

REVUE INTERNATIONALE DE DROIT PÉNAL
INTERNATIONAL REVIEW OF PENAL LAW
REVISTA INTERNACIONAL DE DERECHO PENAL

TRAITE DES PERSONNES

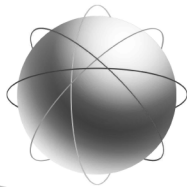
X^e Cours de Spécialisation en Droit Pénal International
Istituto Superiore Internazionale di Science Criminali (ISISC)
Syracuse (Italie), 23 mai - 2 juin 2010

HUMAN TRAFFICKING

Tenth Specialization Course in International Criminal Law
International Institute of Higher Studies in Criminal Sciences (ISISC)
Syracuse (Italy), 23rd may - 2nd June 2010

TRATA DE PERSONAS

X Curso de Especialización en Derecho Penal Internacional
Istituto Superiore Internazionale di Science Criminali (ISISC)
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THE PROBLEM OF DEMAND IN COMBATING SEX TRAFFICKING

Linda SMITH* / Samantha HEALY VARDAMAN**

What is Demand?

In the global market of sex trafficking there are sellers (traffickers), consumers (johns), and products (victims). Basic economics holds that demand for a product is fundamental for market survival. Without demand for services there would be no market for this particular product--sex trafficking victims.

Demand is the push factor in the criminal business of sex trafficking. Demand is created by men and women (predominantly men) who seek to purchase sex or sexual entertainment from persons who have been subject to force, fraud or coercion or who are under the age of 18 years and are involved in commercial sex.¹ Demand causes sex trafficking to occur in countries around the world.

The Function of Demand in Sex Trafficking

The sex trafficking of persons is driven by demand for the menu of commercial sex acts they are forced to perform and how they are "packaged." Traffickers move victim-products to the markets, assisted and facilitated by other actors in a myriad of ways. As the demand increases, traffickers must increase the supply of victims. The buyer in this marketplace views the victim as a dehumanized product for immediate consumption and disposal. If buyers were not seeking commercial sexual services, then sex trafficking would cease to be a profitable venture.

Much like a legitimate market, supply and demand for commercial sexual services are correlated. The supply of women and children in the sex industry serves as the fuel for this criminal slave trade and must increase to meet growing demand for sexual services throughout the world. Demand affects the market structure and the type of product made available. Evidence suggests that increasingly

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** Samantha Healy Vardaman, J.D., Senior Director, Shared Hope International.

¹ Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, Division A, § 103(8), 114 Stat. 1464 (signed into law on October 29, 2000); codified as amended at 22 USC 7102 § 103(8). http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ386.106. Accessed on April 8, 2009.

younger product is sought, signaling a response to buyers' perceptions that younger victims are both healthier and more vulnerable. This desire for sex with younger girls has led to large numbers of juveniles exploited through prostitution around the globe – per se sex trafficking victims under the U.N. Protocol and the U.S. federal trafficking law.²

Culture of Tolerance

“It is not enough that the law considers illegal behavior of the customer of sexual services...the functional equivalent of the law must also recognize such behavior as unacceptable. By ‘functional equivalent of the law,’ I mean the traditions, the customs, the acceptable behavior of the people. The legal systems that ‘tolerate’ or ‘accommodate’ or ‘normalize’ the behavior of the customer must reconsider its policies, change the law, and enforce the law accordingly.”

— Dr. Mohamed Mattar, Director of The Protection Project of Johns Hopkins University, School of Advanced International Studies³

A culture of tolerance surrounds the marketplace of commercial sexual exploitation. The culture of tolerance is derived from a country's history, ethnicity, religious practice, language, political and economic system, and other influences. Cultures of tolerance differ from country to country, and sometimes vary within countries or even cities, but the essence is the same: societal acceptance backed by political tolerance. Marketplaces of commercial sexual exploitation require some level of tolerance within the community in order to exist.

One example of a culture of tolerance can be found in the truck stops across the United States. Trucking routes have been identified as “hot spots” for underage prostituted girls. Throughout the United States, where major highways intersect, there are numerous opportunities to stop for paid sex with a prostituted girl, pick her up or drop her off. These girls are known as “lot lizards” in the trucking community – a label that allows the truckers and truck stop personnel to avoid confronting the reality of the commercial sexual exploitation of women and children occurring blatantly around them. The label also benefits the buyers who in response to the lack of alarm within the trucking community seem to have little fear of intervention by police or fellow truckers. A December 2005 Innocence Lost Initiative law enforcement operation at the Gables of Harrisburg truck stop, just off the major highway I-81 in Linglestown, Pennsylvania rescued over two dozen

² Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25 of 15 November 2000); Trafficking Victims Protection Act (TVPA) of 2000.

