

# **Child Sexual Exploitation Compels a Multifaceted Analysis: Refining the Supply and Demand Approach**

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## I. Introduction

Sexual exploitation of children is a pervasive problem that exists both domestically and worldwide. Millions of our youth are victims<sup>1</sup> of sex trafficking and sexual exploitation each year. As of 2004, according to the United States (U.S.) State Department, 600,000 to 800,000 people are trafficked across international borders every year, eighty percent of who are female and more than half of whom are children.<sup>2</sup> These child victims are often trafficked into the sex trade, forced into prostitution, forced into pornography, or bound to other commercial sexual services.<sup>3</sup> It is crucial to note that numbers presented by the U.S. State Department do not include child victims who were already serving as sex slaves prior to the report.<sup>4</sup> In fact, one study estimates that as many as 325,000 children in the U.S., Canada, and Mexico alone are at risk each year of becoming victims of sexual exploitation.<sup>5</sup> Furthermore, the International Labor Organization and the U.S. State Department estimate that there are more than twelve million people (both children and adults) forced into labor and sexual servitude worldwide.<sup>6</sup>

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<sup>1</sup> Victims are legally defined by the Trafficking Victims Protection Act (TVPA) as “people subjected to the following acts or practices: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; . . . the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subsection (a)(1); . . . or the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” 22 U.S.C. §§ 7102(9), (10), (14), (15) (2000).

<sup>2</sup> See *Trafficking in Persons Report*, U.S. DEP’T OF STATE 6 (June 10, 2004), <http://www.state.gov/documents/organization/34158.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> R. Estes & N. Weiner, *Commercial Sexual Exploitation of Children in the U.S., Canada, and Mexico*, UNIV. OF PA, (Feb 20, 2002), [https://www.thenightministry.org/070\\_facts\\_figures/030\\_research\\_links/060\\_homeless\\_youth/CommercialSexualExploitationofChildren.pdf](https://www.thenightministry.org/070_facts_figures/030_research_links/060_homeless_youth/CommercialSexualExploitationofChildren.pdf).

<sup>6</sup> *Trafficking In Persons: Coercion in a Time of Economic Crisis*, U.S. DEP’T OF STATE, BUREAU OF PUB. AFFAIRS, (Jun. 16, 2009), <https://www.state.gov/documents/organization/125091.pdf>.

The topic of child sexual exploitation has received increasing attention in recent years as a result of several high-profile cases, modern research data, and several policy initiatives aimed at tailoring the roles and responsibilities of certain governmental agencies. Yet, knowledge and awareness of child sexual exploitation is still somewhat in its infancy. Although various governments have taken a number of productive steps, including adoption of international conventions and major legislation, the impact of these measures remains unclear. There is sparse, anecdotal, not statistical, evidence as to whether these strides have actually informed the public or benefited children suffering from or at risk of sexual exploitation.

One approach that has received increasing attention is the supply and demand model. Supply and demand, often termed “End Demand Efforts,”<sup>7</sup> takes an economical approach to curing sex trafficking as a whole. The crux of this model focuses on ending the demand for commercial sex, while humanizing improvement efforts on the supply side of the continuum. While not all agree, the supply and demand approach has its benefits. Yet, much more can be done to curb the effects of child sexual exploitation. This article focuses on refining the supply and demand analysis to incorporate a multidimensional evaluation of child sexual exploitation. While sex trafficking and sexual exploitation impacts both adults and children, the focus here is child victims. Moreover, this article does not differentiate between international or domestic efforts. Rather the accompaniments to the supply and demand model outlined in this article apply both in the U.S. and abroad.

Part I discusses generally the sexual exploitation of children in reference to the supply and demand model. It

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<sup>7</sup> See Catharine A. MacKinnon, *Trafficking, Prostitution, and Inequality*, 46 HARV. C.R.-C.L. L. REV. 271, 281-82 (2011) [hereinafter Mackinnon, *Trafficking, Prostitution, and Inequality*]; see also Donna M. Hughes, *Best Practices to Address the Demand Side of Sex Trafficking*, UNIV. OF R.I. (2004).

pinpoints shortfalls within the supply and demand approach; namely, over-criminalization of sex buyers, lack of rehabilitative programs and other abolitionist views.<sup>8</sup> Part I argues that ‘end demand’ efforts alone will not solve the child sexual exploitation problem, but rather that child sexual exploitation requires a multifaceted stance. Part II focuses on the demand for commercial sex and related root causes. It defines the demand, revealing the impactful nature of sex buyers to the child sexual exploitation equation. It discusses the various counterparts of the sex industry, which fuel the demand for commercial sex. Specifically, it identifies factors that make child victims’ easy targets in supplying the demand for commercial sex. Part III examines the supply-side—social, political, cultural, and economic elements that make certain populations more vulnerable than others. It argues for vast social, political, and cultural improvements both in America and across the world. Lastly, part IV fills in gaps to the supply and demand approach. It proposes legal, tactical, and policy imperatives aimed at destroying this mortifying institution. These auspicious practices serve as suggestions to progress the supply and demand approach in effort to eradicate child sexual exploitation. The focus is to build upon the supply and demand method by incorporating added rehabilitation for sex buyers and additional support and aid for child victims. One common goal amongst all is informing the public and key personnel, as well as improving services to this particularly vulnerable population.

