as part of the definition of “trafficking.”<sup>143</sup> TVPA’s “minimum standards” insists that countries should prescribe “measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country,” and mandates measures to ensure that nationals who are deployed abroad do not engage in or exploit victims of trafficking.<sup>144</sup> Additionally, an Interagency Task Force must “[e]xamine the role of the international ‘sex tourism’ industry in the trafficking of persons” in each country.<sup>145</sup>

In 2003, 2005, and 2008 the Act was reauthorized, amended and strengthened.<sup>146</sup> For instance, in 2005, the three-tier system was elaborated to include a “Tier 2 Watch List” for countries requiring special scrutiny because of a high or significantly increasing number of victims, failure to provide evidence of increasing efforts to combat trafficking in persons.<sup>147</sup> In 2008, the TVPA reauthorization strengthened protections for children and their family members.<sup>148</sup> It also authorized new studies and reports to assist in understanding human trafficking globally.<sup>149</sup>

The TVPA tier system had a direct effect on Cambodia’s willingness to prosecute sex-traffickers within its own country. During 2002, when Cambodia was placed on Tier 3 and faced sanctions, the new U.S. Ambassador to Cambodia<sup>150</sup> began to proactively work with the senior Cambodian authorities on U.S. policy toward trafficking.<sup>151</sup> This direct work with Cambodian authorities, along with two years of investigative evidence already acquired by IJM, made it possible for a team of eighty Cambodian police to conduct a raid and rescue of thirty-seven minor victims of commercial sexual exploitation in Svay Pak, including about a dozen children between the ages of five and ten.<sup>152</sup> Gary

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143. TVPA, *supra* note 137, §103(9) (defining sex trafficking broadly as the “recruitment, harboring, transportation, provision or obtaining of a person for the purpose of a commercial sex act”).

144. TVPA, *supra* note 137, § 106(b)(3) (repealed and cited language removed at Pub. L. 110-457 § 106(2)(C), 122 Stat 5044, 5049 (2008)).

145. TVPA, *supra* note 137, §105(d)(5).

146. In 2008, TVPA was renamed the *William Wilberforce Trafficking Victims Protection Reauthorization Act*, P.L. 110-457, 122 Stat 5044 (2008). Polaris Project, *The Trafficking Victims Protection Reauthorization Act Passed Congress*, <http://actioncenter.polarisproject.org/take-action/advocate-for-policy/35-action/217-advocate-for-policy> [hereinafter *Polaris, TVPRA Passed Congress*]; see also *TVPA Fact Sheet*, *supra* note 138.

147. U.S. State Dept., Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report, Tier Placements* (June 5, 2006) <http://www.state.gov/g/tip/rls/tiprpt/2006/65985.htm>.

148. Polaris, *TVPRA Passed Congress*, *supra* note 147; International Justice Mission, *IJM President Joins Anti-Trafficking Leaders at White House as TVPRA is Signed into Law* (Jan. 6, 2009), <http://www.ijm.org/ijmnews/ijmpresidentjoinsanti-traffickingleadersatwhitehouseastvpraisignedintolaw>.

149. Polaris, *TVPRA Passed Congress*, *supra* note 147.

150. Ambassador Charles A. Ray

151. *Trafficking in Women and Children In East Asia and Beyond: A Review of US Policy: Hearing Before the S. Comm. On Foreign Relations*, 108<sup>th</sup> Cong., (2003) (statement of Gary Haugen, President & CEO, International Justice Mission), available at <http://foreign.senate.gov/hearings/2003/hr030409p2.html> [hereinafter *Trafficking in Women*].

