

¿CUANTO CUESTA? THE PRICE PAID BY BOTH THE
PERPETRATOR
AND THE VICTIM OF CHILD SEX TOURISM IN
MEXICO

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INTRODUCTION

What can \$260.00 buy you? For Tom, it bought him a sex tourism trip to Mexico, which included a hotel room and a night of pleasure with a thirteen or fourteen year old boy, or so he thought. At first glance, Albert Thomas “Tom” Rogers seems to be a respectable fifty-one year old man. His professional portfolio is in education, holding positions from school custodian, bus driver, sports coach, teacher, to the more respected position of school superintendent for the Tanque Verde Unified School District in Tucson, Arizona.¹

However, what people are not aware of is that Tom is a pedophile and a sex tourist. Tom was arrested on June 19, 2010, by an undercover agent after attempting to book a sex tour to Mexico for the purpose of engaging in sex with a thirteen or fourteen year old boy.² After his arrest, he admitted to collecting pornographic material depicting a child as young as five years old engaging in sexual conduct.³ In reality, Tom bought himself a plea of guilty with a sentence of 100 months in a United States federal prison and a lifetime of probation for attempted travel with intent to engage in sex with a minor and possession of child pornography.⁴

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1 Karina Schroeder, *Ex-Educator Jailed Until Trial*, YUMA SUN (June 26, 2009), <http://www.yumasun.com/news/rogers-51053-school-district.html>.

2 James Gilbert, *Tucson educator arrested in Yuma on sex tourism charge*, YUMA SUN (June 22, 2009), <http://www.yumasun.com/news/agent-50960-sex-yuma.html>.

3 Alicia Barrón, *Former Tucson superintendent gets 8 years for child sex tourism and porn*, AZFAMILY.COM (Aug. 5, 2010), <http://www.azfamily.com/news/Former-Tucson-superintendent-100068569.html>.

4 *Id.*

Child sex tourism is a growing phenomenon and a multi-billion dollar industry.⁵ Somewhere in the world, another “Tom” is making plans, hopping on an airplane, and contacting people for a sex tour to Mexico. Men like Tom purposely go abroad to countries like Mexico to purchase sex acts with a minor believing that no one will ever find out. Conversely, the U.S. government has made concerted efforts to punish the activities of American citizens and resident aliens who travel abroad to participate in the sexual exploitation of children.⁶ The U.S. has enacted laws such as the PROTECT Act of 2003 and other Federal laws aimed at stopping sex tourism. Likewise, countries like Mexico are moving towards making changes to their legal system to criminalize and punish these individuals. In 2011, Mexico made changes to its Constitution to combat human trafficking and as of July 2012 made amendments to its penal code to punish both the procurers and perpetrators of sexual exploitation.

This note will focus on child sex tourism in Mexico. The first part of this note will introduce the phenomenon of child sex tourism, its definition, reasons why it exists, and will cover the parties involved in the sexual exploitation of children. The second part of this note will analyze why Mexico is a target country for the practice of child sex tourism and the physical and criminal consequences of the perpetrator involved in child sex tourism in both the United States and Mexico. The third part of this note will focus on sex tourism’s psychological and physical effects on the child victim, Non-Governmental Organizations (NGOs), and the urgent need for national social awareness of child sex tourism and human trafficking in Mexico.

I. BACKGROUND

According to the U.S. Department of State, over 3,000,000 U.S. Citizens travel to Cancun and other Mexican beach resorts each year.⁷ Some tourists visit these areas of Mexico to escape their daily routines, relax, and vacation; while other tourists visit for the sole purpose of engaging in sexual relations with a minor. Mexico has become a leading hotspot of child sexual

⁵ *Children for Sale: Dateline Goes Undercover with a Human Rights Group to Expose Sex Trafficking in Cambodia*, NBCNEWS.COM (Jan. 9, 2005, 4:17 PM), http://www.msnbc.msn.com/id/4038249/ns/dateline_nbc/t/children-sale/.

⁶ John A. Hall, *Sex Offenders and Child Sex Tourism: The Case for Passport Revocation*, 18 VA. J. SOC. POL’Y & L. 153, 155 (2011).

⁷ *Mexico*, TRAVEL.STATE.GOV, http://travel.state.gov/travel/cis_pa_tw/cis/cis_970.html (Last visited June 23, 2012).

exploitation.⁸ A study done in 2000 by UNICEF Mexico and the DIF/National System for Integral Family Development estimated that more than 16,000 children in Mexico were involved in prostitution.⁹ In 2005, the number of reported victims of child prostitution within the country had increased to 20,000.¹⁰

A. *Definition of Child Sex Tourism*

Due to the growth of the tourist industry child sex tourism has increased in recent years.¹¹ While child sex tourism has existed for decades, there has been a movement in recent years towards attacking and ending child sex tourism.

The definition of child sex tourism has developed over time and is continuously being refined. The U.S. responded to child sex tourism in the early 1990s when it amended the Mann Act with the Violent Crime Control and Law Enforcement Act of 1994, which included a provision known as the Child Sexual Abuse Prevention Act (CSAPA).¹² CSAPA was the first Congressional effort addressing the issue of child sex tourism and making traveling abroad for the purpose of engaging in sexual activity with a minor a criminal offense.¹³

In 2005, the U.S. Department of State defined child sex tourism as traveling for the purpose of engaging in the prostitution of children and identified it as commercially facilitated child sexual abuse.¹⁴ As recent as 2012, the End Child Prostitution Child Pornography & Trafficking of Children for Sexual Purposes International (ECPAT), a London based group which campaigns to put an end to the sexual exploitation of children, defined child sex tourism as “the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with

⁸ Emilio Godoy, *Rights-Mexico: 16,000 Victims of Child Sexual Exploitation*, INTER PRESS SERVICE (Aug. 13, 2007), <http://www.ipsnews.net/news.asp?idnews=38872>.