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<sup>8</sup> A buyer is: “a person who solicits or engages in, or attempts to engage in commercial sex acts with a [victim]. This includes buyers . . . attempting to buy sex acts with a [victim], buyers who directly solicited a [victim] to engage in commercial sex, and buyers who purchased or attempted to purchase sex acts with a [victim] through a third person.” See *Demanding Justice Project Benchmark Assessment Report 2013*, SHARED HOPE INT’L 22 (2013), <http://sharedhope.org/wp-content/uploads/2013/11/Demanding-Justice-Project-Benchmark-Assessment-Report-2013.pdf> [hereinafter *Demanding Justice*] (citing a research study that found that 99% of buyers were males and approximately 78% of victims were female).

## II. Supply and Demand: A General Discussion of the Economics of Child Sexual Exploitation

The slavery of children for sexual services has existed since the dawn of civilization. Although various forms of slavery existed before the 1400s, the 1400s marked the beginning of the European slave trade in Africa.<sup>9</sup> Throughout the 1600s, other countries such as France, Sweden, and Denmark became heavily involved in the slave trade.<sup>10</sup> These marks in our history demonstrate that human trafficking, which involves the enslaving of children for sexual services, is not a novel concept. In fact, it is one of the world's oldest enterprises, an enterprise that continues to grow every day.<sup>11</sup>

Child sexual exploitation may take different forms including “sexual activity for money, sexual activity in return for drugs or alcohol, sexual activity in return for protection, the production and distribution of sexual images, sexually exploitative relationships, and trafficking for the purposes of sexual exploitation.”<sup>12</sup> An individual, network of abusers or organized group, or even family members may commit the abuse.<sup>13</sup> Additionally, while child sexual exploitation has traditionally been recognized as adult on child abuse, peer-to-peer exploitation is also an issue of increasing concern, especially within the recruiting context.<sup>14</sup>

Throughout recent decades, the international legal community has debated, defined, and redefined the definition of child sexual exploitation. The precise definition for sex trafficking, a very related concept, has confronted the same

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<sup>9</sup> See Patricia Yong, *Timeline of Human Trafficking*, RUTGERS UNIV. CAMPUS COALITION AGAINST TRAFFICKING (2011), <http://www.eden.rutgers.edu/~yongpatr/425/final/timeline.htm>.

<sup>10</sup> *Id.*

<sup>11</sup> See generally Amanda Walker-Rodriguez & Rodney Hill, *Human Sex Trafficking*, FED. BUREAU OF INVESTIGATION (Mar. 2011), <https://leb.fbi.gov/2011/march/human-sex-trafficking>.

<sup>12</sup> See Estes & Weiner, *supra* note 5.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

tussle. Yet, the United Kingdom (UK) National Working Group for Sexually Exploited Children and Young People (NWG) has proffered the following definition:

“Sexual exploitation of children and young people under eighteen involves exploitative situations, contexts, and relationships where young people (or a third person or persons) receive something (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc.) as a result of them performing, and/or another or others performing on them, sexual activities.”<sup>15</sup>

In all exploitation cases, those persons exploiting children have power over them by virtue of their age, gender, intellect, physical strength, and/or economic or other resources.<sup>16</sup> Violence, coercion, and intimidation are common in exploitative relationships, where the child has limited availability of choice resulting from their social, economic, and emotional vulnerabilities.<sup>17</sup> The UK’s detailed description of child sexual exploitation has received wide acceptance in the international legal community and serves as statutory guidance within the UK.<sup>18</sup>

The U.S., on the other hand, defines child sexual exploitation through criminal statute, where federal law defines the acts that constitute sexual exploitation of children. U.S. federal law criminalizes “any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in . . . any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct.”<sup>19</sup> U.S. federal law also defines sex trafficking as:

“the recruitment, harboring, transportation,

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<sup>15</sup> NWG NETWORK, <http://www.nwgnetwork.org> (last visited Dec. 27, 2016).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> 18 U.S.C.S. § 2251 (LexisAdvance 2016).

provision or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such an act has not attained eighteen years of age.”<sup>20</sup>

Facially, it appears the UK takes a more holistic approach in defining child sexual exploitation and there is strong evidence that the UK has dealt with issues of child sexual exploitation much longer than the U.S.<sup>21</sup> While there is no empirical data to this point, many scholars believe that criminalizing the sexual exploitation of children is not the answer to purging this problem.<sup>22</sup> These scholars attack the ‘end demand’ model and favor the UK’s holistic approach, where education, policy, and programs are paramount.<sup>23</sup>

The supply and demand or ‘end demand’ approach is simple economics: if no demand exists, then supply is unnecessary. In evaluating the supply and demand concept, many countries have crafted legal frameworks and programs that focus on shaming and punishing johns<sup>24</sup> in an effort to discourage them from buying sex.<sup>25</sup> These efforts often refer to the persuasive need to end demand for commercial sex, as a leading way to combat the sex trafficking industry.<sup>26</sup> For

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<sup>20</sup> 22 U.S.C.S. § 7101 (LexisAdvance 2016).