³ DEMAND.: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States (Shared Hope International: July 2007), pg. 14. <<http://www.sharedhope.org/files/DEMAND.pdf>.> Accessed on March 30, 2010.

prostituted minors, the youngest just 12 years old, from Toledo, Ohio. The truck stop was popular with truck drivers looking for quick and cheap sex: about \$40 for sex with one of these minor victims. Local Harrisburg police and FBI agents working with the Innocence Lost Initiative arrested sixteen pimps who have been indicted as co-conspirators for trafficking in women and children, among other crimes.⁴

Though some truckers display stickers on their truck windows indicating that “lot lizards” are not welcome at their truck, this passive approach merely serves to place criminal responsibility for the prostitution on the shoulders of the girls who are being victimized. The stickers themselves are ill-conceived, depicting a boot stomping on a lizard and another with a line through a lizard wearing a schoolgirl’s plaid skirt.⁵ The application of the derogatory label “lot lizard” to the victim allows the community to distance itself while allowing the predator to deny the victimization of his action. The ready supply of this victim-product at truck stops coupled with the attitude of dehumanizing her simply serves to increase demand for commercial sex with these young victims.

Who Are the Buyers?

Buyers of sexual services can be placed in three categories: situational, preferential and opportunistic. The definitions of buyers commonly employed by those working in the area of commercial sexual exploitation of children (CSEC) include “situational” and “preferential” buyers. Situational buyers in the realm of CSEC are defined as those who engage minors in commercial sex because they are available, vulnerable and the practice is tolerated. Preferential buyers, such as pedophiles, have a sexual preference and shop specifically in the markets providing the preferred victim or service.

In the larger commercial sex market involving adults and minors there is a third group of buyers which can be described as “opportunistic buyers.” These are buyers who purchase sex indiscriminately because they do not care, are willfully blind to the age or willingness of the female, or are simply unconcerned as to the differentiation between adults and minors. Due to intensive marketing and the increased normalization of commercial sex in society, buyers from a young age are groomed to glamorize commercial sex, to dehumanize the women and children exploited, and even to express aggression toward the victims through violent video games and violent pornography.

⁴ Id., pp. 91-2, citing U.S. Department of Justice press release, “Justice Department, FBI, Announce Arrests Targeting Child Prostitution Rings in Pennsylvania, New Jersey, and Michigan,” December 16, 2005.
<http://www.usdoj.gov/opa/pr/2005/December/05_crm_677.html>.

⁵ Id., pg. 92, referring to the ability to purchase No Lot Lizard stickers online at <<http://sharonb.hypermart.net/trucks3.htm>>. Accessed on January 12, 2007.

Research in several countries revealed the following characteristics of buyers. In the Netherlands, a sex addiction counselor described most buyers who visit the red light districts as “situational buyers” based on his work in this area. These buyers are usually married (9 out of 10), in their late 30’s to early 40’s, have children, hold a good job, and have an average to high I.Q. They have difficulty maintaining relationships and focus heavily on their work. Many times they do not intend to endanger their current relationship with a wife or girlfriend, but are unable to stop the relationship with prostitution. Particularly because prostitution is legal and readily available, in their minds they are able to separate the two worlds so that there is not a conflict of interest. In the U.S., the observed purchasers of commercial sex and perpetrators of sexual exploitation in the three cities researched for the DEMAND. report were observed to be of all three types of buyers; though ethnic brothels are reported to service only members of the particular ethnicity.⁶ With that exception, buyers, who tend to be primarily white, middle-aged males, appear to be opportunistic and use a variety of methods to access the commercial sex markets ranging from the Internet, to telephoning escort services, to inquiring of close confidantes. Preferential buyers will go to great lengths to obtain their preferred product, e.g., traveling abroad to countries where penalties for commercial sex, particularly with children, are lax or non-existent and their anonymity can be preserved.

Buyers of sexual services in urban Tokyo included Japanese male, white-collar workers; college students; and foreign businessmen who often rationalize their behavior as a form of economic assistance—a rationale heard by buyers consistently in every country researched. One buyer in Tokyo stated, *“It’s like donating money to UNICEF: If the girls even get a fraction of what I pay, they’re doing a hell of a lot better than they would in their own country. If it was really so bad, the Japanese cops would close them down, right?”*⁷

Researchers in London interviewed 103 men who buy sex to determine what they know about the women they are using in prostitution. Twelve percent of the men reported they had used more than 130 women in prostitution. Most reported buying sex 15 times, although the numbers ranged from one to 2,000.⁸ A similar

⁶ Id., pg. 91, citing Janice G. Raymond, “Prostitution on Demand,” *Violence Against Women*, Vol. 10 No. 10, October 2004 (Coalition Against Trafficking Women), pp. 1165-69, available at <<http://action.web.ca/home/catw/attach/Raymond1.pdf>> for a discussion of buyer types worldwide. Accessed on January 12, 2007.

