

Combating the Global Epidemic of Child Sex Tourism

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I. INTRODUCTION

The modern world is faced with growing epidemics. Some of these, such as AIDS, global warming, and world hunger, are widely recognized. They are in the press on a daily basis, and we can see their effects in our daily lives. But some epidemics occur in the underbelly of society, and these are particularly dangerous because they are inherently hidden from the public eye. They grow right beneath us like bacteria – a proverbial plague upon society. This paper will focus on one epidemic in particular – child sex tourism. Specifically, this paper will discuss the laws of the United States, enacted in an effort to curb this growing tide of child exploitation, as well as the types of actions taken by several Non-Governmental Organizations (“NGO’s”) to curtail such exploitation. Lastly, this paper will discuss the likely reasons that many of these measures are ineffective, and present some creative potential starting point for solutions.

One of the greatest barriers to this problem being explored by the media is the lack of reliable data on the subject. Like any black market operation, it is difficult to fully conduct an accounting of the scale and scope of the activity. The ECPAT Consultation on Child Sex Tourism notes that: “It is impossible to estimate how many children have been affected by child sex tourism. The covert and criminal nature of child sex crimes and the vulnerability of children, especially children living in poverty, make data collection a difficult and sometimes dangerous task.”¹

Indeed, some organizations believe that the collection of statistics does nothing to improve the problem. The World Tourism Organization (“WTO”) believes that the focus

¹ ECPAT consultation on Child Sex Tourism in India, Nepal, and Sri Lanka (19-20 December 2003), pg. 4

should be placed on research methodologies and intervention programs.² Specifically they site some of the following alternatives: 1) documenting where children sleep at night 2) documenting if hotels have child protection policies 3) ensuring that children involved in selling trinkets have access to health and educational opportunities.³ The WTO believes that with these figures, risk factors could be identified and used to create a '*harm minimization approach*.'⁴

This does not imply that estimates cannot be a useful tool to provide a benchmark into the nature of the abuse. If one looks at people apprehended for child sex abuse, the data is irrefutable as these are people 'caught in the act.' The United States has taken a lead role in the prevention of child predation.⁵ In 2003 the US Immigration and Customs Enforcement launched 'Operation Predator'⁶ and has arrested more than 9,300 violators nationwide. More than 85% have been foreign nationals. Additionally, more than 196 arrests have been made through cooperating with foreign governments. Sadly, we can conclude the problem is far greater than this, as there is ample evidence to conclude that only a small percentage of criminals engaging in these activities are caught.

Another useful in analyzing and combating the problem is to really understand the root cause. As with any economic exchange (as the commercial sex trade unfortunately is), there must be a supply, and a demand for that supply. In these regards, the efforts of the United States and the philosophies of the WTO create an interesting synergistic

² Beddoe, C. 2001 The incidence of Sexual Exploitation of Children in Tourism. World Tourism Organization, Madrid.

³ Id.

⁴ Id.

⁵ The specific laws and statutes enacted to combat the problem will be discussed later in the paper.

⁶ See Infra NGO Section of this paper for a more detailed explanation of the Operation.

approach to combating child predation - addressing both the causes for the increase in supply of children,⁷ and the nature of the individuals committing the crimes.⁸

The supply-side seems somewhat of the easier of the two to understand. There are various factors which force children into exploitation. ECPAT has separated these factors into two types: ‘pull’ and ‘push’ factors.⁹ Push factors include, but are not limited to, lack of economic and educational opportunities, ignorance about the physical and psychological trauma of sexual abuse, abuse within the family,¹⁰ aspiration of a better life and desire for consumer goods, and unregulated and aggressive tourism development *despite* the increase or decrease of tourists.¹¹ In sum, the largest push factor is poverty. ‘Pull’ factors include organized crime, inaction by police, involvement of ‘third person’ agents,¹² and demand for children as sexual objects.¹³ The last pull is the greatest, for without demand, the other pull factors would be inconsequential. Therefore, in combining these factors we find that the poverty and demand are the greatest contributors to the supply of children.

As for the demand, this is the area the United States has chosen to target in its efforts to combat the problem – the sex tourist. A pedophile can be any age, any sex, nationality, or religion, which makes them particularly hard to find and prosecute.¹⁴ It is

⁷ See Supra Note 2

⁸ Id.

⁹ ECPAT consultation on Child Sex Tourism in India, Nepal, and Sri Lanka (19-20 December 2003), pgs. 6-7

¹⁰ Id.

¹¹ Id.

¹² Which include taxi drivers, family members, or agents.