⁹ *Gateways to Exploitation*, THE GLOBE AND MAIL, <http://www.theglobeandmail.com/news/world/gateways-to-exploitation/article1089077/> (last updated Apr. 3, 2009).

¹⁰ *Id.*

¹¹ Susan Song, *Children As Tourist Attractions*, YOUTH ADVOCATE PROGRAM INTERNATIONAL, 2 (2003), available at <http://www.yapi.org/rpchildsextourism.pdf>.

¹² Hall, *supra* note 6, at 165.

¹³ *Id.*

¹⁴ *The Facts About Child Sex Tourism*, US DEPT. OF STATE, 1 (Aug. 19, 2005), available at <http://2001-2009.state.gov/documents/organization/51459.pdf>.

children, defined as anyone aged under 18.”¹⁵ Different organizations and governments define child sex differently, but the crime remains the same.¹⁶

B. *Reasons Child Sex Tourism Exists*

Mexico is one of the leading destinations in Latin America for sexual tourism.¹⁷ One may wonder why this is so. Factors such as poverty, poor law enforcement in receiving countries, consumer demand, cost, and availability are among the many factors that boost the child sex tourism industry within a country. In Mexico, the primary factors driving Mexican children into prostitution are poverty, consumer demand, and forced labor.

1. *Poverty*

Nearly half the population of Mexico lives in poverty.¹⁸ It is no surprise that poverty is one of the primary factors for children in Mexico to be exploited for sexual purposes. According to ECPAT, “a significant number of Mexican boys and girls are trafficked within Mexico for sexual exploitation, often lured from poor rural districts to urban, border, or tourist areas through false offers of employment.”¹⁹ Many estimate that of the 150,000 children that live on the streets, fifty percent are victims of trafficking for sexual purposes.²⁰

¹⁵ *End Child Prostitution Child Pornography & Trafficking of Children for Sexual Purposes*, ECPAT, http://www.ecpat.net/EI/Csec_cst.asp (last visited June 23, 2012).

¹⁶ See Global Code of Ethics for Tourism, G.A. Res. 406(XIII) art. 2(3), U.N. Doc. A/RES/406(XIII) (Oct. 1, 1999), available at <http://ethics.unwto.org/sites/all/files/docpdf/unwtoreolutiona-res-406xiii1999.pdf> (“The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism.”); see also Hall, *supra* note 6, at 156 (quoting U.N. Comm’n on Human Rights, *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography*, 52d Sess. Agenda Item 20(b), U.N. Doc. E/CN.4/1996/100 (1996) (“[T]ourism organized with the primary purpose of facilitating the effecting of a commercial sexual relationship with a child.”)).

¹⁷ *Mexican Sex Traffickers Victimize 10,000 Women Every Year*, LATIN AMERICAN HERALD TRIBUNE, <http://www.laht.com/article.asp?CategoryId=14091&ArticleId=339639> (last visited Nov. 7, 2012).

¹⁸ *Mexico: Poverty at a Glance*, U.S. EMBASSY, http://www.usembassy-mexico.gov/pdf/2010_Poverty_Fact_Sheet.pdf (last visited Nov. 7, 2012).

¹⁹ Rupert Taylor, *Child Prostitution in Mexico: Cancun a Centre for Under-Age Sex Tourism*, SUITE101.COM (March 15, 2010), <http://suite101.com/article/child-prostitution-in-mexico-a213479>.

²⁰ *Id.*

2. Demand for Child Prostitution

Both pedophiles and those who pay for sex create the demand for child prostitution.²¹ Pedophiles are adult individuals who have a sexual interest in children.²² However, most perpetrators that create the demand are “respectable doctors, lawyers, serviceman and teachers—many with children of their own.”²³ Many of these individuals enjoy the anonymity of traveling across the border to engage in sexual acts with a minor, knowing no one will ever find out. They tell themselves that in another country the moral and social restraints can be ignored along with the sense of responsibility for their actions.²⁴ Moreover, many of these individuals are under the mistaken belief that they are less likely to contract HIV or other sexually transmitted diseases if they have sex with a child.²⁵ Others simply rationalize their actions by convincing themselves that children abroad are less sexually inhibited and believe they are actually helping the child’s family financially.²⁶ Due to these myths, the demand for sex drives up child sex trafficking and child sex tourism.

3. Forced Labor

Many Mexican children are forced into prostitution. Children are a prime target because they are vulnerable, uneducated, and can be easily controlled.²⁷ Too often, parents serve as procurers of those in search of young children due to their need, illiteracy, distress, and lack of employment opportunities.²⁸ Some parents sell their children to sex ring gangs to pay off their debts and get out of economic problems.²⁹ Other parents encourage their children to enter the sex industry in order to keep food on their table.³⁰

²¹ *Stop Sex Trafficking of Children & Young People*, EPCAT, http://ecpat.net/EI/Publications/Trafficking/Factsheet_Mexico.pdf (last visited Nov. 7, 2012).