152. *Id.*; Press Release, International Justice Mission, *International Women’s Day is an Opportunity*

Haugen, president of IJM, testified in Congress that he thought the advocacy of the U.S. Embassy with the Cambodian authorities was an “indispensable and decisive factor in generating effective law enforcement cooperation.”<sup>153</sup> Additionally, about twelve suspects were arrested and charged, along with continued investigations on additional suspects.<sup>154</sup> One of Cambodia’s most notorious brothel owners received a sentence of twenty years in prison for trafficking-related crimes. This was the strongest sentence ever handed down by the Cambodian court in reference to trafficking.<sup>155</sup> Most notably, the senior police commander who had been involved in a lot of the corruption of protecting the trafficking crimes was fired.<sup>156</sup> Some of the best news in the case was that one Internet chat-room frequented by sexual tourists of Svay Pak now broadcast: “The party in Cambodia is over!”<sup>157</sup>

As Haugen reviewed the raids during his Senate Foreign Relations testimony in 2003, he stated:

Cambodia has had a very poor record of tolerating sex trafficking (especially among very young children) and such a record cannot be turned around overnight . . . We believe these encouraging events help to serve as a model for what can be achieved when there is transparent reporting through the TIP Report, a meaningful application of the tier rating system, direct advocacy by U.S. authorities at the highest levels of government, and tangible, practical assistance to foreign governments in bringing rescue to trafficking victims and justice to perpetrators.<sup>158</sup>

## 2. PROTECT Act

In 2003, the United States strengthened its ability to fight child sex tourism by passing the *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act* (PROTECT Act).<sup>159</sup> The PROTECT Act increased penalties to a maximum of thirty years in prison for engaging in child sex tourism.<sup>160</sup>

## 3. Review of TVPA and Protect Act

As seen in the specific arrest of Terry Smith in 2006, TVPA, the PROTECT Act, and other U.S. state and Federal laws can be very important in prosecuting those who commit sexual tourism abroad. Without the U.S. federal warrant for

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to Focus on Bringing Help to Victims of Sexual Exploitation and Trafficking (Mar. 7, 2005), available at [www.ijm.org/releases/2005/3.7.05\\_International\\_Women's\\_Day\\_Release.pdf](http://www.ijm.org/releases/2005/3.7.05_International_Women's_Day_Release.pdf) [hereinafter *IJM 2005*]. See generally GARY HAUGEN & GREGG HUNTER, *TERRIFY NO MORE* (2005).

153. Trafficking in Women, *supra* note 151.

154. *Id.*

155. Gary Haugen, *The Cambodia Story*, THE OTHER JOURNAL, Jan. 12, 2004, <http://www.theotherjournal.com/article.php?id=37>. See generally HAUGEN & HUNTER, *supra* note 153.

156. Haugen, *supra* note 156.

157. *Id.*

158. Trafficking in Women, *supra* note 151.

159. PROTECT Act, *supra* note 61 (relevant sections codified as amended at 18 U.S.C. § 2423).

160. PROTECT Act, *supra* note 61, §105(b).

Smith's arrest, and follow-up by the U.S. Embassy and officials, Smith may have permanently disappeared and started another "Tramp's Palace." Additionally, the U.S. State Department's TIP Report and its tier rankings continued to be instrumental in getting Southeast Asian countries to enforce their own laws against sex tourism. Again, in 2005 the U.S. State Department relegated Cambodia to its lowest tier three rating on the global trafficking report, alongside Burma, Cuba and North Korea.<sup>161</sup> The U.S. threatened sanctions against Phnom Penh for its inability to comply with "minimum standards" to combat human trafficking and convict officials involved.<sup>162</sup> Soon after, Cambodia's police started to make a number of high-profile arrests. By September 2006, Cambodia police arrested nine foreign men on charges of sexually abusing children.<sup>163</sup> Cambodia was taken off the tier 3 standing, as the U.S. saw these arrests as a sign of Cambodia's "political will" to eliminate sex tourism, when Cambodian police had for years faced accusations of looking the other way.<sup>164</sup> In terms of the PROTECT Act, according to a September 2006 article, Cambodia had arrested and departed at least six Americans to face charges under the PROTECT Act's provisions against sex tourism, and the Americans face penalties high as thirty years in prison.<sup>165</sup>

The TIP Report 2007 ranked Cambodia on the "Tier 2 Watch List,"<sup>166</sup> a precarious status. In its country's narrative, Cambodia reported the updates on child sex tourism, stating that thirteen foreign child sex tourists were arrested, three were convicted (sentences ranging from one to eighteen years imprisonment); one American citizen charged with pedophilia was released on bail in Sihanoukville (Terry Smith, but as discussed above, he was later arrested and deported to Oregon); continued assistance with U.S. law enforcement to transfer U.S. custody of Americans who have sexually exploited children in Cambodia; deported one American national who was accused of child sex tourism in the U.S. under extraterritorial provisions of the U.S. PROTECT Act; and the deportation of two other American nationals with outstanding U.S. charges for child sexual exploitation and child pornography.<sup>167</sup>