¹³ ECPAT consultation on Child Sex Tourism in India, Nepal, and Sri Lanka (19-20 December 2003), pgs. 6-7

¹⁴ The National Center for Missing and Exploited Children notes: “To assume that someone is not a pedophile simply because he is nice, goes to church, works hard, is kind to animals, helps abused children, reports finding child pornography on the Internet to law enforcement, and/or searches for missing children is absurd. Pedophiles span the full spectrum from saints to monsters. In spite of this fact, over and over

estimated that in a given year, 200,000 children supply the demand for pedophiles.¹⁵ This figure becomes increasingly troublesome when compared to the low figure of only a little over ~9,000 caught by Operation Predator since its inception; that's only 4% of violators being apprehended through efforts of the United States. Yet, the United States may have more weapons in its arsenal than it initially perceives. This paper is an exploration into the problem of child sex tourism, and the efforts of the United States to combat it.

II. CURRENT LEGISLATION

The current legislation enacted by the United States to directly confront the problem of child sex tourism is United States Code Title 18 Section 2423¹⁶. Under this

again pedophiles are not recognized, investigated, charged, convicted, or sent to prison simply because they are "nice guys."

¹⁵ U.S. Department of State Trafficking in Persons Report (2002)

¹⁶ Under 18 U.S.C.A § 2324, violation of this statute includes:

(a) Transportation with intent to engage in criminal sexual activity.--A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual 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 and imprisoned not less than 10 years or for life.

(b) Travel with intent to engage in illicit sexual conduct.--A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) Engaging in illicit sexual conduct in foreign places.--Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) Ancillary offenses.--Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) Attempt and conspiracy.--Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) Definition.--As used in this section, the term "illicit sexual conduct" means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the

statute, section (b), (c) and (d) were designed to specifically target United States citizens traveling or facilitating travel to foreign countries for the purpose of engaging in illegal sexual conduct with underage children.

a. Legislative Development

The current legislation evolved from the White-Slave Traffic act of 1910¹⁷ commonly referred to as the “Mann Act” after its author Robert James Mann. The Mann

sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) Defense.--In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

¹⁷ **White-Slave Traffic Act** - Chapter 395 — An Act to further regulate interstate commerce and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "interstate commerce," as used in this Act, shall include transportation from any State or Territory or the District of Columbia, and the term "foreign commerce," as used in this Act, shall include transportation from any State or Territory or the District of Columbia to any foreign country and from any foreign country to any State or Territory or the District of Columbia.

SEC. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to the practice of debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in

interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or by both fine and imprisonment, in the discretion of the court.

SEC. 4. That any person who shall knowingly persuade, induce, entice or coerce any woman or girl under the age of eighteen years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery, or any other immoral practice, and shall in furtherance of such purpose knowingly induce or cause her to go and to be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers, shall be deemed guilty of a felony, and in conviction there of shall be punished by a fine of not more than ten thousand dollars, or by imprisonment for a term not exceeding ten years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 5. That any violation of any of the above sections two, three, and four shall be prosecuted in any court having jurisdiction of crimes within the district in which said violation was committed, or from, through, or into which any such woman or girl may have been carried or transported as a passenger in interstate or foreign commerce, or in any Territory or the District of Columbia, contrary to the provisions of any of said sections.

SEC. 6. That for the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement of project of arrangement for the suppression of the white-slave traffic, adopted July twenty-fifth, nineteen hundred and two, for submission to their respective governments by the delegates of various powers represented at the Paris conference and confirmed by a formal agreement signed at Paris on May eighteenth, nineteen hundred and four, and adhered to by the United States on June sixth, nineteen hundred and eight, as shown by the proclamation of the President of the United States, dated June fifteenth, nineteen hundred and eight, the Commissioner-General of Immigration is hereby designated as the authority of the United States to receive and centralize information concerning the procurement of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner-General of Immigration to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution and debauchery in this country, and to furnish receipts for such statements and declarations provided for in this act to the persons, respectively, making and filing them.

Every person who shall keep, maintain, control, support or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she shall have entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, shall file with the Commissioner-General of Immigration a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procurement to come to this country within the knowledge of such person, and any person who shall fail within thirty days after such person shall commence to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she shall have entered the United States from any of the countries, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien woman or girl with the Commissioner-General of Immigration, or who shall knowingly and willfully state falsely or fail to disclose in such statement any fact within his knowledge or belief with reference, to the age, nationality, or parentage of any such alien woman or girl, or concerning her procurement to come to this country, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than two thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

Act was passed by the Sixty-First Congress on June 25, 1910 in response to the fear of “white slavery” that gripped the United States around the early 1900’s. The act’s primary purpose was to punish and deter prostitution and immorality and thus focused on domestic trafficking and prostitution only.