²² *See Pedophile*, DICTIONARY.COM, <http://dictionary.reference.com/browse/pedophile> (last visited Nov. 7, 2012).

²³ Kathy J. Steinman, *Sex Tourism and the Child: Latin America’s and the United States’ Failure to Prosecute Sex Tourists*, 13 HASTINGS WOMEN’S L.J. 53, 61 (2002).

²⁴ *Id.* at 62.

²⁵ Margaret A. Healy, Note, *Prosecuting Child Sex Tourists at Home: Do Laws in Sweden, Australia, and the United States Safeguard the Rights of Children as Mandated by International Law?*, 18 FORDHAM INT’L L.J. 1852, 1871 (1995).

²⁶ *See Child Sex Tourism*, CHILDTRAFFICKING.COM, http://www.childtrafficking.com/Docs/ecpat_us__child_sex_tourism.pdf; *see also* Steinman, *supra* note 23, at 61.

²⁷ *Stop Sex Trafficking of Children & Young People*, *supra* note 21.

²⁸ Healy, *supra* note 25, at 1869.

²⁹ *La Explotacion Sexual Infantil*, ESPERANZA PARA LA FAMILIA, <http://www.esperanzaparalafamilia.com/Rev/Articulos/PDFs/PDF0153.pdf> (last visited Nov. 7, 2012).

³⁰ Steinman, *supra* note at 23, at 61.

Some of these parents are found under the influence of drugs and alcohol and resort to using their children as a form of good business. These parents live off of the money brought in by the prostitution of their young children, rather than working themselves. Yet other parents place their children in a position where they believe they must help support their family and willingly enter into prostitution.³¹ It is unfortunate that children are forced or feel forced to enter into prostitution.

C. *Parties Involved in Sexual Exploitation*

There are four parties involved in the sexual exploitation of children: perpetrators, procurers, facilitators, and child victims.

1. *Perpetrators*

There is no common profile of the perpetrators who sexually exploit children.³² Perpetrators may be old, young, single, married, blue collar, or white collar men. They come from all social and economic backgrounds.³³ Some may be pedophiles, but most are respectable individuals with careers, jobs, and, at times, family men with children of their own.³⁴ However, the majority of sex tourists are adult males from more developed countries who travel to lesser developed countries where laws are weakly enforced and sex is cheap and readily available. According to recent reports, Americans comprise an estimated twenty-five percent of all sex tourists.³⁵

Perpetrators fall within two categories: they are either preferential abusers or situational abusers. Preferential abusers are those who travel abroad with the primary intent of having sexual relations with children. Whereas situational abusers are those who do not intentionally travel with the purpose to exploit children, but do so out of convenience when the situation arises.³⁶ While preferential abusers are typically pedophiles who travel for the excitement and do it to feed their addiction, the majority of those who pay to sexually exploit children are situational abusers who do not

³¹ *Stop Sex Trafficking of Children & Young People, supra* at 21.

³² *Id.*

³³ *Id.*

³⁴ Steinman, *supra* note 23, at 61; see *Guide to Combating Child-Sex Tourism*, EPCAT, 9 (Oct. 2008) http://www.ecpat.net/ei/Publications/CYP/YP_Guide_to_CST_ENG.pdf.

³⁵ *Child Sex Tourism, supra* note 26.

³⁶ Steinman, *supra* note 23, at 61.

meet the clinical diagnosis of pedophilia.³⁷ Situational abusers typically act on impulse because they are far from home and take the opportunity when it presents itself.³⁸

Most perpetrators rationalize their acts by perceiving their victims as willing participants.³⁹ They convince themselves that they are not abusing or harming the child because the child has chosen that profession.⁴⁰ They justify their actions by assuming that the child consented to the sexual act and they believe that they have in some way contributed to helping the child out of poverty.⁴¹ Sadly, many of these child sex tourists return home with a clear conscience after their trip not realizing that they have committed a crime.⁴²

2. *Procurers and Facilitators*

Facilitators are those who expedite the victimization process and are not directly involved in child prostitution.⁴³ Facilitators “include businesses, governments, and other institutions who receive some benefit from the commercial sex trade.”⁴⁴ For example, hotels are facilitators when they allow pimps to prostitute children on their premises. Likewise, governments are held to be facilitators when they fail to regulate the commercial sex market.⁴⁵

Procurers are essentially pimps who are directly involved in sexual trafficking of children. These individuals extend the services and resources that make sexual trafficking of children practicable and lucrative.⁴⁶ They prey on children and take advantage of the economic situation and poverty of the children and their families. Ultimately, these procurers persuade children and, at times, their family members to allow the child to enter into their employ.⁴⁷ Once under their employ, the pimp forces the child into the

³⁷ Hall, *supra* note 6, at 160-61.

³⁸ *Id.* at 161.

³⁹ Kyle Cutts, *A Modicum of Recovery: How Child Sex Tourism Constitutes Slavery Under the Alien Tort Claims Act*, 58 CASE W. RES. 277, 284 (2007).

⁴⁰ Steinman, *supra* note 23, at 61.

⁴¹ *Id.*

⁴² Cutts, *supra* note 39, at 284.

⁴³ Steinman, *supra* note 23, at 63.

⁴⁴ *The Demand for Sex Tourism*, MODERN INJUSTICE (Aug. 10, 2011), <http://modern-injustice.com/2011/08/10/the-demand-for-sex-tourism/>.