Cambodia did make some progress, however. TIP 2007 reports that the Ministry of Social Affairs and Youth Rehabilitations (MOSAVY) worked with International Organization for Migration (IOM) to repatriate trafficked children.<sup>168</sup> MOSAVY repatriated 1,273 children, victims, and those vulnerable from Thailand and Vietnam to Cambodia, and from Cambodia to Vietnam.<sup>169</sup> In terms of other

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161. See Doyle, *supra* note 132.

162. *Id.*

163. Thul & Pire, *supra* note 123.

164. *Id.*; See also CAMBODIA COUNTRY REPORT 2006, *supra* note 40.

165. Thul & Pire, *supra* note 123.

166. U.S. DEP'T OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT 20 (2007) available at <http://www.state.gov/g/tip/rls/tiprpt/2007/82805.htm> [hereinafter *TIP 2007*].

167. *Id.*

168. CAMBODIA COUNTRY REPORT 2006, *supra* note 40.

169. *Id.*

South East Asia countries, TIP 2007 ranked Burma on Tier 3, Laos on Tier 2, Vietnam on Tier 2, and Thailand on Tier 2.<sup>170</sup>

#### 4. State laws

Additionally, many U.S. States have anti-sex-trafficking criminal provisions (thirty-nine states).<sup>171</sup> Of these states, some also have a statewide task force, a trafficking research commission, and/or law enforcement training (twenty states).<sup>172</sup> For example, Colorado has anti-trafficking criminal provisions, a task force, and victim protection laws.<sup>173</sup> U.S. States with no existing law or pending legislation on human trafficking include: Alabama, Delaware, District of Columbia, North Dakota, South Dakota, Vermont, West Virginia, Wisconsin, and Wyoming.<sup>174</sup>

##### B. International Protocol

At the First World Congress in Stockholm in 1996, and five years later at the Second World Congress held in Yokohama, Japan, participants representing governments, non-governmental organizations, UN agencies and other stakeholders, committed themselves to a global partnership against commercial exploitation of children. This commitment “was manifested in the Stockholm Agenda for Action.”<sup>175</sup> In addition, “there are several international conventions containing articles that offer protection to children from commercial sexual exploitation, and states that ratify these conventions are legally bound to comply with their provisions.”<sup>176</sup> The United Nations Convention on the Rights of the Child (CRC), entered in September of 1990, has been adopted and ratified by almost every country in the world.<sup>177</sup>

##### C. National And International Non-Governmental Organizations (NGOs)

Many NGOs play a crucial role in providing resources for enforcement against sex tourism. Additionally, some NGOs rescue and care for those children kidnapped into the industry.

#### 1. International Justice Mission (IJM)

International Justice Mission (IJM) is an international human rights agency that rescues victims of violence, sexual exploitation, slavery and oppression.<sup>178</sup> It

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170. U.S. DEP'T OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, *Trafficking in Persons Report: Tier Placements*, <http://www.state.gov/g/tip/rls/tiprpt/2007/82802.htm>.

171. POLARIS PROJECT, U.S. POLICY ALERT GRAPHICAL ALERT SNAPSHOT – JUNE 2008 1 (2008), available at <http://www.polarisproject.org/content/view/149> [hereinafter *Polaris Snapshot*]; POLARIS PROJECT, U.S. POLICY ALERT ON HUMAN TRAFFICKING: SUMMARY OF U.S. POLICY ACTIVITY 2 (2008), available at: <http://www.polarisproject.org/content/view/149> [hereinafter *Polaris Summary*].

172. *Polaris Snapshot*, *supra* note 171; *Polaris Summary*, *supra* note 171.

173. *Polaris Summary*, *supra* note 171.

174. *Id.* at 2-3.