<sup>21</sup> See generally NWG NETWORK, *supra* note 15.

<sup>22</sup> Benjamin J. Vernia, Annotation, *Validity, Construction, and Application of State Statutes or Ordinances Regulating Sexual Performance by Child*, 42 A.L.R.5TH 291, 5–6 (2011).

<sup>23</sup> *Id.*

<sup>24</sup> This Article refers to men who buy sex as “johns.” Few believe that referring to buyers of sex as “johns” gives them a “common real man’s name,” which problematically gives buyers of sex the “true privacy of anonymity.” See Mackinnon, *Trafficking, Prostitution, and Inequality*, *supra* note 7.

<sup>25</sup> *Id.*

<sup>26</sup> Illvi Joe-Cannon, *Primer on the Male Demand for Prostitution*, COALITION AGAINST TRAFFICKING IN WOMEN 15-16 (2006), <http://action.web.ca/home/catw/attach/PRIMER.pdf> [hereinafter CATW, *Primer on the Male Demand for Prostitution*].

example, Sweden's Sex Purchase Act of 1999 made it a criminal offense to buy, but not sell sex.<sup>27</sup> Sweden essentially prosecutes pimps and buyers, but does not prosecute prostitutes or like victims.<sup>28</sup> The Swedish model is the most well known method for punishing buyers while protecting commercial sex victims.<sup>29</sup> This approach has enabled Sweden to nearly eradicate street prostitution—a reduction of eighty percent in ten years.<sup>30</sup> Shadowing Sweden, countries such as Norway and Iceland have adopted similar legislation and policy.<sup>31</sup>

However, criminalization alone will not cure the problem. While the 'end demand' approach through criminalization of sex buyers makes economic sense, the intricacies of child sexual exploitation require a much more holistic and complex analysis. This analysis demands less criminalization predicated upon successful completion of intensive rehabilitative programs. Rehabilitative programs designed to educate johns on the ramifications of their actions in purchasing commercial sex should serve as the primary emphasis for such programs. Intensive therapy, group mentorship, and other behavioral-improvement policies are also imperative in phasing sex buyers back into productive components of society. Likewise, the notion that men who buy sex are disproportionately deviant, violent, and abusive deserving of severe punishment is fatally flawed. Such abolitionist views fail to account the multifarious nature of the

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<sup>27</sup> See, e.g., H.R. 2805, 113th Cong. (1st Sess. 2013); S. 1354, 113th Cong. (1st Sess. 2013); 18 U.S.C. § 1591 (entitled "Sex trafficking of children or by force, fraud, or coercion"). See generally *Swedish Law on Prostitution*, PROSTITUTION RES. & EDUC. (2013), <http://prostitutionresearch.com/topic/swedish-law-on-prostitution/> (providing various articles on the Swedish model). But see Stephanie M. Berger, Note, *No End in Sight: Why the "End Demand" Movement Is the Wrong Focus for Efforts to Eliminate Human Trafficking*, 35 HARV. J.L. & GENDER 523, 548-550 (2012) (criticizing the Swedish model).

<sup>28</sup> See generally *Swedish Law on Prostitution*, PROSTITUTION RESEARCH & EDUC. (2013), <http://prostitutionresearch.com/topic/swedish-law-on-prostitution/>.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

sex industry. Moreover, such adversarial approaches do not consider the aftermath. Without rehabilitation, it is highly possible that johns will return to purchasing commercial sex—restoring the demand.

### III. The Demand for Commercial Sex

There are numerous root causes of child sexual exploitation and they often differ from one country to another, region-to-region, and state-to-state. Child sexual exploitation is a complex situation influenced by cultural, economic, social, and other factors. There are, however, common root causes that have been identified in a wide range of cases, most notably the demand for sexual services performed by children. Demand remains the principal root cause of child sexual exploitation.

#### A. Demand

“The male demand for . . . prostitution is the most immediate cause of the expansion of the sex industry without which it would be highly unprofitable for pimps and traffickers to seek out a supply of women. It is indisputable that a prostitution market without male consumers would go broke.”<sup>32</sup> The sex industry “operates under a well-established business model”<sup>33</sup>: suppliers (traffickers), supply (child victims), and demand (sex buyers). Akin to all markets, child sexual exploitation is driven by demand: when demand increases, supply grows to meet the demand.<sup>34</sup> Buyers are the driving force behind child sexual exploitation because they create the demand.<sup>35</sup> The buyer demands from the pimp, the

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<sup>32</sup> CATW, *Primer on the Male Demand for Prostitution*, *supra* note 26.

<sup>33</sup> *Who We Are*, GLOBAL CENTURION FOUND., <http://www.globalcenturion.org/about/> (last visited Jan. 29, 2017) [hereinafter GLOBAL CENTURION].

<sup>34</sup> *Demanding Justice*, *supra* note 8.

<sup>35</sup> Melissa Farley et al., *Comparing Sex Buyers With Men Who Don't Buy Sex: "You Can Have A Good Time With The Servitude" Vs. "You're Supporting A System Of Degradation"* (Jul. 15 2011),

pimp demands from the trafficker, and the trafficker provides the supply—child victims. Accordingly, addressing demand is the most immediate way to end child sexual exploitation.