⁴⁵ *Id.*

⁴⁶ Steinman, *supra* note 23, at 62.

⁴⁷ *Id.* at 63.

commercial sex trade by the means of threats, physical violence, and constant fear that they will hurt their families if they fail to comply.⁴⁸

3. *Child Victims*

Over 1,000,000 children worldwide enter the sex trade every year.⁴⁹ Most are girls between ten and eighteen years of age⁵⁰ and are from Latin American countries.⁵¹ Those vulnerable to human sex trafficking are children who live on the streets, who are in refugee camps, whose family lives have been disrupted, and who are neglected.⁵²

In Mexico, it is estimated that approximately 20,000 children are sexually exploited each year.⁵³ The exploitation of these children usually takes place in areas most traveled by tourists, such as resort areas and the northern border of Mexico. These children are often poor, and lured into the sex industry or forced by criminal child trafficking gangs into child prostitution.⁵⁴

II. WHY MEXICO?

Mexico is one of the leading destinations in Latin America for sex tourism.⁵⁵ Furthermore, “Mexico is one of the favored destinations of pedophile sex tourists from Europe and the United States.”⁵⁶ An estimated twenty-five percent of the child sex tourists in the world are from the United States.⁵⁷ Among the reasons that sex tourists travel to Mexico are proximity,

⁴⁸ Luis Brito, *Prosecutor Describes Sexual Exploitation in Mexico City*, CNN WORLD (July 2, 2011, 1:38AM), <http://www.cnn.com/2011/WORLD/americas/07/01/mexico.human.trafficking/index.html>.

⁴⁹ Jonathan Todres, *Prosecuting Sex Tour Operators in U.S. Courts in an Effort to Reduce the Sexual Exploitation of Children Globally*, 9 B.U. PUB. INT. L.J. 1 (1999).

⁵⁰ Steinman, *supra* note 23, at 64.

⁵¹ Ann Barger Hannum, *Sex Tourism in Latin America*, REVISTA: HARVARD REVIEW OF LATIN AMERICA (2002), <http://www/drclas.harvard.edu/revista/articles/view/53>.

⁵² Steinman, *supra* note 23, at 58.

⁵³ Mexico, U.S. DEP'T OF STATE (Mar. 6, 2007), <http://www.state.gov/j/drl/rls/hrrpt/2006/78898.htm>.

⁵⁴ *Child Sex Tourism in Mexico*, TOURISM ONLINE RESOURCE CENTRE, 1, available at <http://torc.linkbc.ca/torc/downloads1/child%20sex%20tourism.pdf> (last visited Nov. 7, 2012).

⁵⁵ *Mexican Sex Traffickers Victimize 10,000 Women Every Year*, *supra* note 17.

⁵⁶ Mexico, FACTBOOK ON GLOBAL SEXUAL EXPLOITATION, <http://www.uri.edu/artsci/wms/hughes/mexico.htm> (last visited on Nov. 7, 2012).

⁵⁷ Taylor, *supra* note 19.

expected anonymity, accessible children, low cost of travel, and the low cost of prostitution.

A. *Travel Expenses & Proximity*

One of the reasons why U.S. Citizens travel to Mexico each year is due to its proximity and affordability. For example, if booked in advance the cost for a sex tourist to take a three night all-inclusive vacation, between December 10, 2012 and December 13, 2012, with hotel and airfare included, from Houston, Texas to Cancun, Mexico, is no more than \$750 per person.⁵⁸ The same vacation from Chicago, Illinois to Acapulco, Mexico is under \$670 for just the airfare.⁵⁹ Moreover, a sex tourist from Texas, Arizona, New Mexico, or California, who is just looking for a day trip to Mexico, can jump in his or her vehicle and drive to Tijuana, Nuevo Laredo, Nogales, Ciudad Juarez, or any of the other U.S. border towns for less than a full tank of gas. Since travel between the U.S. and Mexico is quite inexpensive, American sex tourists fuel the demand for child sex trafficking in Mexico.

B. *The Cost of the Act*

Another reason why Americans travel to Mexico to engage in sex with children is due to the inexpensive cost of having sexual relations with children. It has been reported that men pay anywhere from \$10 to \$50 for intercourse or oral sex with children.⁶⁰ These children are forced to sleep with an average of twenty to thirty men per day, in tiny rooms with a mattress, a trashcan and a curtain as a door.⁶¹ The low cost makes this business continue as clients can afford to keep coming back for more.

III. CONSEQUENCES OF CHILD SEX TOURISM IN MEXICO AND THE U.S.

Child sex tourism is illegal in both the United States and Mexico. There are both physical and criminal consequences that the perpetrator may face if engaged in child sex tourism.

⁵⁸ UNITED VACATIONS, <http://www.unitedvacations.com/home/index.do> (last visited Nov. 7, 2012).

⁵⁹ *Id.*

⁶⁰ Ioan Grillo, *Tourism Fueling Child Sex in Mexico*, HOUSTON CHRONICLE (Dec. 30, 2005), <http://www.chron.com/news/nation-world/article/Tourism-fueling-child-sex-in-Mexico-1558777.php>.

⁶¹ Brito, *supra* note 48.