Until the act was amended by Congress in 1986, it was the only piece of U.S. legislation dealing with the problem of human trafficking. Most notably, the 1986 amendment criminalized the transportation of children under the age of 18 within the United States or abroad “with the intent that the minor engage in sexual activity.” It did not specifically target persons traveling abroad to participate in child sex tourism.

The act as amended stood until 1994 when Congress passed the Child Abuse Prevention Act of 1994, commonly referred to as “the 1994 Act.” This amendment was aimed at rectifying the ineffectiveness of the previous legislation due to the onerous intent requirement mentioned above. The 1994 Act is the basis for the current legislation which has been shaped by three major amendments adopted by Congress in 2000, 2002 and 2003 respectively.

In October 2000, Congress passed the Trafficking Victims Protection Act¹⁸ which was the first of several aforementioned amendments that would ultimately help form the

SEC. 7. That the term "Territory," as used in this Act, shall include the district of Alaska, the insular possessions of the United States, and the Canal Zone. The word "person," as used in this Act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person, acting for or employed by any other person or by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such other person, or of such company, society, or association as well of that of the person himself.

¹⁸ **SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.**

- (a) ESTABLISHMENT.—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.
(b) APPOINTMENT.—The President shall appoint the members

current U.S. policy on child sex tourism. The goals Congress wanted to accomplish by passing this act were to prevent human trafficking overseas by appointing an interagency taskforce to combat trafficking, protect victims and provide them with Federal and State support, and vigorously prosecute and punish human traffickers by imposing harsh Federal penalties, thereby strengthening prosecution efforts. The Act is perhaps most notable for section 107 which addressed the issue of victim assistance which had not been

of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President. (c) CHAIRMAN.—The Task Force shall be chaired by the Secretary of State. (d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities: (1) Coordinate the implementation of this division. (2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110. (3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking. (4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking. (5) Examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world. (6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

SEC. 106. PREVENTION OF TRAFFICKING.

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include— (1) microcredit lending programs, training in business development, skills training, and job counseling; (2) programs to promote women’s participation in economic decisionmaking; (3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking; (4) development of educational curricula regarding the dangers of trafficking; and (5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries. (b) PUBLIC AWARENESS AND INFORMATION.—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking. (c) CONSULTATION REQUIREMENT.—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.— (1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

included in any other previous legislation dealing with human trafficking. This amendment to the 1994 Act signaled a shift in U.S. policy from a strict prevention and prosecution tact to a multi- faceted approach to the problem of human trafficking.

In 2002 Congress, passed the Sex Tourism Prohibition Improvement Act of 2002 commonly referred to as the “2002 Act.”¹⁹ Under the 2002 Act, Congress further amended the 1994 Act in order to further address problems with administration and effectiveness of the previous amended legislation. The focus of this amendment was on removing the intent requirement, which was a bar to effective prosecution of sex tourists, as well as closing the loopholes that were allowing sex tourists to evade prosecution. In addition, with the amendment Congress sought to criminalize the actions of sex tour operators through section (d) of the amendment which added a fine and imprisonment for up to 15 years for anyone who “arranges, induces, procures or facilitates the travel of a

¹⁹**SECTION 1. SHORT TITLE** - This Act may be cited as the ‘Sex Tourism Prohibition Improvement Act of 2002’.

SEC. 2. SECTION 2423 AMENDMENTS.

(a) **IN GENERAL**- Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

(b) **TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT**- A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(c) **ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES**- Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(d) **ANCILLARY OFFENSES**- Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

(e) **ATTEMPT AND CONSPIRACY**- Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) **DEFINITION**- As used in this section, the term ‘illicit sexual conduct’ means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who the individual engaging in the commercial sex act, knows or should have known has not attained the age of 18 years.

(b) **CONFORMING AMENDMENT**- Section 2423(a) of title 18, United States Code, is amended by striking ‘or attempts to do so,’.

person knowing that such a person is traveling...for the purpose of engaging in illicit sexual conduct...” Further, through section (e), Congress criminalized attempt and conspiracy which allowed for a broader range of options for federal prosecutors to utilize in prosecuting those involved in child sex tourism.