Sex trafficking and commercial sexual exploitation are highly lucrative enterprises. In fact, the demand for commercial sex is so great reports show that the industry earns approximately \$9.8 billion a year in the U.S. alone and \$32 billion globally.<sup>36</sup> In the U.S., revenue spikes on the annual celebration of the Super Bowl, a day Texas Attorney General Greg Abbot declares is the “single largest human trafficking incident in the U.S.”<sup>37</sup> To further illustrate, the Florida Commission Against Human Trafficking estimated that “tens of thousands of women and minors” were brought into Miami to meet the increased demand during the 2010 Super Bowl.<sup>38</sup> During the 2011 Super Bowl, there were 133 arrests for sex with minors.<sup>39</sup>

These alarming reports reveal an absolute tragedy has formed from an American tradition. The masculine, inebriating setting of the Super Bowl boosts the demand for young children. Given such disturbing statistics, many have supported the ‘end demand’ approach.

Certain counterparts of the sex industry generate the overall demand for commercial sex. Demand stems from sex trafficking, sex tourism, prostitution and pornography.

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<http://www.prostitutionresearch.com/pdfs/Farleyetal2011ComparingSexBuyers.pdf>.

<sup>36</sup> *Domestic Minor Sex Trafficking in the U.S.*, SHARED HOPE INT’L 1 (2012),

<http://sharedhope.org/wp-content/uploads/2013/11/DMSTinfographic.pdf>.

<sup>37</sup> See Rick Jervis, *Child Sex Rings Spike During Super Bowl Week*, USA TODAY (Feb. 1, 2011), [http://www.usatoday.com/news/nation/2011-01-31-child-prostitution-super-bowl\\_N.htm](http://www.usatoday.com/news/nation/2011-01-31-child-prostitution-super-bowl_N.htm).

<sup>38</sup> *Id.*

<sup>39</sup> See Mark Latonero, *Human Trafficking Online*, USC ANNENBERG SCHOOL FOR COMMUNICATION & JOURNALISM 24 (Sep. 2011), [https://technologyandtrafficking.usc.edu/files/2011/09/HumanTrafficking\\_FINAL.pdf](https://technologyandtrafficking.usc.edu/files/2011/09/HumanTrafficking_FINAL.pdf).

### B. Sex Trafficking/Tourism

A sizable number of sexually exploited children are victims of sex trafficking.<sup>40</sup> A victim of sex trafficking is “a person subjected to an act or practice of sex trafficking or severe forms of trafficking in person.”<sup>41</sup> It is often the case that an exploiter seeks out a particularly vulnerable victim, one that he can convince of his false promises. After transporting the victim, the trafficker, achieves control by relaying to the victim that he has paid significant recruitment and travel fees to transport the victim, making the victim highly indebted to the trafficker or other intermediaries.<sup>42</sup> Though, binding victims does not stop there. Traffickers will debit victims for all sorts of expenses, such as housing, food, and even compensation to their families.<sup>43</sup> This situation is referred to as debt bondage or debt slavery.<sup>44</sup> Debt bondage means “the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”<sup>45</sup>

All too often, individual stories of sex trafficking victims are buried beneath a multitude of statistics. These stories are frightening and horrifying, but help bring context to this research. Take for instance Ayesha’s story. Ayesha, a young Indian girl, was exploited and forced into sex slavery by a man she loved.<sup>46</sup> She recounted for reporters how she

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<sup>40</sup> *See Id.*

<sup>41</sup> 22 U.S.C.S. § 7101 (LexisAdvance 2016).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Human Trafficking Glossary of Terms*, A.B.A., [http://www.americanbar.org/content/dam/aba/multimedia/trafficking\\_task\\_force/FAQ/ABA\\_TF\\_HT\\_GLOSSARY.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/multimedia/trafficking_task_force/FAQ/ABA_TF_HT_GLOSSARY.authcheckdam.pdf).

<sup>46</sup> *Survivor Stories: Ayesha*, EQUALITYNOW.ORG, <http://www.equalitynow.org/survivorstories/ayesha> (last visited Jan. 29,

was “broken in” (tamed or trained to obey)<sup>47</sup>: “to break me in, I was raped several times a night for nearly a month before the madam started selling me to men for money.”<sup>48</sup> It was typical for Ayesha to service ten to twelve buyers every night, performing various sexual acts.<sup>49</sup> Ayesha woefully told reporters, “I’ve been tortured and abused, and survived serious injuries inflicted by buyers and pimps, but nothing hurts as much as the pain of being deceived by the man I loved.”<sup>50</sup>

Across the world, lives a young Mexican native, Karla Jacinto. Karla met her boyfriend when she was only twelve years old.<sup>51</sup> Unbeknownst to Karla, her boyfriend was a pimp working as a member of an international organized crime ring.<sup>52</sup> He forced her into a life of prostitution and violence.<sup>53</sup> For four years, she was pimped throughout Mexico and required to service thirty men a day.<sup>54</sup> By the time she was sixteen, she could recall being raped more than 43,200 times.<sup>55</sup>

Ayesha and Karla were victims of what is known as the “Romeo Pimp” method.<sup>56</sup> Under this method, the exploiter will approach his victim initially as a lover, shower her with gifts and attention until he becomes her boyfriend, and over time, the relationship deteriorates until he finally pressures

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2017).