A. HIV/AIDS

Many perpetrators prefer young child prostitutes over adult prostitutes because they believe that the children have a lower risk of contracting AIDS and other sexually transmitted diseases.⁶² However, research has found that children are more vulnerable to infection of sexually transmitted diseases.⁶³ Experts believe that child prostitutes are more likely to carry the HIV virus than adults.⁶⁴ There is no telling how many child prostitutes worldwide have been infected with HIV, but estimates suggest they are in the millions.⁶⁵ Child prostitutes have weaker immune systems, underdeveloped bodies, and a proneness to injuries and lesions during sexual relations, making the probability of contracting HIV even higher.⁶⁶

Additionally, due to the limited or nonuse of condoms among child prostitutes, children are also susceptible to sexually transmitted diseases such as herpes, chlamydia, crabs, gonorrhea, and syphilis.⁶⁷ Due to the lack of concern by their pimps many of these children fail to be routinely examined at clinics or take any precautions to prevent such diseases.⁶⁸ As a result, the child prostitutes wind up spreading HIV/AIDS and sexually transmitted diseases to their clients, the perpetrators, without knowing. Therefore, a single infected child who serves twenty to thirty clients per day may pass HIV or a sexually transmitted disease to thousands of perpetrators per year.

B. Criminal Penalties in Mexico and Lack of Enforcement

It was not until January 2000 that the Mexican government first enacted a law declaring sex tourism to be a crime.⁶⁹ In 2006, there was a reform in the Mexican Federal Penal Code which established punishment of up to fourteen years of prison for sexually exploiting a minor.⁷⁰ In 2007,

⁶² R. Barri Flowers, *The Sex Trade Industry's Worldwide Exploitation of Children*, 575 ANNALS AM. ACAD. POL. & SOC. SCI. 147, 153 (2001).

⁶³ *Travel with Care –Care For Children*, EPCAT, http://www.itb-berlin.de/media/itb/itb_media/itb_pdf/ECPAT_en.pdf (last visited Nov. 7, 2012).

⁶⁴ Steinman, *supra* note 23, at 64.

⁶⁵ Flowers, *supra* note 62, at 152.

⁶⁶ *Id.* at 153.

⁶⁷ *Id.*

⁶⁸ Steinman, *supra* note 23, at 64.

⁶⁹ Joanna Doerfel, *Regulating Unsettled Issues in Latin America Under the Treaty Powers and the Foreign Commerce Clause*, 39 U. MIAMI INTER-AM. L. REV. 331, 375 (2008).

⁷⁰ *Stop Sex Trafficking of Children & Young People*, *supra* note 21.

additional reforms were made to Mexico's Federal District Penal Code which denied a reduction of sentence time for crimes related to pornography, human trafficking, corruption, sex tourism, sexual exploitation, and labor exploitation.⁷¹ Ultimately, in November 2007, the President of Mexico passed laws to prevent and punish human trafficking.⁷²

While it appears that Mexico has taken positive and proactive steps in its legal system within the last fifteen years to address sexual exploitation and sex tourism within its country, Mexican officials fail to enforce and prosecute under its laws, making them practically nonexistent. For example, in the year 2011 there were only forty investigations of human trafficking and three convictions in Mexico City.⁷³ None of the investigations or convictions involved sex tourism. This is in a city where there are estimated 10,000 women who are victims of human trafficking.⁷⁴ In 2011, for the first time, the Attorney General's Office of the Special Prosecutor for Organized Crime in Mexico obtained a conviction and sentence for a human trafficking crime.⁷⁵ In this rare conviction, a Mexican judge sentenced four men involved in a human trafficking case to sixteen to eighteen years in prison.⁷⁶ Presently, no convictions have been reported in regards to sex tourism.

Nevertheless, on July 14, 2011, a move towards enforcement was made by Mexico's President, Felipe Calderon, when he approved two changes to Mexico's Constitution to combat human trafficking.⁷⁷ The first change

⁷¹ *The CDHDF Presented the Special Report on the Commercial and Sexual Exploitation of Children in the Federal District*, COMMISSION DE DERECHOS HUMANOS DEL DISTRITO FEDERAL (Aug. 9, 2007), <http://portaldic10.cd hdf.org.mx/index.php?id=pibol15507> (stating that "The Sub-Secretary of the GDF, Juan José García Ochoa, stated that the Government of the capital city will publish the reforms to the Federal District Penal Code in the Official Journal of the Federal District next week. These reforms deny the reduction of sentence, when the participation in the carrying out of the crimes related to pornography, people trafficking, corruption and sexual tourism is substantiated. He pointed out that penal classifications have also been modified and that the sentences for crimes against the morals of children or of those who are not able to understand the meaning of the incident.").

⁷² Procuraduría General de La República, *Primera Seccion Acuerdo A/024/08*, DIARIO OFICIAL (Jan. 31, 2008), available at <http://www.pgr.gob.mx/Servicios/Normateca/Documentos/ACUERDOS/08/A-024-08.pdf>.

⁷³ *Study Finds 'Alarming' Human Trafficking Figures in Mexico's Capital*, CNN WORLD (May 26, 2011), http://articles.cnn.com/2011-05-26/world/mexico.human.trafficking_1_human-trafficking-trafficking-and-sexual-exploitation-mexico-city?_s=PM:WORLD.

⁷⁴ *Id.*

⁷⁵ *Mexican Judge Sentences 4 in Human Trafficking Case*, CNN WORLD (June 28, 2011), <http://thecnnfreedomproject.blogs.cnn.com/2011/06/29/mexican-judge-sentences-4-in-human-trafficking-case/>.