175. ECPAT INT'L, QUESTIONS & ANSWERS ABOUT THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN, 31 (2006) (2001).

176. *Id.*

177. *Id.*

178. IJM, *Who We Are*, <http://www.ijm.org/whoweare>. International Justice Mission, Mission Statement: “International Justice Mission is a human rights agency that secures justice for victims of

is a global organization of lawyers and investigators that works with local authorities to stop illegal abuses such as sex trafficking and forced labor slavery.<sup>179</sup> Based on referrals of abuse received from relief and development organizations, IJM conducts professional investigations of the abuses and mobilizes intervention on behalf of the victims. IJM has twelve world offices, including offices in Cambodia, Thailand, and Philippines, and has rescued children trapped in sex tourism in all of these Southeast Asian countries.<sup>180</sup> In 2003, IJM worked with local authorities in Cambodia to facilitate raids of several brothels that resulted in the rescue of thirty-seven girls, the youngest of whom was five years old.<sup>181</sup>

## 2. ECPAT International

ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) is “a global network of organizations and individuals working together to end child prostitution, child pornography, and the trafficking of children for sexual purposes.”<sup>182</sup> “It seeks to encourage the world community to ensure that children everywhere enjoy their fundamental rights free and secure from all forms of exploitation.”<sup>183</sup> ECPAT provides helpful educational materials about eliminating child sex tourism, including its *Questions and Answers about the Commercial Sexual Exploitation of Children* handout.<sup>184</sup>

## 3. Action Pour Les Enfants (APLE)

Action Pour Les Enfants (APLE) is an international NGO operating in Cambodia (Phnom Penh, Sihanoukville and Siem Reap).<sup>185</sup> APLE focuses on protecting Cambodian children from child sex offenders and preventing street-based child sexual exploitation. APLE’s objectives include:

- Intervention and aftercare: To emancipate victims from child sexual abuse and reduce the effects of trauma caused by such abuse.
- Legal protection: To increase the level of access to legal protection afforded to victims of child sexual abuse.
- Breaking the cycle: To lessen the likelihood of vulnerable children becoming victims, and victims becoming recurring victims through awareness and active social care.

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slavery, sexual exploitation and other forms of violent oppression. IJM lawyers, investigators and aftercare professionals work with local governments to ensure victim rescue, to prosecute perpetrators and to strengthen the community and civic factors that promote functioning public justice systems.” *Id.*

179. *Id.*

180. *Id.* “IJM’s justice professionals work in their communities in 12 countries in Asia, Africa and Latin America to secure tangible and sustainable protection of national laws through local court systems.” *Id.*

181. George Gedda, *In One Girl’s Story, Picture Emerges on Human Trafficking*, BOSTON GLOBE, June 15, 2004, at 1.

182. ECPAT, *Vision and Mission*, [http://www.ecpat.net/EL/Ecpat\\_vision.asp](http://www.ecpat.net/EL/Ecpat_vision.asp).

183. *Id.*

184. ECPAT, *supra* note 175.

185. Action Pour Les Enfants, *About Us*, [http://www.aplecambodia.org/about\\_us.php](http://www.aplecambodia.org/about_us.php).

- Criminal accountability: To improve current conditions of impunity and legal accountability of child sex offenders in Cambodia through cooperation with Cambodian and international law enforcement officials and bodies and through awareness raising on child sexual abuse issues.<sup>186</sup>

#### D. Other Strategies and Solutions

##### 1. Prosecutions

Prosecutions can be one of the most effective tools of deterrence. As IJM witnessed in their work in Southeast Asia, even a few judicial convictions and jail sentences for perpetrators can have powerful ancillary benefits. Convictions send a clear message to all criminals that breaking the law will not go unpunished. “Convictions change the fear equation: The criminals are now afraid, so victims and potential victims don’t have to be,” says Sharon Cohn Wu, Senior Vice President of IJM’s Justice Operations, who oversees all of IJM’s investigative and intervention strategies.<sup>187</sup> “Each arrest by Cambodian police of Western pedophiles reinforces an important message: “Pedophiles are not welcome in Cambodia and they will go to jail if they assault Cambodian children.”<sup>188</sup>

Prosecutions can be a controversial strategy. Other organizations criticize that convictions will not deter perpetrators when the “real issues” lie in the poverty and social structure of a problematic country.<sup>189</sup> IJM’s strategy of prosecution is only part of a 4 fold purpose that involves: (1) victim relief; (2) perpetrator accountability (prosecutions); (3) structural prevention; and (4) victim aftercare.<sup>190</sup> Hopefully, prosecutions of both the traffickers and the corrupt officials who aid trafficking will help keep those in Southeast Asia more accountable to these sexual crimes against children. Prosecutions show that the country’s laws are more than lines on paper.