<sup>47</sup> *Broken In Definition*, THEFREEDICTIONARY.COM, <http://www.thefreedictionary.com/broken+in> (last visited Jan. 29, 2017).

<sup>48</sup> *Survivor Stories: Ayesha*, *supra* note 46.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Rafael Romo, *Human trafficking survivor: I was raped 43,200 times*, CNN (Nov. 10, 2015), <http://www.cnn.com/2015/11/10/americas/freedom-project-mexico-trafficking-survivor/>.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> See Alyssa Daniels, Note, *Limping Toward Decriminalization: The Case Act, De Facto Decriminalization of Domestic Minor Sex Trafficking Victims, and 2-Way CCTV*, 88 S. CAL. L. REV. 1421 (2015).

her into sex trafficking.<sup>57</sup> Conversely, the “Gorilla (or Guerilla) Pimp” method uses violence and fear from the very outset of the relationship; these traffickers will seek out vulnerable children in homeless shelters, schools, group homes, and shopping malls, among other places.<sup>58</sup> They will immediately impose violence upon them, hook them to drugs and alcohol, and prostitute them.<sup>59</sup>

### C. Prostitution/Pornography

Prostitution plays a unique role in the sex industry as it generates a significant demand for commercial sex. However, the term “prostitution” is quite misleading because children are not prostitutes—they are victims, unlike some adults who make a conscious choice to engage in commercial sex. Thus, this article is limited to the analysis of child prostitution.

It is now well settled, following the U.S. Supreme Court’s decision in *New York v. Ferber*,<sup>60</sup> that the First Amendment to the U.S. Constitution provides no protection to sexually explicit visual depictions of children.<sup>61</sup> Images of child pornography are not protected under First Amendment, and are illegal contraband under federal law.<sup>62</sup> The courts have largely based this conclusion on the states’ compelling interest in protecting children from sexual exploitation and its emotional, physical, and psychological harms.<sup>63</sup> U.S. federal law has taken a stark approach to child pornography by developing strict laws with harsh penalties.

U.S. Code defines child pornography as “any visual depiction of sexually explicit conduct involving a minor

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<sup>57</sup> *Id.*

<sup>58</sup> See Jill Goodman & Dorchen A. Leidholdt, *Lawyer’s Manual on Human Trafficking: Pursuing Justice for Victims* 143 (2013), <https://www.nycourts.gov/ip/womeninthecourts/pdfs/lmht.pdf>.

<sup>59</sup> *Id.*

<sup>60</sup> *New York v. Ferber*, 458 U.S. 747 (1982).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

(someone under eighteen years of age).”<sup>64</sup> Federal law also prohibits the production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce.<sup>65</sup> Section 2251 of Title 18, U.S. Code, makes it illegal to persuade, induce, entice, or coerce a minor to engage in sexually explicit conduct for purposes of producing visual depictions of that conduct.<sup>66</sup> Section 2251A of Title 18, U.S. Code, specifically prohibits any parent, legal guardian or other person in custody or control of a minor under the age of eighteen, to buy, sell, or transfer custody of that minor for purposes of producing child pornography.<sup>67</sup> Lastly, Section 2260 of Title 18, U.S. Code, prohibits any persons outside of the U.S. to knowingly produce, receive, transport, ship, or distribute child pornography with intent to import or transmit the visual depiction into the U.S.<sup>68</sup>

A violation of federal child pornography law is a serious crime and is accompanied by severe statutory penalties. A first time offender convicted of producing child pornography faces fines and a statutory minimum of fifteen years to thirty years maximum in prison.<sup>69</sup> A first time offender convicted of transporting child pornography in interstate or foreign commerce faces fines and a statutory minimum of five years to twenty years maximum in prison.<sup>70</sup> Convicted offenders may face harsher sentences if they have prior convictions or if the child pornography offense occurred in aggravated situations such as the images being violent, sadistic, or masochistic in nature, the minor was sexually abused, or the offender has prior convictions for child sexual exploitation.<sup>71</sup> If any of these aggravated circumstances apply,

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<sup>64</sup> 18 U.S.C.S. § 2256 (LexisAdvance 2016).

<sup>65</sup> See 18 U.S.C.S § 2251; 18 U.S.C.S § 2252; 18 U.S.C.S § 2252A (LexisAdvance 2016).

<sup>66</sup> 18 U.S.C.S § 2251 (LexisAdvance 2016).

<sup>67</sup> 18 U.S.C.S § 2251A (LexisAdvance 2016).

<sup>68</sup> 18 U.S.C.S § 2260 (LexisAdvance 2016).

<sup>69</sup> 18 U.S.C.S § 2251 (LexisAdvance 2016).

<sup>70</sup> 18 U.S.C.S § 2252 (LexisAdvance 2016).

<sup>71</sup> *Id.*

the convicted offender may face a maximum of life imprisonment.<sup>72</sup> While severe federal penalties hold great deterrence value, the law fails to account for other measures, such as rehabilitating the offender and providing substantial aid to the victims. To effectuate the ‘end demand’ movement, prosecutorial agencies should seek out rehabilitative options for offenders.