⁷ Id., pg. 125, citing Field Research Report, June 30, 2006. On file with authors.

⁸ Melissa Farley, Julie Bindel and Jacqueline M. Golding. *Men who buy sex: Who they buy and what they know.* (Eaves, London and Prostitution Research & Education, San Francisco: December 2009), pg. 10.

study of 113 men in Chicago, Illinois USA, revealed that the men interviewed had purchased sex between one (4%) and 1,000 (3%) times to date.⁹

Data on the number of men engaging in commercial sex with trafficking victims (adults subject to force, fraud or coercion and minors) is lacking. However, research from Atlanta, Georgia, USA illustrates the demand presented in that state alone providing some indication of the demand nationwide.¹⁰ The study included a covert scientific survey of 218 men responding to advertisements for paid sex with young females.¹¹ Three escalated warnings were given to the callers seeking to buy sex with a “young” female, each warning providing further information that the female was in fact under 18. A startling 47% of the men were undeterred by this information and were prepared to follow through with commercial sex with a minor.¹²

The research revealed that 7,200 men commit 8,700 commercial sex acts with juvenile girls each month in Georgia. The study explains that 10% of these men are actively and explicitly seeking a female under the age of 18. In fact, in a companion study designed to count adolescent girls using scientific probability methods when they are encountered through several sources: street activity prostitution (in 4 prostitution zones), internet service postings on Craigslist, and escort services, proved that Internet advertisements posted on Craigslist purporting to sell sex with “young girls,” “just turned 18,” and “barely legal” receive inquiries at 132%-175% the rate of those that do not use language indicating age.¹³ The startling numbers result in 28,000 men paying for sex with juvenile girls each year in Georgia, nearly 10,000 of whom are multiple repeat buyers. Thirty-four percent of the men seeking to purchase sex with a minor were under age 30, 44% were 30-39, and 22% were 40 or over. The majority of the buyers were located in the northern suburbs, an area populated predominantly by white, middle class, married men.¹⁴

⁹ Rachel Durchslag, AM, Samir Goswami, *Deconstructing The Demand for Prostitution: Preliminary Insights From Interviews With Chicago Men Who Purchase Sex* (Chicago Alliance Against Sexual Exploitation, Chicago, IL: May 2008), pg. 9.

¹⁰ *Men Who Buy Sex with Adolescent Girls: A Scientific Research Study*, commissioned by A Future. Not a Past. (AFNAP), a project of the Juvenile Justice Fund (The Schapiro Group, Atlanta, GA: February 2010).

¹¹ “Young” is the term most of the men who participated in the study used; it includes very young adult females, as well as some adolescent (under 18) females.

¹² CSEC Demand Study Results Research Highlights, based on *Men Who Buy Sex with Adolescent Girls: A Scientific Research Study* (AFNAP: February 2010).

¹³ *Adolescent Girls in Georgia’s Sex Trade Tracking Study Results*, commissioned by A Future. Not a Past. (AFNAP), a project of the Juvenile Justice Fund (The Schapiro Group, Atlanta, GA: May 2009), pg. 8.

¹⁴ CSEC Demand Study Results Research Highlights, based on *Men Who Buy Sex with*

In sexually charged societies that both encourage promiscuity and covet the innocence of youth, it follows that the demand for young victims will rise to meet the cultural glorification of underage sexuality. An example of the demand effect created by buyers can be found in the United States surrounding large events, such as the Sundance Film Festival held in Salt Lake City, the Ultimate Fighting Championships held in Las Vegas each year, and the Super Bowl held in different cities each year. Law enforcement noted that during these events traffickers move victims into the city in response to the expected increased demand, resulting in a higher incidence rate of adults and minors arrested for prostitution in both locations.