Finally, on April 10, 2003, Congress passed the Prosecuting Remedies and Tools Against the Exploitation of Children Today Act of 2003, referred to as the "PROTECT Act", which amended section 2423 of Title 18 of the United States Code through section 105.²⁰ With this most recent amendment to the 1994 Act, Congress established a national “Amber Alert” network and “Code Adam” systems to recover abducted children, stronger laws to combat child pornography and exploitation, and increased penalties for

²⁰ **SEC. 105. PENALTIES AGAINST SEX TOURISM.**

(a) IN GENERAL- Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT- A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES- Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) ANCILLARY OFFENSES- Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) ATTEMPT AND CONSPIRACY- Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) DEFINITION- As used in this section, the term ‘illicit sexual conduct’ means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) DEFENSE- In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

(b) CONFORMING AMENDMENT- Section 2423(a) of title 18, United States Code, is amended by striking ‘or attempts to do so,’.

sex offenses against children including life imprisonment for repeat offenders.²¹ In addition, The PROTECT act strengthened provisions of the 1994 Act by increasing imprisonment penalties to 30 years for convicted sex tourists, criminalizing persons or organizations that assist or organize sex tours.²² The act also sought to assist federal prosecutors to convict offenders by modifying burden of proof requirements from intent to have illicit sex to *engaged* or attempted to engage in illicit sex and established parallel penalty enhancements that apply to the production of child pornography overseas.²³

Although several child sex tourists have been successfully prosecuted under 18 U.S.C. Section 2324 to the fullest extent of the law, critics of the current state of

21 SEC. 106. TWO STRIKES YOU'RE OUT.

(a) IN GENERAL- Section 3559 of title 18, United States Code, is amended by adding at the end the following new subsection:

(e) MANDATORY LIFE IMPRISONMENT FOR REPEATED SEX OFFENSES AGAINST CHILDREN-

(1) IN GENERAL- A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

(2) DEFINITIONS- For the purposes of this subsection--

(A) the term `Federal sex offense' means an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2244(a)(1) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), 2251 (relating to sexual exploitation of children), 2251A (relating to selling or buying of children), 2422(b) (relating to coercion and enticement of a minor into prostitution), or 2423(a) (relating to transportation of minors);

(B) the term `State sex offense' means an offense under State law that is punishable by more than one year in prison and consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title--

(i) the offense involved interstate or foreign commerce, or the use of the mails; or

(ii) the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151);

(C) the term `prior sex conviction' means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent Federal sex offense, and which was for a Federal sex offense or a State sex offense;

(D) the term `minor' means an individual who has not attained the age of 17 years; and

(E) the term `State' has the meaning given that term in subsection (c)(2).

(3) NONQUALIFYING FELONIES- An offense described in section 2422(b) or 2423(a) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that--

(A) the sexual act or activity was consensual and not for the purpose of commercial or pecuniary gain;

(B) the sexual act or activity would not be punishable by more than one year in prison under the law of the State in which it occurred; or

(C) no sexual act or activity occurred.'

²² Id.

²³ Id.

enforcement including watchdog non-governmental organizations (“NGO’s”) still cite to the arduous intent requirement, although it has been modified several times since the original 1994 Act was passed. Their main contention is that the intent requirement coupled with the lack of uniform laws and unified enforcement between the United States and countries in affected regions is hampering prosecution efforts across the board.

III. THE PROBLEM OF PROVING INTENT

As noted above, 18 U.S.C. Section 2423(b) states that it is illegal for a United States Citizen to travel in foreign commerce, “for the purpose of engaging in sexual illicit conduct with another person.” Although the intent of this statute seems fairly clear based on the legislative history discussed above, there remain several ambiguous statutory terms, thus limiting the scope of the statute.

“Sexually illicit conduct,” is defined within the statute as “(1) a sexual act (as defined in section 2246)²⁴ with a person under 18 years of age that would be in violation of chapter 109A [§ 2241]²⁵ if the sexual act occurred in the special maritime and

²⁴ Under 18 U.S.C.S. 2246, a “sexual act” is defined as

- (A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subsection contact involving the penis occurs upon penetration, however slight;
- (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

²⁵ Violation of 18 U.S.C.S. 2241, is described as “aggravated sexual abuse,” and includes the following:

- (a) By force or threat. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General, knowingly causes another person to engage in a sexual act--
 - (1) by using force against that other person; or
 - (2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591)²⁶ with a person under 18 years of age. This definition seems to thus

(b) By other means. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General, knowingly--

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby--

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) With children. Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title and imprisoned for not less than 30 years or for life. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.