⁷⁶ *Id.*

⁷⁷ *Mexico changes constitution to combat human trafficking*, CNN (July 14, 2011, 10:06 AM), <http://thecnnfreedomproject.blogs.cnn.com/2011/07/14/mexico-changes-constitution-to-combat-human-trafficking/> ("[O]ne that requires those accused of human trafficking to be imprisoned during trials, and one that guarantees anonymity of victims who denounce the crime."); see Procuraduría General de la República [Attorney General's Office], Decreto por el que se reforman los artículos 19, 20 y 73 de la

requires anyone charged with human trafficking to be imprisoned during their trial.⁷⁸ This change secures the perpetrator and eliminates the risk of an accused fleeing or hiding in order to avoid criminal prosecution. The second change in the Constitution requires and guarantees the concealment of the identity of any victim who denounces the perpetrator and/or the crime.⁷⁹ This change in the Constitution is fundamental as it provides such victims with confidence and security to come forward to accuse their handlers.

Another recent step towards combating human trafficking occurred in April 2012, when Mexico's Congress unanimously passed an anti-human trafficking bill that establishes preventative and punitive measures to aid victims of human trafficking.⁸⁰ President Calderon signed the bill and amendments into law on June 14, 2012.⁸¹ The law allows for sentences of up to forty years for those convicted of sexual exploitation and abuse.⁸² The bill also provides funds to care for the victims.⁸³ More importantly, the law is intended to go after not only people who entrap victims and hold them

Constitución Política de los Estados Unidos Mexicanos [Decree that reforms the articles 19, 20 and 73 of the Constitution of the United Mexican States], CONGRESS OF THE UNION (July 14, 2011), <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Procuraduría General de la República, *Decreto por el que se expide la Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos; y abroga la Ley para Prevenir y Sancionar la Trata de Personas; y reforma diversas disposiciones de la Ley Federal contra la Delincuencia Organizada; del Código Federal de Procedimientos Penales; del Código Penal Federal; de la Ley Orgánica del Poder Judicial de la Federación; de la Ley de la Policía Federal y de la Ley General del Sistema Nacional de Seguridad Pública* [Official Decree enacting the Law on the Prevention, Punishment and Eradication of Crimes on Trafficking in Persons and the Protection and Assistance to Victims of these crimes, and repeals the Act Prevent and Punish Trafficking in Persons, and amend various provisions of the Federal Law against Organized Crime, the Federal Code of Criminal Procedure, the Federal Penal Code of the Organic Law of the Judicial Power of the Federation of the Police Act Federal Law and the National System of Public Security], CONGRESS OF THE UNION (June 14, 2012), http://www.diputados.gob.mx/LeyesBiblio/ref/lgpsedmtp/LGPSEDMTP_orig_14jun12.pdf.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Procuraduría General de la República, *Decreto por el que se reforman y adicionan diversas disposiciones del Código Penal Federal, de la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, de la Ley Orgánica de la Administración Pública Federal y de la Ley Orgánica de la Procuraduría General de la República* [Decree amending and supplementing certain provisions of the Federal Penal Code, the General Law on Women's Access to a Life Free of Violence, of the Organic Law of Federal Public Administration and Organic Law of the Attorney General the Republic], CONGRESS OF THE UNION (June 14, 2012), http://www.diputados.gob.mx/LeyesBiblio/ref/cpf/CPF_ref113_14jun12.pdf.

against their will to exploit them, but also to the perpetrator of sexual services.⁸⁴

Unfortunately, in the past Mexico has failed to utilize its legal system to go after the handlers, pimps, and perpetrators of child sex trafficking. While Mexico has the legislature in place to attack human trafficking, the country currently fails at enforcing laws and using its criminal legal system to charge these individuals. Perhaps the role of the Legislature is to understand how to prosecute these crimes. To date there are very few human trafficking cases reported, with none involving punishment of sex tourists. Hopefully with the recent amendments to the penal code and Mexico's Constitution, law enforcement will be more apt to go after human traffickers and child sex tourists by utilizing Mexico's laws to punish these individuals.

C. *Criminal Penalties in the United States*

Most sex tourists are not arrested in the country where they engage in criminal acts.⁸⁵ As a result of United States legislation, an American sex tourist can now face severe criminal charges in the United States. The PROTECT Act of 2003 was signed into law on April 30, 2003.⁸⁶ The PROTECT Act prohibits "travel with intent to engage in illicit sexual conduct" and engaging in "illicit sexual conduct in foreign places."⁸⁷ It establishes that "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."⁸⁸ The term "illicit sexual conduct" is defined as a sexual act with a person under eighteen years of age or any commercial act with a person under eighteen years of age.⁸⁹

The PROTECT Act does not require "double criminality," meaning the act need not be an offense in both the United States and the destination country.⁹⁰ For example, an American citizen may be prosecuted under the PROTECT Act for having sexual relations with a minor even though the age of consent in the destination country may be significantly lower.

⁸⁴ *Id.*

⁸⁵ Sara K. Andrews, *U.S. Domestic Prosecution of the American International Sex Tourist: Efforts to Protect Children from Sexual Exploitation*, 94 J. CRIM. L. & CRIMINOLOGY 415, 416 (2004).

⁸⁶ 18 U.S.C. § 2423 (2003).

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Hall, *supra* note 6, at 169.