Certain businesses or industries can foster buyers and facilitate sex trafficking. For example, similar to the phenomenon seen in the United States, truck stops have been the target of anti-demand activities in Brazil. Leading this effort is the Brazil oil company Petrobras. Recognizing that the transient trucking community is often a primary driver of demand, Petrobras has poured significant funding into raising awareness of the commercial sexual exploitation of children within the trucking communities. This has been accomplished through a national awareness campaign as well as the company's funding of youth related activities which the trucking community can support by way of volunteer participation.¹⁵

Legalization Increases Demand

The trend to tie morality to legal norms means that in countries where commercial sex is legal it is de-stigmatized for those who purchase it. The de-stigmatization in the Netherlands extends to the men purchasing commercial sex, but not to the women being prostituted. This seems particularly true for tourists, while research in the Netherlands observed that the Dutch buyers of commercial sex in one town were mostly from other towns within driving distance but out of eyesight of neighbors and family, calling into question the actual level of acceptability of prostitution in Dutch society. Legalization undoubtedly has freed many men from the stigma of buying commercial sexual services, thereby increasing the demand for commercial sex while the number of women voluntarily entering the officially de-stigmatized commercial sex market has not increased. While men are buying sex, they fail to see the mechanics of the delivery of the women providing the sex—often forced, defrauded or coerced and violently managed by a pimp. This does not reflect the environment of legal prostitution envisioned by legislators and society in the Netherlands. A study done in London interviewing 103 men who buy sex demonstrated that in addition to buying sex in the United Kingdom, nearly one-half (49%) of them had bought sex outside the country as well. In fact, they

Adolescent Girls: A Scientific Research Study (AFNAP: February 2010).

¹⁵ Presented at the World Congress III against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brasil: November 25-8, 2008).

had traveled to 42 countries between them. Not surprisingly, most of the men had traveled to Amsterdam because, as they noted, prostitution is legal.¹⁶

In the United States, the perception that prostitution is legal in Las Vegas, Nevada is widespread across the country and leads to a demand for commercial sexual services despite the illegality. Sexually oriented entertainment pervades the city and results in the trafficking of women and, increasingly, children to Las Vegas to be used in the commercial sex industry to satisfy the sizable demand. The trafficking of children into Las Vegas to satisfy the demand for commercial sex can be measured in the arrests of these same children. In Clark County, Nevada (includes Las Vegas), an entire court docket is scheduled one day each week to hear the cases of juveniles charged with prostitution; in 20 months, 226 juveniles from across the country were adjudicated by the court for prostitution and prostitution-related offenses committed in Las Vegas. In the first half of 2007, 12.8% of the females committed to the Caliente Youth Center had been adjudicated for the offense of solicitation for prostitution, a misdemeanor offense.¹⁷ These numbers reflect the consequence of inflated demand for commercial sex. Traffickers include Las Vegas on any prostitution circuit they move their victim-products.

Technology Fuels Demand

As technology advances globally, each country faces the challenge of combating the sex tourism and sex trafficking markets that technology so readily enables. Widespread availability and affordability of digital cameras and video cameras makes the production of child pornography and pornography involving sex trafficking victims easy and inexpensive. The Internet is often used as a broker for women in escort agencies and to attract possible buyers. Cellular telephones also allow facilitators to take a picture of the victim and send it to a prospective buyer, all with relative anonymity.

A study released in 2006 by the National Center for Missing and Exploited Children (NCMEC) about the online victimization of youth reveals that more and more children are receiving unwanted and unsolicited sexual images via the Internet than ever before.¹⁸ More than one-third (34%) of youth Internet users

¹⁶ Farley, Bindel and Golding. Men who buy sex: Who they buy and what they know, pg. 11.

¹⁷ The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children (Shared Hope International: May 2009), pg. 6. <[http://www.sharedhope.org/files/SHI_National_Report_on_DMST_2009\(without%20cover\).pdf](http://www.sharedhope.org/files/SHI_National_Report_on_DMST_2009(without%20cover).pdf)>, citing Kennedy, M. Alexis, Ph.D. and Nicole Joey Pucci, M.A. Domestic Minor Sex Trafficking Assessment Report — Las Vegas, Nevada (Shared Hope International: August 2007), pp. 63, 132. Accessed on March 30, 2010.

¹⁸ DEMAND, pg. 18, citing Wolak, Janis and Mitchell, K., & Finkelhor, D., "Online

received unwelcome sexual material online, despite the efforts and technologies provided for parental control to filter and block sexual and other violent images. The report states that more boys than girls receive unwanted exposure and most of this exposure involves youth between the ages of 14 and 17.¹⁹ This invasive marketing technique is aimed at increasing the demand for pornography among youth. This group already has been shown to possess tremendous buying power today, and is being groomed to produce the buyers of tomorrow.