(d) State of mind proof requirement. In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

²⁶ Under 18 U.S.C.S. 1591, violation of this statute includes:

Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly--

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is--

(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In this section:

(1) The term "commercial sex act" means any sex act, on account of which anything of value is given

encompass two types of acts: those typically violating U.S. law for having sexual contact with a minor, but more applicably, to engaging in a *commercial* sex act (i.e. prostitution) with a minor. As such, there is a small gap in the scope of this statute, relating to sexual contact with a minor, where it is not a “commercial” act (i.e. not prostitution – under subsection § 2423(f)(2)), and not either some form of coerced/forced sexual abuse, or sexual contact with a minor under the age of 16 (or in certain circumstances 12 – as noted under subsection § 2423(f)(1)). To take the logic one step further, it would seem that a voluntary sex act with a minor under the age of 18, but at least 16, and with no evidence of having been “commercial” in nature (i.e. not prostitution), would not seem to be covered under the statute as “illicit sexual contact.”

a. *Mens Rea* of Sexual Predation

Beyond the definitional nuances, the most unwieldy aspect of the statute regards the requirement that the perpetrator have the *purpose* of engaging in sexually illicit conduct prior to commencing travel. This pre-existing requirement regarding the perpetrator’s state of mind when deciding to travel thus seems to limit the scope of the statute from applying to those individuals who happen to engage more opportunistic or unplanned, illicit sexual activity while traveling. This seems to mean that subsection (b) of the statute only seems to target those individuals who fit the more stereotypical

to or received by any person.

(2) The term "coercion" means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

definition of a “sex tourist” (i.e. someone who plans a trip specifically for the purpose of having sexual contact with minors).

The “purpose” requirement however, has not been interpreted in an overly narrow way. Rather, the “purpose” requirement has been construed to mean that sexually illicit activity need not be the dominant purpose of interstate travel, yet it cannot be merely incidental to the trip. U.S. v. Hayward, 359 F.3d 631, 637 (3rd Cir. 2004). Thus, additional reasons for the travel can be present, but so long as one of several “dominant purposes” is to engage in such illicit sexual activity, the “purpose” element will be deemed satisfied. (*see* U.S. v. Hitt, 473 F.3d 146 (5th Cir. 2006), where the Court acknowledges that Defendants traveled with the purpose of attending a football game, yet circumstantial evidence supported the fact that a primary purpose of the trip was also to engage in illicit sexual activity with a 13 year-old – and thus the statute had been violated).

It is important to note that if the “purpose” requirement cannot be met under 18 U.S.C.S. Section 2423(b), such “spontaneous” activity (where the perpetrator did not have the prior intent to engage in illicit sexual activity) is still covered by the statute under Section 2423(c), but requires proof of the actual illicit sexual conduct, rather than proof of the intent to commit such acts. Understandably, such difficulties, such as persuading a foreign, under-age defendant to travel to the United States to testify against an accused pedophile are likely to pose significant barriers to successful prosecution under this subsection. In this regard, Section 2423(b) bears the distinct advantage over subsection 2423(c), in that an actual underage victim need not be produced, nay, need not actually even exist. (*see* U.S. v. Hicks, 457 F.3d 838, 840-41 (8th Cir. 2006), where it

was established that the existence of an actual minor victim is not required to convict an individual for travel in interstate commerce with the purpose of engaging in illicit sexual conduct).

b. Defenses

A statutorily provided defense exists within subsection (g) of 18 U.S.C.S. 2423, stating that, “[i]n prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.” This subsection appears to allow, in the context of prostitution, the defense that the predator did not know the victim was under the age of 18. Of course, such defense is still subject to the typical scrutiny provided by the objective evidence in support of such a “reasonable belief.”

Lastly, it is interesting to explore why this defense was only made applicable to subsection (f)(2), a *commercial* sex act, rather than to any sexual act under (f)(1) (refer to above analysis on “sexually illicit conduct”). Incorporating the definitional analysis of the term “sexually illicit conduct” from above, one can potentially understand why Congress chose not to extend this defense to subsection (f)(1). Explaining further, since a voluntary, non-commercial sex act with a minor between the ages of 16 and 18 does not seem to be covered by this statute (as concluded above), any sort of “reasonable belief” defense could not credibly be asserted in regards to a victim of less than 16 years of age, and thus there was no need to make the statutory defense available to sexually illicit acts defined under subsection (f)(1).

Despite the criticism that has been voiced of the intent requirement by many NGO's, this statutory scheme does seem to represent a very powerful potential tool in the prosecution of sex tourists. Indeed, the ability to sentence an individual for up to 30 years without the presence of any actual specific victim is a serious and substantial step in the efforts to combat this illicit industry. As will become evident as this paper progresses, we see that often times the most significant challenges in this campaign come more from the inability to make the initial apprehensions in the target regions.