Additionally, the PROTECT Act mandates life imprisonment for repeated sex offenses against children.⁹¹

The PROTECT Act, expanded the basis for criminal liability in various ways: (1) proof of travel with the intent to engage in illicit sexual conduct is no longer required; (2) an attempt to engage in illicit sexual conduct of crimes is now punishable; (3) tour operators face liability; (4) an internet tip-line provides a means to report internet related sexual crimes; and (5) no statute of limitations applies to child sex crimes.⁹²

The PROTECT Act provides domestic punishment for American citizens who escaped arrest in the destination country, would not be prosecuted by domestic authorities, or are extradited back to the U.S. specifically for prosecution.⁹³ As of February 2008, the United States had already convicted sixty-five child sex tourists.⁹⁴ While some may claim that the PROTECT Act violates the Constitution, the act has withstood constitutional challenges. In *United States v. Clark*, the Court of Appeals for the Sixth Circuit held that extraterritoriality is allowed based upon the nationality principle, which permits a country to apply its laws to extraterritorial acts of its own nationals.⁹⁵

Countries like Mexico suffer from underdeveloped legal systems, ineffective laws, and at times unethical law enforcement. The PROTECT Act is a powerful law that is being implemented by our judicial system in order to achieve a means to end sex tourism when Americans are unlikely to be arrested and prosecuted when they commit a sexual offense against a child abroad.

IV. EFFECTS OF CHILD SEX TOURISM ON THE VICTIM

Children that are victims of child sex trafficking suffer from profound physical and psychological effects. Exploited children not only suffer loss of dignity, self-esteem, and confidence, but are also subjected to physical harm, illness, inhumane treatment, and enslavement.⁹⁶

A. *Physical Effects*

⁹¹ *Id.* at 168.

⁹² *Id.* at 167.

⁹³ Cutts, *supra* note 39, at 285.

⁹⁴ *The Facts About Child Sex Tourism*, *supra* note 14.

⁹⁵ *U.S. v. Clark*, 435 F.3d 1100 (6th Cir. 2006).

⁹⁶ Healy, *supra* note 25, at 1873.

The physical consequences that prostituted children suffer include lack of rest, nourishment, and health care.⁹⁷ The physical effects of prostitution are devastating, with the most terrifying health effect being the child's exposure to sexually transmitted diseases, including HIV and AIDS.⁹⁸ Moreover, many female victims involved in prostitution have an increased risk of contracting infectious diseases and of becoming pregnant before they even reach the age of eighteen.⁹⁹ Trafficked children may also suffer from internal injuries and lacerations to the genital area, anus, mouth, and may also have difficulty walking or sitting due to bruises.¹⁰⁰

Many child victims are also prone to being raped, assaulted, robbed, and even killed. As adults, they are susceptible to becoming adult prostitutes, drug addicts, and criminals.¹⁰¹ Many children are kept as sex slaves under the influence of alcohol and drugs as a means of physical and psychological control.¹⁰² In essence, the children are deprived from their support system, basic needs, education, healthcare, and the right to be free from exploitation.¹⁰³

B. *Psychological and Behavioral Effects*

Many child victims also suffer from severe psychological effects such as depression, low self-esteem, post-traumatic stress disorder, and attempted suicide.¹⁰⁴ The victims' psychological effects can last a lifetime.¹⁰⁵ These psychological effects may include panic attacks, sleeping disorders, drug and alcohol abuse, addictions, eating disorders, low self-esteem, self-hatred, traumatic flashbacks, isolation, mental illness, personality disorders, and at times suicide.¹⁰⁶ To cope with their painful reality, many children abuse drugs and alcohol as a means for temporary escape.¹⁰⁷

⁹⁷ *Child Sex Trafficking Victims: Effects of Child Sex Trafficking*, STAIRWAY FOUNDATION INC., <http://stairwayfoundation.org/stairway/index.php/resources/online-resources/child-sex-trafficking-victims> (last visited Nov. 7, 2012) [hereinafter STAIRWAY FOUNDATION INC.].

⁹⁸ Healy, *supra* note 25, at 1873-74.

⁹⁹ Flowers, *supra* note 62, at 153.

¹⁰⁰ STAIRWAY FOUNDATION INC., *supra* note 97.

¹⁰¹ Healy, *supra* note 25, at 1873.

¹⁰² Flowers, *supra* note 62, at 155.

¹⁰³ STAIRWAY FOUNDATION INC., *supra* note 97.

¹⁰⁴ Flowers, *supra* note 62, at 153.

¹⁰⁵ STAIRWAY FOUNDATION INC., *supra* note 97.

¹⁰⁶ *Id.*

¹⁰⁷ *Prostitution, Danger, Causes*, TAKING IT GLOBAL, <http://www.tigweb.org/youth-media/panorama/article.html?ContentID=6183> (last visited Nov. 7, 2012).