As one researcher states: "When men use pornography, in that process they are trained as tricks. Pornography is men's rehearsal for prostitution."²⁰ Moreover, the anonymity that the Internet provides for website users and website owners makes it an excellent facilitator of an illicit market. In a survey of 120 men, conducted by The Defenders USA, 117 of the men (age 15-80) indicated that websites were the predominant influence leading them to view pornography.²¹ Other influences included pop-up ads for pornographic websites, movies and TV commercials—electronic influences present in nearly every home in most countries. The Defenders USA survey indicates that respondents first viewed pornography at approximately twelve years of age. Early viewing of pornography may serve as an incubator of future buyers of commercial sex services in this and other markets.

A web surveillance crawl commissioned by Shared Hope International investigated the use of the Internet for marketing sex tours. Of the 63 erotic sex tour English language websites identified through an extensive filtering process, 79% revealed U.S.-based IP addresses and offered packages in Venezuela, Costa Rica, the Dominican Republic, Jamaica, Cambodia, the Philippines, Thailand, Russia, Amsterdam and Mexico. Four of these sites offered marriage services as an additional option. The graphic and aggressive nature of these sex tour websites leaves no question as to the intent of the tour operators. With increased infrastructure and affordability of personal computers, the trend evident in more technologically advanced countries will undoubtedly make itself felt in those currently lagging behind in technology.

Victimization of Youth: Five years later," (Crimes Against Children Research Center, University of New Hampshire, National Center of Missing and Exploited Children: 2006) pp. 29-35.

¹⁹ *Id.*, pg. 19, citing Wolak, "Online Victimization," p. 30.

²⁰ *Id.*, pg.17, citing Melissa Farley, Ph.D., "Renting an Organ for Ten Minutes: What Tricks Tell us about Prostitution, Pornography, and Trafficking" in D. Guinn (ed.) *Pornography: Driving the Demand for International Sex Trafficking*. (Los Angeles, Captive Daughters Media: 2007).

²¹ *Id.*, pg. 18. The Defenders USA is a project initiated by Shared Hope International for men to counsel men on the dangers of engaging in the commercial sex markets, especially pornography. See www.thedefendersusa.org.

Sex Tourism and Local Demand Coexist

In countries where sex tourism thrives, local demand for commercial sex also grows, encouraged by the supply of victim-product and the culture of tolerance allowing the practice to occur. Men (predominantly) travel to engage in sex in locations where it is tolerated and even encouraged. For example, Jamaica presents a broad spectrum ranging from western women as buyers to local men as consumers increasingly entering the sex market as it grows and becomes more normalized. Field research in Jamaica's primary commercial sex markets reveals a broad-based group of foreign buyers including Polish engineers working on contract, British and American expatriates and military personnel, and South American and Japanese businessmen, as well as local men. This sex tourism creates an environment in which commercial sex is readily available and marketed to both the tourists and the local buyers, driving the demand higher among local buyers. Though Jamaica is commonly seen as a haven for sex tourists from wealthy countries, at least one recent report and field observations suggest that more and more Jamaican males, including young professionals, are buying sexual favors from men and women who reside on the island. This demand is satisfied year round directly through the club owners and managers who move girls from town to town to satisfy the local demand.²² This is not unique to Jamaica; local demand was found to escalate where commercial sex was tolerated.

Deterring Demand

Prosecution of buyers of commercial sex is a strong deterrent that is under-utilized. The reality is that buyers of commercial sex are rarely prosecuted. In 2002, in the United States a reported 34% of prostitution arrests were of buyers.²³ In 2005, Congress stated in its findings that 11 females used in commercial sex acts were arrested in Boston for every one arrest of a male purchaser; 9 females to every one male purchaser in Chicago, and 6 females to every one male purchaser in New York City.²⁴ Similarly low statistics are reflected in most countries around the globe as the primary approach by government and non-governmental organizations in combating the commercial sex market has been largely directed at the victim rather than the buyer.

²² *Id.*, pg. 29, citing Reverend Margaret Fowler, Director of Theodora Project, Negril, Jamaica. Personal interview, May 26, 2006.

²³ "Report on the Mid-Term Review of Commercial Sexual Exploitation of Children in America," (Shared Hope International, The Protection Project and ECPAT-USA: September 2006), p. 27, citing remarks by Norma Hotaling, Director of SAGE – San Francisco.

²⁴ DEMAND, pg. 91, citing Congressional findings, "End Demand for Sex Trafficking Act of 2005," intro. House of Representatives, April 28, 2005. <<http://thomas.loc.gov/cgi-bin/query/z?c109:H.R.2012:>>. Accessed January 12, 2007.