Addressing more in regards to this last concern, and in an effort to supplement the legal efforts of the U.S. government, private organizations have also championed the cause.

IV. NGO EFFORTS TO COMBAT THE PROBLEM

There are a number of non-profit organizations dedicated at least in part to combating sex tourism. These organizations usually take a variety of approaches in pursuing their goal, and are active on an international scale.

a. Equality Now

Equality Now is an organization dedicated to promoting women's rights internationally. Equality Now is an umbrella organization encompassing the Women's Action Network. According to their website, the Women's Action Network has 25,000 members in 160 countries.²⁷ The Women's Action Network works by encouraging its members to take a proscribed action, which is often letter writing campaigns to government officials in a particular country. The Women's Action Network has targeted both the United States government via the military, as well as private groups, in combating sex tourism. These actions will be detailed below.

²⁷ www.equalitynow.org

In 1996, Equality Now took aim at a company called Big Apple Oriental Tours, which advertised trips to Thailand and the Phillipines.²⁸ Specifically, Big Apple Oriental Tours advertised its ability to provide transportation, airfare, hotel, in addition to the ability of the sex tourist to “select your companion upon arrival,” for \$2,195.²⁹ Equality now sought prosecution of Big Apple Oriental Tours for violating New York state law prohibiting the promotion of prostitution.³⁰ In 2003, the New York State Attorney General launched an investigation into the company.³¹ The Attorney General’s office pursued both a civil and a criminal action against the company. A restraining order was issued against Big Apple Oriental Tours, and in 2004 the owners of the company were indicted.³² The indictment was dismissed based upon the exclusion of recorded conversations with a sex tourist on the basis of hearsay.³³ However, a Grand Jury issued a second indictment, and the owners of the operation were arraigned in August of 2005.³⁴ Equality Now advocates writing to the New York Attorney General in support of the action taken against sex tour operators.³⁵

Equality Now also targeted a company called G&F Tours, advertising trips to Thailand, the Phillipines, and Cambodia. In this campaign Equality Now targeted the federal government for failing to impede the operation of G&F Tours and other travel companies based upon sex tourism.³⁶ Equality Now criticized the federal government for

²⁸ Id.

²⁹ Id.

³⁰ New York Penal Law section 230.25 states that anyone who “advances or profits from prostitution by managing, supervising, controlling or owning...a prostitution business or enterprise involving prostitution activity” is guilty of promoting prostitution.

³¹ www.equalitynow.org

³² Id.

³³ Id.

³⁴ Id.

³⁵ Id.

³⁶ Id.

failing to enforce laws such as the Mann Act.³⁷ As previously discussed, the Mann Act criminalizes the knowing transportation of another person in interstate or foreign commerce “with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense.”³⁸ Equality Now encourages writing letters to the U.S. Attorney General and the Department of Justice, to instigate these offices to investigate sex tour companies and direct federal prosecutors to pursue companies like G&F.

In June of 2003, the Equality Now issued Women’s Action 23.1, advocating that the United States Military take a zero-tolerance policy towards the solicitation of prostitutes to United States Military personnel.³⁹ Equality now specifically cited the effect of the U.S. military stationed in South Korea and Kosovo on the commercial sex industry in those locations as a microcosm of the problem worldwide.⁴⁰ In October of 2005, President George Bush signed Executive Order 13387, which amended the manual for Courts-Martial to specifically list engaging a prostitute’s services as a violation of Article 134 of the Uniform Code of Military Justice.⁴¹ Under this section an offense is committed if a member of the U.S. military has “compelled, induced, enticed, or procured a person to engage in an act of sexual intercourse in exchange for monetary or other compensation.”⁴² The act must be wrongful and be to the prejudice of good order and discipline of the armed forces, or bring discredit upon them. A violation is punishable by

³⁷ www.equalitynow.org

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.⁴³

b. World Vision

World Vision is an organization dedicated to ending sexual exploitation of children in the sex trade. While Equality Now primarily sought to effect change through political activism, World Vision seeks to alleviate the problem by attacking the root causes. World Vision focuses on preventative measures such as working to end poverty which increases children's vulnerability to exploitation in developing countries, raising awareness of the problem, and providing training and skills programs to reduce the prevalence of children entering or being forced into the sex trade.⁴⁴ World Vision also seeks to provide support and assistance to children who have been victims of the sex trade. World Vision works to protect children victims from being criminally penalized, providing access to legal and social services, urging prosecution of those responsible for the exploitation, providing medical and psychosocial support after assessing the emotional and physical condition of children victims, educating communities on how to accommodate children victims who are being reintroduced to the community, monitoring reintroductions, and providing education and skills training opportunities.⁴⁵ World Vision works with governments, law enforcement agencies, and other organizations in their mission to end the exploitation of children.⁴⁶ World Vision obtains financial support from the U.S. Department of State and the U.S. Department of Health and

⁴³ Id.