Furthermore, the advent of new technology aids the production of child porn.<sup>73</sup> New tools and technologies have formed a transformation in communication, contact, media delivery, and access to information.<sup>74</sup> This new technology aids commercial sexual exploitation of children locally, nationally and transnationally.<sup>75</sup> The Internet offers boundless possibility and an enormous opportunity for children to learn and engage with their communities, connect to the world, and to advance their knowledge. However, it is unfortunate that the growth of the Internet has also made methods of child sexual exploitation more convenient for exploiters, providing them with technologies that facilitate their crimes against children.<sup>76</sup> Advancing technology facilitates the following activities: production, distribution, and use of materials depicting child sexual abuse, online solicitation (often called “grooming”), exposure to materials that are detrimental to a child, harassment, intimidation, and bullying.<sup>77</sup>

As is common knowledge in the field of economics, if the demand lowers, so will the supply.<sup>78</sup> Policy makers, academics, and activists have increasingly recognized that the sexual exploitation of children will never abate unless the

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<sup>72</sup> *Id.*

<sup>73</sup> Donna M. Hughes, *The Use of New Communications and Information Technologies for Sexual Exploitation of Women and Children*, 13 HASTINGS WOMEN’S L.J. 127 (2002).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Farley, *supra* note 35.

demand for commercial sex ends.<sup>79</sup> There is much more to understand about policies and practices that stop demand, as well as supplements to enhance the ‘end demand’ movement.<sup>80</sup>

#### IV. Supplying the Demand

As Siddharth Kara writes, “The supply of contemporary trafficked slaves is promoted by longstanding factors such as poverty, lawlessness, social instability, military conflict, environmental disaster, corruption, and acute bias against female gender and minority ethnicities.”<sup>81</sup> Certain inter-related, complex elements, such as those identified by Kara, make a mass number of vulnerable populations ripe for the picking by traffickers. It is important to note that the concept of consent is irrelevant in relation to the sexual exploitation of children because a child is under the age of eighteen (incapable of assenting to commercialized sex),<sup>82</sup> but there are social and economic factors that also influence the decisions made by children. It is these factors that make these children particularly vulnerable and defenseless to sex traffickers and exploiters.

Systemic poverty, social and economic inequalities, oppression, and the like plague many countries throughout the world and significantly contribute to child sexual exploitation. Many international sex trafficking victims originate from poor countries dealing with internal strife such as civil war, government corruption, systemic poverty, and economic crisis.<sup>83</sup> Many sex trafficking victims are merely trying to remove themselves from these unstable living conditions.<sup>84</sup> Because sex trafficking has become such a significant source

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<sup>79</sup> *Id.*

<sup>80</sup> *See infra* part IV.

<sup>81</sup> *See* SIDDHARTH KARA, *SEX TRAFFICKING: INSIDE THE BUSINESS OF MODERN SLAVERY* 242 (Columbia University Press, 2009) (demonstrating the economics of slavery in Bangkok, Thailand massage parlors).

<sup>82</sup> *What are the causes?*, ECPAT BELGIUM, <http://ecpat.be/en/sexual-exploitation/what-are-the-causes/> (last visited Feb. 10, 2017).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

of income in these countries,<sup>85</sup> traffickers often exploit these impoverished countries. Regions such as Asia, Eastern Europe, Africa, and Latin America are prime grounds for sex trafficking recruitment.<sup>86</sup> These victims are commonly lured into sex trafficking by false promises of employment, stability, education, or a loving relationship;<sup>87</sup> the same promises made to children during the grooming phases of child sexual exploitation.<sup>88</sup>

Additionally, social and cultural practices may also play a factor in shaping the supply. Asian cultural and social values are prime examples of the impact that culture has on child sexual exploitation. Filial piety,<sup>89</sup> respect for one's parents,<sup>90</sup> is considered the most fundamental of value of Confucianism.<sup>91</sup> This idea, when combined with other social and discriminatory views of children (where they are viewed as being less than a man or viewed as property) creates situations where young girls and boys are highly susceptible to exploitation. In fact, many Asian families frequently sell their daughters to traffickers in exchange for steady compensation.<sup>92</sup> Sadly, some of these young girls view their exploitation as an honorable service to their family.<sup>93</sup>

A related social concern is the manifestation of gender beliefs that devalue young girls. Such distorted beliefs

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<sup>85</sup> *Id.*

<sup>86</sup> *See The Victims & Traffickers*, POLARIS PROJECT, <https://polarisproject.org/victims-traffickers> (last visited Apr. 26, 2016).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Asian Topics: Filial piety*, COLUM. UNIV., [http://afe.easia.columbia.edu/at/conf\\_teaching/ct02.html](http://afe.easia.columbia.edu/at/conf_teaching/ct02.html) (last visited Dec. 28, 2016).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *The Thailand Life, Thailand Documentary - Human Trafficking & Prostitution*, YOUTUBE, <https://www.youtube.com/watch?v=QcoFlGvHAsg> (last visited Nov. 26, 2016).

<sup>93</sup> *Id.*

contribute to child sexual exploitation because it compels a feeling of inferiority. Children are more likely to submit themselves to abuse due to inferiority complexes.<sup>94</sup> Also, a support system for the child may be absent, which makes them exceptionally vulnerable to sexual exploiters.