##### 2. Police Training

The role of the police officer stands out as a crucial piece of managing sex tourism cases and preventing them. By increasing police awareness of commercial sexual exploitation, providing strategies on how to manage sex tourism cases, and training police to serve as trusted adults in the presence of victimized children, the steps of prosecutions and victim relief will be greatly enhanced.<sup>191</sup> As ECPAT emphasizes, “The healing process for children begins the moment that they first come into contact with a trusted adult: typically this will be a police officer.”<sup>192</sup> IJM holds specific sex tourism training classes for Cambodian police.<sup>193</sup>

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186. *Id.*

187. International Justice Mission, *supra* note 91.

188. *Id.*

189. See Samantha Power, *The Enforcer*, THE NEW YORKER, Jan. 19, 2009, at 59, available at [http://www.newyorker.com/reporting/2009/01/19/090119fa\\_fact\\_power](http://www.newyorker.com/reporting/2009/01/19/090119fa_fact_power).

190. International Justice Mission, *What We Do*, <http://www.ijm.org/ourwork/whatwedo>.

191. ECPAT, *supra* note 175, at 32-33.

192. *Id.*

193. Power, *supra* note 190, at 53.

### 3. Advertising Efforts Geared At Anti-sex-tourism

The tourism and travel industry is gradually responding to the problem of child sexual exploitation in tourism by raising awareness among staff and tourists through leaflets and posters, setting up focal points for reporting instances of abuse, promoting the ECPAT – WTO Code of Conduct, formulating industry declarations, creating in-flight videos as part of education campaigns, and providing training in tourism schools and to tourism personnel on ways to identify and deal with child sex tourists.<sup>194</sup>

In Cambodia, posters at the airport warn foreign visitors that abusing children will be paid for with any many as twenty years in prison.<sup>195</sup> Some slogans tout:

- “Turn a sex tourist into an ex-tourist;” and
- “Abuse a child in this country, go to jail in yours.”<sup>196</sup>

### 4. Websites And Hotlines

The advertising strategies may be working, as child predator message boards on the Web have taken note. The Web sites now identify Cambodia as a risk for child predators, said an IJM investigator who had been tracking the sites.<sup>197</sup> Two great sites are:

- Child Sex Tourism Resources:  
[http://www.vachss.com/help\\_text/sex\\_tourism.html](http://www.vachss.com/help_text/sex_tourism.html), and
- Child Wise Tourism:  
<http://www.etravelblackboard.com/index.asp?id=66266&nav=48>

## IV. CONCLUSION

The effective elimination of child sex tourists takes the cooperation of global laws and organizations. A new “political will” must be created in a country with a poor sex tourism record, and this political will is usually the result of diplomatic incentives and pressures.<sup>198</sup> For example, “the carrot[] of international donors and the stick of [the] U.S. State Department” sanctions has been proven effective in getting some Southeast Asian countries to act, as seen with TVPA and the PROTECT Act.<sup>199</sup> Investigative anti-child sex tourism NGOs often play a vital role in capturing Western sexual pedophiles abroad by coordinating key enforcement officials from Western and Asian countries as well.

In 2008, the U.S. recognized the bicentennial of its outlawing the transatlantic slave trade, yet modern day slavery such as child sexploitation still exists.<sup>200</sup> In the *Trafficking in Persons Report 2008*, Ambassador Mark Lagon exhorts: “Those culpable in this crime—traffickers, . . . child sex tourists, and corrupt government officials—must be held to account.”<sup>201</sup>

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194. ECPAT, *supra* note 175, at 34.

195. Doyle, *supra* note 132.

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

200. Trafficking in Persons, *supra* note 4.

201. *Id.*