⁴⁴ www.worldvision.org

⁴⁵ www.worldvision.org

⁴⁶ Id.

Human Services, and asserts that U.S. citizens and others from wealthy countries are participating in creating the demand by sex tourism.⁴⁷

c. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE),⁴⁸ has enacted a program dedicated to investigate and arrest child predators, termed Operation Predator.⁴⁹ Specifically, ICE seeks to protect children from foreign national sex offenders, human traffickers, sex tourists, and child pornographers.⁵⁰ This program attacks the problem primarily through law enforcement tactics. ICE provides a webpage through which to access all publicly available state sex offender databases (also known as Megan's Law Databases).⁵¹ Working with the National Center for Missing and Exploited Children (NCMEC), the FBI, U.S. Postal Inspection Service, U.S. Secret Service, the Department of Justice, the Internet Crimes Against Children Task Forces, ICE created the National Child Victim Identification System (NCVI).⁵² ICE agents are working internationally with foreign governments and their foreign law enforcement officers to enhance coordination and cooperation on crimes that cross borders, and ICE also works with Interpol to increase foreign government intelligence on criminal child predators.⁵³ Since the inception of Operation Predator, ICE has arrested more than 9,300 individuals suspected of various acts of sexual exploitation of children.⁵⁴ The majority of these cases

⁴⁷ Id.

⁴⁸ Although as an arm of the U.S. government, ICE is not technically an NGO, it operates to enforce U.S. law specifically aimed at sex tourism and is thus included in this section.

⁴⁹ www.ice.gov/pi/news/factsheets/operationpredator.htm

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

involve foreign national sexual predators who have been deported from the U.S.⁵⁵ However, ICE has also arrested U.S. citizens abroad on suspicion of engaging in sex acts with children. ICE returns these arrestees to the United States to face prosecution on charges of engaging in illicit sex acts in a foreign place.⁵⁶ ICE has also arrested individuals on suspicion of human smuggling and trafficking. In one instance, an individual attempted to purchase 9 to 11 year old girls from Mexico, and was arrested in Arizona.⁵⁷ In combating child pornography, ICE has arrested 300 individuals for trading, buying and distributing child pornography online.⁵⁸ ICE also works with foreign governments and law enforcement agencies to arrest over 1,400 people on child pornography charges.⁵⁹ In terms of sex tourism, ICE may use several U.S. laws as a basis for making arrests, including the Mann Act, the Child Sexual Abuse Prevention Act of 1994 and the PROTECT Act of 2003.⁶⁰ Federal law prohibits U.S. residents from engaging in sexual or pornographic activities anywhere in the world with a child under 18.⁶¹ Violators face severe punishments if they are convicted, including up to 30 years in prison for certain offenses.⁶² Thus, there are a variety of ways in which diverse organizations are fighting against the exploitation of children, from political activism to encourage governments to do more, to prevention and law enforcement.

d. Other Steps Being Taken:

⁵⁵ www.ice.gov/pi/news/factsheets/operationpredator.htm

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ www.ice.gov/pi/news/factsheets/operationpredator.htm

⁶² Id.

There are approximately 32 countries with extraterritorial laws that allow the prosecution of their nationals for crimes committed abroad, regardless of whether the offense is punishable in the country where it occurred.⁴⁴ In addition, the World Tourism Organization has created a task force to combat CST and promulgated a Global Code of Conduct for Tourism in 1999, in order to raise awareness of the issue and the laws prohibiting such activities.⁴⁵ It also appears that other nations are similarly attempting to raise awareness of this issue. France, through its Ministry of Education and in conjunction with the travel industry, has developed guidelines regarding child sex tourism in tourism school curricula, as well as obtaining funding from organizations such as Air France to help fund such activities.⁴⁶ Additionally, Brazil has created a national and international awareness campaign on the topic, Italy requires tour operators to inform those traveling of its laws on the subject, Swedish tour operators have committed to educating their staff, Japan now prosecutes citizens having sex with children in other countries, and Cambodia has actually created a police unit to focus on fighting child sex tourism (and has actually participated in arrests and extradition of foreigners committing such acts).