Unstable societies enduring war and armed conflict often cause certain populations to become helpless, which also makes children easy targets for sexual exploitation.<sup>95</sup> With such callous conditions in their home country, countless children are driven to migrate to other countries promising better conditions and brighter futures.<sup>96</sup> This desire to migrate is subsequently exploited by criminals to gain initial control or cooperation, only to be replaced by more coercive measures once the victims have been moved out of their home country.<sup>97</sup> By this point, the children are under complete control of their exploiters and often have no remedy to cure their predicament.<sup>98</sup>

Accompanying all of these factors is the existence of political corruption. Corruption and inadequate laws contribute to the growth of child sexual exploitation.<sup>99</sup> Corruption is present at every stage of the sexual exploitation process and involves individual, organizational, and governmental actors.<sup>100</sup> Corruption can facilitate the movement of child victims within countries and across borders without detection.<sup>101</sup> Exploiters also rely on corruption to maintain their silence and avoid arrest.<sup>102</sup>

Even more discerning is evidence of corruptive acts within the police force, both in the U.S. and abroad. This is not to say that all law enforcement officials are corrupt; however, there are cases where police officers have been

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<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Demanding Justice*, *supra* note 7.

<sup>100</sup> ECPAT BELGIUM, *supra* note 82.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

found to sexually exploit children.<sup>103</sup> There are cases where either the police “commit sexual abuse themselves, accept a brothel owners’ offer of free services in exchange for their silence,” or simply turn a blind-eye.<sup>104</sup> Feeble government, corrupt law enforcement officials, and corrupt organized crime units allow the continuation of child sexual exploitation.<sup>105</sup> Corruption is real; it is not just an idea or exaggerated belief. To illustrate, although over 10,000 traffickers were prosecuted in 2014, U.S. government findings suggest that globally less than one in ten traffickers are ever prosecuted.<sup>106</sup> These findings are especially true in countries that are perceived to be highly corrupt, which are areas where the largest volume of sexually exploited victims originate.<sup>107</sup>

Although there is no model or prototypical victim, sex trafficking victims tend to be vulnerable to force, fraud, or coercion.<sup>108</sup> Irrespective of sex, age or citizenship, victims of sex trafficking, both internationally and domestically, share characteristics that place them at risk for being trafficked. These include young age, poverty, low education, lack of social and economic opportunities, lack of familial support (e.g., family members collaborating with traffickers, orphans, runaways, homeless), history of previous sexual abuse, health or mental health challenges, and living in vulnerable areas (e.g., areas with police corruption and high crime).<sup>109</sup> These same circumstances also subject many young children to exploitative relationships.

End demand movements should also focus on the

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<sup>103</sup> Latonero, *supra* note 39.

<sup>104</sup> *Id.*

<sup>105</sup> *Trafficking in Persons Report*, U.S. DEP’T OF STATE 48 (Jun. 10, 2015), <http://www.state.gov/documents/organization/245365.pdf>.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Human Trafficking Into & Within the United States: A Review of the Literature*, U.S. DEP’T OF HEALTH & HUM. SERV’S, <http://aspe.hhs.gov/basic-report/human-trafficking-and-within-united-states-review-literature#Commonalities> (last visited Dec. 26, 2016).

<sup>109</sup> *Id.*

supply-side of the continuum by educating the public on the harmful effects of child sexual exploitation and protecting vulnerable children from exploiters.

## V. Refining the Supply and Demand Analysis to Construct a Multifaceted Approach

### A. *Stop the Demand, Stop the Supply: Adding on to the End Demand Approach*

While reduction in demand by way of punishment may prevent further victimization, termination of child sexual exploitation requires a multi-system, “a collaborative approach across local, state, federal and international levels.”<sup>110</sup> Punishment is key because of its deterrence and retributivist value, but each offender should be handled on a case-by-case basis. Preference for rehabilitation versus imprisonment should also take hold. There are a myriad of strategies, other than punishment, that can deter buyers from purchasing sex.

In addition to laws that target sex buyers, other programs have been implemented in certain regions with the purpose of educating the public about the demand for commercial sex. These programs also seek to shame buyers into discontinuing their behavior. The most common of these programs are john schools, founded in San Francisco in 1995, and now used in over 40 U.S. cities and several other countries including the U.K. and Canada.<sup>111</sup> These educational programs target first-time offenders (men who have been arrested for the first time for soliciting a prostitute).<sup>112</sup> Essentially, the program allows johns to attend a class or series of classes that teach the harmful effects of prostitution, and after completion of the course, the charges

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<sup>110</sup> Romo, *supra* note 51.

<sup>111</sup> Laura J. Lederer, *Addressing Demand: Why and How Policymakers Should Utilize Law and Law Enforcement to Target Customers of Commercial Sexual Exploitation*, 23 REGENT U. L. REV. 297, 300-05 (2011) (discussing the development of San Francisco’s “First Offender Prostitution Program” john schools); see Mackinnon, *supra* note 7.