Buyers of commercial sex acts typically receive inconsequential or no penalties. Buyers of sex with minors also face minimal risk of criminal repercussions. Children exploited through prostitution report they typically are given a quota by their trafficker/pimp of 10 to 15 buyers per night, though some service providers report girls having been sold to as many as 45 buyers in a night at peak demand times, such as during a sports event or convention. Utilizing a conservative estimate, a domestic minor sex trafficking victim who is rented for sex acts with five different men per night, for five nights per week, for an average of five years, would have been raped by 6,000 buyers during the course of her victimization through prostitution. Most of these buyers would receive little or no punishment, while many of the child victims are arrested and charged with the crime committed against them. However, prosecution of the buyers of commercial sex is a strong deterrent and should be utilized more often. Faced with legal ramifications, many men will choose not to buy commercial sex, and the communities will understand that this crime will not be tolerated.

Men interviewed for a study on demand in London stated that the actions that would deter them from using women in prostitution included the threat of being added to a sex offender registry, imprisonment, or public exposure such as a billboard announcement, newspaper notice, an Internet webpage, or through a letter to their family or employer. The interviewees cited higher fines, greater criminal penalties and suspension of driver's license or car impoundment as deterrents if laws and penalties would actually be enforced.²⁵ Men interviewed in Chicago identified the following deterrents to buying sex: "Photo And/Or Name In Local Paper (87%); Jail Time (83%); Photo And/Or Name On Billboard (83%); Photo And/Or Name On Internet (82%); A Letter Sent To Family Saying You Were Arrested for Soliciting a Woman in Prostitution (79%); Having Driver's License Suspended (76%); Greater Criminal Penalties in General (75%); Car Impounded (70%); Larger Amount of Money (more than \$1,000) For A Fine (68%); Having To Do Community Service (58%); Being Required To Attend Education Classes for "Johns" (41%)."²⁶

In fact, in the Chicago interview pool, only 7% of interviewees had been arrested for soliciting a woman in prostitution. Most were only arrested once, though one man stated that he had been arrested 25 times.²⁷ In London, only 6% of the men had ever been arrested for soliciting prostitution.²⁸ The overwhelming majority of

²⁵ Farley, Bindel and Golding. Men who buy sex: Who they buy and what they know, pg. 22.

²⁶ Durschlag and Goswami. Deconstructing Demand, pg. 24.

²⁷ Id.

²⁸ Farley, Bindel and Golding. Men who buy sex: Who they buy and what they know. Pgs. 22-3.

men who buy sex stated that severe penalties for soliciting prostitution would deter them *if enforced*.

How to Deter Demand

Innovative investigative techniques, technology, and protocols are needed to deter demand through law enforcement. One example of this innovation is in Kansas City, Missouri, USA. A pioneering federal prosecutor in that district, Cynthia Cordes, with the support of her office has pursued buyers of commercial sex with children by working with the local human trafficking task force to plan and implement an operation designed to satisfy the evidentiary requirements of the TVPA -- specifically sections 1591 and 2224(b) -- using the words "obtain" and "entice" to charge, indict and secure a guilty plea in three cases of attempted domestic minor sex trafficking thus far. Indictments of ten men seeking to buy sex with a minor have led to five guilty pleas of 5, 10 and fifteen years' imprisonment. Recognizing the success, five other U.S. Attorney's Offices from Virginia to Alabama have initiated similarly modeled operations.

Stronger legislation is another way to combat demand for commercial sex with children. Weak legislation in many states and a lack of directive within the federal government to pursue buyers of trafficking victims with a federal crime has resulted in a law enforcement focus on traffickers and the girls they are exploiting. Even when buyers are arrested for the crime of commercial sex abuse of a minor (or some other state law variant), many of these laws are weak, providing little deterrent. Another gap in some state laws is the ability to assert a defense of mistake of age. In the state of Washington, 2010 legislation closed this loophole by adding the crime of commercial sex abuse of a minor to the list of crimes that do not permit a defense of mistake of age; a much harder defense of a bona fide attempt to ascertain the true age through checking government-issued identification can be asserted however.²⁹ This type of legislation mitigates the risk a prosecutor takes in pursuing a case against a buyer and encourages more prosecutions of demand. Shifting the burden of proof from the child to the buyer should be a part of all legal reform efforts as it was in Washington and is being debated currently in varying forms in other states.³⁰

²⁹ Washington SB 6476, intro. by Senators Stevens Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach, and Kohl-Welles. Signed into law April 1, 2010. <<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Senate%20Passed%20Legislature/6476-S.PL.pdf>>. Accessed on March 30, 2010.