Alas, with an estimated 2 million children worldwide working in the sex trade,⁴⁷ and only approximately 9,300 child sex predators arrested in the United States since the inception of Operation Predator, and through January 23, 2007,⁴⁸ it is fairly evident that the actions taken by the United States, so far, have had a very limited effect.

With the number of arrests paling in comparison to the actual estimated number of sex child tourists worldwide, a few serious questions remain. Why are the current

steps being taken by the United States seemingly ineffective? What additional actions should the government take? Finally, is there a better alternative to a unilateral approach to the problem of child sex tourism given the inherently global nature of the problem?

V. CREATIVE ANALYSIS

In analyzing why the measures so far taken by both Government and Non Government entities seem so inherently ineffective, it remains helpful to remember the true nature of the existing problem. The cause of the problem can generally be recognized as a combination of an income differential between countries (i.e. the “poverty cause”), and the feeling of immunity by the individuals who commit the crimes. Because the supply exists in the most impoverished nations, and because the chances of arrest for such acts is fairly low, the problem persists. As such, the most direct solution is either eliminating poverty as a cause, or eliminating the feeling of immunity by those committing the crimes. Thus, although eliminating poverty is an incredibly daunting task that may never be fully realized, the second factor holds much more promise. Undermining both actual and *perceived* immunity for the commission of such crimes is potentially a feasible solution. To effectively undermine the notion of non-enforcement, countries that have become known as target destinations for child sex tourists will need to take a series of steps, ideally with the support and funding from the nations contributing to the demand. These steps would include bolstering police activities when possible, in areas with a high concentration of brothels. This increased police presence would help to deter the “opportunistic” sex predators and would likely have a significant effect on repeat child sex tourists as well. The effects are two pronged in nature: 1.) eliminating

the actual immunity experienced by these individuals due to lack of enforcement in the target country, and 2.) eliminating the perceived immunity that often accompanies traveling to impoverished regions where these activities have historically been tolerated.

a. Eliminating Actual Immunity

As poverty is often a cause of human trafficking, it logically follows that a lack of funding remains the core reason for why these crimes are not aggressively investigated. As such, the starting point for eliminating actual immunity through investigation and prosecution, is for governments in affected regions to take notice of the problem and to make its elimination a priority. Providing governments in affected regions with financial assistance aimed at child sex tourism may provide such incentive. Of course control of such funding is difficult when turned over to foreign nations, and direct oversight is generally not feasible. To an extent this type of international pressure and aid is somewhat of a direct and almost obvious solution, while at the same time the inherent issues that arise when funding initiatives to be implemented by foreign governments are similarly as apparent. An alternative or supplemental solution is to focus less on the actual immunity and focus more on the perceived immunity of individuals committing these heinous acts.

b. Eliminating Perceived Immunity

Eliminating perceived immunity could be equally if not more effective, and particularly attractive if the funding is not available to actually increase policing efforts in the affected regions. Inherent in the problem of child sex tourism is the perception that

no one is watching and no one cares. Through a targeted public relations type campaign with the support of the tourism industry, NGO's and participating governments, the visibility of this crime and in particular the apprehension and punishment of the individuals committing this crime could serve to actually have the effect of reducing the actual number of crimes committed. When the child sex predator receives a pamphlet from his air carrier explaining the new laws, sees billboards in the airport highlighting the increasing number of convictions and notices increased media coverage of the actual apprehensions and prosecutions, the cumulative effect is to remove the notion of perceived immunity. Although initially this may only deter the "opportunistic" sex predator, eventually it should also begin to similarly deter the serial sex tourist.

The advantages of targeting these perceived notions it is not exclusively reliant on the enforcement capabilities of target countries and should not demand the same monetary contribution that funding police activities of a foreign country would require. Additionally, it allows more direct control and more accountability for the use of designated funds earmarked for this problem. One should keep in mind the solution is not free standing and does require some level of increased actual enforcement, however, it does have the potential to substantially exceed the effectiveness that bolstered enforcement alone would create.

VI. CONCLUSION

First world nations have the responsibility to address the problems that the global economy creates. Although substantial legal progress has been made in the United States

and other first world countries this unilateral approach has proven to be an incompetent and ineffective solution given the global nature of child sex tourism. Further, although NGO activity provides additional “out of the box” and creative solutions they also have proven insufficient. More substantial global recognition of the problem is implicitly the first step, followed by an increased focus by governments in affected nations resulting in increased apprehension. Finally and perhaps most important, a concerted effort to change the perception that these heinous crimes will go unenforced if committed may be the most pivotal step eliminating this epidemic.