<sup>112</sup> *Id.*

are dropped.<sup>113</sup> Specifically, john schools educate about the health and legal consequences of buying sex; johns also hear from former victims who talk about the horrors of their experience and the impact that johns' had on their life.<sup>114</sup> In lieu of john schools, an alternative method for identifying and shaming sex buyers is conducting a public release of johns' names through media outlets (news paper, social media, etc.) family, and friends.<sup>115</sup>

### *B. Ending Harmful Customs on a Global Scale*

Cultural customs and practices play a definite role in defining a society or country. Unfortunately, it is often the case that some cultural norms are used to justify certain crimes, such as child sexual exploitation. These customs may also create significant challenges that impede efforts to curb the sexual exploitation of children. Depending on the country, cultural traditions can be used to support, hide, or attempt to justify sexual exploitation and other criminal schemes by undermining laws designed to protect children.<sup>116</sup> Customs that propagate sexual inequality and violence against children are closely linked with sexual exploitation in all regions of the world.<sup>117</sup>

Despite cultural barriers, efforts have improved responses to cultural practices that are incongruent with the fight against child sexual exploitation. For example, the Palermo Protocol, three protocols that were adopted by the United Nations to supplement the 2000 Convention against Transnational Organized Crime, does not allow for any cultural variations, requires the criminalization of all forms of trafficking in persons, and has been accepted by 166 State

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<sup>113</sup> See Lederer, *supra* note 111, at 305 (explaining typical john schools model).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> See *Trafficking in Persons Report*, *supra* note 2.

<sup>117</sup> *Id.*

parties.<sup>118</sup> Similarly, awareness campaigns and other prevention efforts urge some societies to change. In East Asia and the Pacific, governmental organizations have strengthened their responses to sex trafficking and commercial sexual exploitation by increasing public awareness of the crime.<sup>119</sup> Efforts in prosecuting offenders, protecting victims, and blocking commercial sex acts continue in other European and North American countries.<sup>120</sup>

### C. *Improving Governmental Responses*

Government action is crucial to the abolition of commercial sexual exploitation. While governmental effort has increased in recent years, with over twenty million victims worldwide,<sup>121</sup> more must be done in the form of providing money, means, and training. Governments play a major role in developing training programs to address the issue of child sexual exploitation. Thus, governmental agencies should develop more tools and trainings to assist agencies in identifying and aiding child victims.

Child sexual exploitation training and guidance should be disseminated to state and federal prosecutors, law enforcement officials, the judiciary, state and local law enforcement partners, and to state agencies and educators. Through further training, professionals will be better equipped to detect child sexual exploitation wherever it exists, and to help ensure that victims are always treated accordingly. With these tools and training, the judiciary will be in a better position to respond to the needs of child victims.

### D. *Helping Victims Through Increased Services*

Fortunately, many organizations have recognized that services to aid victims needs expansion. Although growth is slow, victim's services are increasing. In accordance with the

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<sup>118</sup> 40 ILM 335 (2001); UN Doc. A/55/383 at 25 (2000); G.A. Res. 55/25, at 4 (Jan. 8, 2001).

<sup>119</sup> *Thailand Documentary*, *supra* note 92.

<sup>120</sup> *Id.*

<sup>121</sup> Romo, *supra* note 51.

Trafficking Victims Protection Act (TVPA) and Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), sex trafficking victims and their eligible family members may receive benefits and services to the same extent as refugees.<sup>122</sup> These benefits are federally funded and the federal Office of Refugee Resettlement must certify victims as trafficking victims.<sup>123</sup> To receive this certification, sex trafficking victims must be willing to assist with the investigation and prosecution of trafficking cases.<sup>124</sup>

In addition to federal benefits under the TVPA and TVPRA, many states have their own state-funded programs that range from cash assistance, food assistance, medical assistance, and social services to assist with adjustment and facilitate self-sufficiency.<sup>125</sup> Additionally, in 2012, President Obama announced the White House's initiative to increase services provided to victims.<sup>126</sup> The initiative included partnering with "Humanity United, with support from the Goldman Sachs Foundation, to launch \$6 million in Partnership for Freedom Innovation Awards to challenge local communities to develop collaborative and comprehensive solutions to help trafficking victims."<sup>127</sup>

## VI. Conclusion

Child sexual exploitation is a complex, global problem. In recent years, many nations have collaborated and worked tirelessly to combat this terrible issue affecting our globe. We have seen over time the efforts to identify and eradicate child sexual exploitation by way of legislation,

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<sup>122</sup> 22 U.S.C.S. (LexisAdvance 2016)

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Fact Sheet: the Obama Administration Announces Efforts to Combat Human Trafficking at Home and Abroad*, THE WHITE HOUSE (Sep. 25, 2012), <https://www.whitehouse.gov/the-press-office/2012/09/25/fact-sheet-obama-administration-announces-efforts-combat-human-trafficki> (last visited Dec. 26, 2016).

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

policy, policing, training, and education. However, there is much more that needs to be done.

There is no easy solution to eradicating this form of modern-day slavery and adequately protect child victims. However, further steps can be taken to help curb its effects. These steps include incorporating rather than rejecting the end demand model, attacking the demand for commercial sex, ending harmful customs, improving governmental response and adopting a more victim-centered approach by normalizing as well as increasing and improving the care of child victims.