³⁰ For example, Arizona HB 2699, intro. by Reps Driggs, Barnes, Barto, Montenegro, Yarbrough, Senators Gray L, Pearce R: Reps Ash, Goodale, Konopnicki, Mason, Senators Harper, Huppenthal, Nelson, Paton, passed House March 16, 2010 (creates strict liability for the buyer).

The issue of demand as a primary driver in the marketplaces of sex trafficking and sex tourism has led to research and investigation into educational ways to reduce the demand, thereby reducing the trafficking. One such deterrent is a diversion program established in several cities, in which men arrested for buying commercial sex can choose to participate in Johns Schools aimed at educating the buyers of commercial sex on the trauma and victimization suffered by the girls providing the commercial sexual services. These programs are a community-based response to addressing the demand of local buyers. It is acknowledged that the Johns Schools are a post-victimization response and a secondary deterrent as the criminal sexual exploitation is already committed, but the schools provide an opportunity for the victims to be heard and may have an effect on the recidivism of offenders.³¹ These diversion programs are decidedly not appropriate for buyers of commercial sex from minors as this is an offense of rape and trafficking. Nor is it appropriate to offer this diversion to buyers of commercial sex from women who are victims of trafficking due to force, fraud or coercion being used to secure their prostitution activities. However, if effective in reducing demand for prostitution overall, Johns Schools will consequently reduce the demand for commercial sex with adult victims of force, fraud or coercion and minors.

Special notice has been paid to the growing numbers of youth being sexually exploited through prostitution and pornography around the world. The most vulnerable population of youth is the homeless and runaway girls, most of whom are quickly recruited by traffickers and put into prostitution. The Preamble of the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents, notes with deep concern the ongoing demand for sex with children. The Declaration finds that “[t]here is an insufficient focus on measures to reduce and eliminate the demand for sex with children and adolescents, and in some States inadequate sanctions against sexual abusers of

<<http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/2r/bills/hb2699h.htm>>. Accessed on March 30, 2010. District of Columbia B18-70, “Prohibition Against Human Trafficking Amendment Act of 2010,” intro. by Councilman Mendelson, (follows the federal Trafficking Victims Protection Act of 2000 standard “in reckless disregard of the fact that the person has not attained 18 years”). <<http://www.dccouncil.washington.dc.us/images/00001/20100319140215.pdf>>. Accessed on March 30, 2010.

³¹ DEMAND, pg. 107, citing Monto, Martin A. and Steve Garcia, “Recidivism Among the Customers of Female Street Prostitutes: Do Intervention Programs Help?” *Western Criminology Review* 3 (2). [Online] 2001. <<http://wcr.sonoma.edu/v3n2/monto.html>>. Accessed on April 11, 2007. See also, Michael Shively, Ph.D. et al. “Final Report on the Evaluation of the First Offender Prostitution Program.” (Abt Associates: March 2008). <http://www.abtassociates.com/reports/FOPP_Evaluation_FULL_REPORT.pdf>. Accessed July 12, 2009.

children.”³² The document calls all members to “[a]ddress the demand that leads to children being prostituted by making the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child’s age.”³³

Some hotels have taken an executive-level stance against child sex tourism and prostitution occurring on the premises. For example, Carlson-Wagonlit Companies, based in the United States, has signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, committing this large hotel and restaurant network to be vigilant against child sex tourism in the many locations and venues constituting the consortium.³⁴ At least one hotel manager in Kingston has stated that child prostitution is not permitted; furthermore, the hotel has instituted a nightly room assessment to fill a charitable fund instituted by the hotel to pay for the building of new schools in Jamaica. In 2005, Japanese travel agents and tourist industry groups signed an international code of conduct to protect children from sexual exploitation in tourist destinations, such as Southeast Asia. By signing the code, travel agents are required to implement six measures, including training personnel in countries that are travel destinations and putting a clause in contracts with local agents forbidding sexual exploitation of children.³⁵ Empowering these institutions by bringing them into an alliance to combat human trafficking can be an effective tool. However, the stances taken by the hotels officially do not always trickle down to the lower level or auxiliary staff, who may continue to facilitate the exploitation of women and children within the hotels and resorts.

Investigative Challenges to Arresting Buyers

When a community is willing to pursue buyers of commercial sex there are investigative challenges that must be overcome. Traditional investigation methods to capture prostitution and solicitation involve the use of decoys — undercover police officers — placed in prostitution zones to nab prospective johns. However, this technique cannot be used in the case of minors being prostituted due of the inability to legally place a minor as a decoy. Thus, it is considered necessary by law enforcement that police officers interrupt a commercial transaction in progress with a minor in order to identify the buyer of a prostituted child – a rare event.