Many child prostitutes will not seek help due to their fear of others and authorities.¹⁰⁸ Those who want assistance have a “psychological paralysis” that involves wanting the help, but rejecting it.¹⁰⁹ However, research has shown that once a child seeks out psychological treatment and counseling, it can help reduce the trauma over the child’s lifetime.¹¹⁰

V. EFFORTS TO MAKE A CHANGE

A. Non-Governmental Organizations

Non-Governmental Organizations (NGOs) play a critical role in providing resources for enforcement against sex tourism. ECPAT International is “a global network of organizations and individuals working together to end child prostitution, child pornography, and the trafficking of children for sexual purposes.”¹¹¹ ECPAT Mexico was established in 2002, with its primary focus in children’s rights and raising awareness of child human trafficking.¹¹² ECPAT Mexico provides educational brochures, materials, reports, and news articles about child sex tourism. For example, ECPAT Mexico provides training materials to the community, such as *The Training Guide to Combating the Trafficking in Children for Sexual Purposes* and *Upholding the Right of Children to Live Free from Commercial Sexual Exploitation: Interventions and Recommendations*, while also providing materials to victims of child sex tourism in the *Young Person’s Guide to Child Sex Tourism*.¹¹³ Their focus is on eliminating child sex tourism throughout the country. The organization continuously works on promoting legal reform, raising awareness through the mass media, conducting workshops, and participating in training prosecutors in Mexico.¹¹⁴

Another NGO in Mexico, which has been successful at advocating law and protecting children’s rights, is Casa Alianza Mexico. Casa Alianza

¹⁰⁸ *Prostitution*, THE UNIVERSITY OF HAWAII SYSTEM, <http://www.hawaii.edu/hivandaids/Prostitution%20Statistics%20IL.pdf> (last visited Nov. 7, 2012).

¹⁰⁹ *Id.*

¹¹⁰ STAIRWAY FOUNDATION INC., *supra* note 97.

¹¹¹ *Vision and Mission*, ECPAT, http://www.ecpat.net/EI/Ecpat_vision.asp (last visited Nov. 7, 2012).

¹¹² *Quienes Somos*, ECPAT MEXICO, <http://www.ecpatmexico.org.mx/Qsomos.html> (last visited on July 26, 2012).

¹¹³ *Publications*, ECPAT, http://www.ecpat.net/ei/EI_publications.asp (last visited Nov. 7, 2012).

¹¹⁴ STAIRWAYS FOUNDATION INC., *supra* note 97.

Mexico was established in 1988.¹¹⁵ This organization provides care and protection to girls and boys who have been victims of neglect, abuse, abandonment, addiction, sexual exploitation, and human trafficking. Casa Alianza Mexico has six residential centers within the nation that house up to eighty children, seventeen teen moms, and twenty-four babies per night.¹¹⁶ The goal of Casa Alianza Mexico is to prepare the child for life after leaving its facility by implementing life plans for each child. Casa Alianza also created a groundbreaking twenty-four hour toll-free crisis hotline, Acercatel, which serves children and youth in crisis throughout Mexico.¹¹⁷ It has been reported that Acercatel receives around 30,000 calls a year from children and teenagers between the ages of five and eighteen, with most cases being children who have been abused or exploited.¹¹⁸ At the time, Acercatel was a groundbreaking service program in Mexico. It continues to provide children with the confidentiality to talk through problems and receive the love and support of a trained counselor.

The Mexican government needs to collaborate with NGOs, such as EPCAT Mexico and Casa Alianza Mexico, which have played an important role in forming and executing strategies to prevent child sex tourism. These NGOs have been successful in advocating the passage of new legislation regarding human trafficking and encouraging law enforcement officials to enforce the law. Pedophiles, tour operators, and those who profit from child sex tourism will be deterred from continuing their illegal actions only when it is made clear that they will be prosecuted.

B. *Need for Foreign Campaigns and Training*

The Mexican Government should acknowledge the depth of human trafficking and sex tourism within its country, especially since children are involved. The Government should allocate more resources to detect human trafficking and generate social awareness about child trafficking to prevent children from being forced into the sex industry. More importantly, they should focus on providing law enforcement officers with adequate training on how to detect victims and manage sex tourism cases. Overall, the country should implement national awareness of child trafficking and child sex tourism in order for communities to identify and help the victims.

¹¹⁵ Casa Alianza Overview, CASA ALIANZA, <http://www.casa-alianza.org/casas/mexico> (last visited Nov. 7, 2012).

¹¹⁶ *Id.*

¹¹⁷ Programas Acercatel, CASA ALIANZA MEXICO, <http://casa-alianzamexico.org/acercatel.html> (last visited Nov. 7, 2012).

¹¹⁸ *Id.*

VI. CONCLUSION

Child sex tourism must stop. According to the *Trafficking in Persons Report of 2012*, Mexico is a Tier 2 country, meaning it does not fully comply with the Trafficking Victims Prevention Act's minimum standards.¹¹⁹ However, Mexico is making significant efforts to end child sex tourism by passing legislature, allocating funds, and raising public awareness. As a result of Mexico's struggling economy and the recent overwhelming violence by drug-gang wars, Mexican officials have little to no time to target human trafficking crimes, specifically sex trafficking cases.¹²⁰ Thus, the United States may be better equipped to regulate extraterritorially to protect Mexican children. Since American tourists are committing these crimes, the United States should continue its efforts to regulate and punish these individuals when possible. Essentially, the United States and Mexico must combine forces in an attempt to eliminate child sex tourism in Mexico.

¹¹⁹ *Trafficking in Persons Report 2012*, U.S. DEP'T OF STATE (June 19, 2012), <http://www.state.gov/secretary/rm/2012/06/193368.htm>.

¹²⁰ Jim Forsyth, *Sex Tourism Takes Hold in Mexico*, WOAI LOCAL NEWS (Oct. 3, 2010), <http://radio.woai.com/cc-common/news/sections/newsarticle.html?feed=119078&article=7669582>.