³² “The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents,” World Congress III against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, Brasil: November 25-8, 2008), pg. 3.

³³ *Id.*, pg. 7.

³⁴ DEMAND, pg. 36, citing Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, available at <<http://www.thecode.org>>.

³⁵ *Id.*, pg. 139, citing “Travel industry signs up to protect children from sex tourism,” Japan Today, March 15, 2005.

Another investigative challenge lies in law enforcement's successful identification of the prostituted female as a minor. Age verification is made difficult by the widespread use of fraudulent identification provided to the girls by the traffickers to establish their age as an adult. The first arrest of a prostituted minor is critical for proper identification — if entered into the system as an adult, her identity is altered and subsequent arrests reinforce the false adult identity. Steps are being taken to resolve this gap by the United States Federal Bureau of Investigation through the development of a database which is accessible more broadly to law enforcement in an attempt to improve information sharing and prevent the misidentification of these children. Identification of prostituted youth is being improved through a program in Dallas, Texas USA called the High Risk Victim Unit within the Dallas Police Department. This program now is serving as the model recommended through pending federal legislation introduced by Senator Ron Wyden (D-Oregon) which calls for the use of visual cues in the National Crime Information Center system to highlight repeat runaway youth and other high risk indicators.³⁶

The transient nature of the trafficking markets keeps traffickers below the radar of most law enforcement as they move with their victims from city to city evading detection and preventing the girls from becoming identified minors to law enforcement or service providers. Often, sex trafficking cases cross jurisdictional lines making cooperation between local, state, and federal law enforcement necessary; however, many local law enforcement agencies report they have never pursued federal charges in cases involving the buyer in a domestic minor sex trafficking case.

The anonymity of buyers presents one of the greatest challenges to investigation and arrest. Victims often do not know or remember the buyers' real names, addresses, or other identifying information. This can be due to the trauma of the sexual exploitation the victim is undergoing or to the evasive techniques of the traffickers in orchestrating the commercial encounter with the buyer. A standard check on the call records of cell phones in possession of arrested juveniles and arrested traffickers can lead to identifying buyers. However, traffickers limit the interaction between a prostituted juvenile and a buyer. Unlike pornography which frequently leaves a financial trail that can be traced to the buyers, prostitution is done on a cash basis and buyers frequently use fake names leaving law enforcement with limited evidence.

³⁶ S. 2925, The Trafficking Deterrence and Victims Support Act of 2009, introduced December 19, 2009, pending in the Senate Judiciary Committee. <<http://www.govtrack.us/congress/bill.xpd?bill=s111-2925>>. Accessed on May 25, 2010.

Why Target Demand?

Written and read enough times, “demand” becomes a sterile and clinical term, devoid of the vivid reality behind it. Seldom is there demand for a romantic or even passionate experience, rather it more likely involves abusive, violent and self-serving acts. In her research with adult women in prostitution, Melissa Farley described the violence that is so often part of the buyer’s fantasy fulfillment. Of 854 women interviewed in nine countries, 64% were threatened with a weapon, 73% were physically assaulted, and 57% were raped during prostitution.³⁷ Child victims, whose average age of entry into prostitution is 13 years old, would logically be victims of violence, and the younger the child the greater the physical and psychological damage. There is no scheme devised by law that can protect the trafficked person, adult or child, from the reported violence of buyers.

*“Sex slaves experience devastating violence, including beatings, branding, and deprivation of food, water... even light. But perhaps the biggest violence done to them is to be forced to live a life of intimidation, constantly anticipating more violence, and doing it with a seductive smile firmly in place. In eleven years of rescuing and restoring sex trafficked victims, rarely have I interviewed a victim who has not experienced violence from a customer.”*³⁸

Ending demand for commercial sex markets will reduce the exploitation of vulnerable women and children. This will not be easy as the commercial sex industry is a billion dollar business. In 2006, it was estimated that in Las Vegas alone the sex industry and related activities, both legal and illegal, (including lap-dancing, prostitution in strip clubs, commissions to taxi drivers, and tips to valets and bartenders for procuring women, etc.), generate between \$1 and \$6 billion per year.³⁹ However, ending demand is critical to ending domestic minor sex trafficking.

Shared Hope International issued recommendations for efforts to fight demand in the commercial sex markets in its DEMAND. report to the U.S. Department of State, Office to Monitor and Combat Trafficking in Persons. These

³⁷ Melissa Farley, Ph.D., et al. “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder” in M. Farley (ed.) Prostitution, Trafficking, and Traumatic Stress (The Haworth Maltreatment & Trauma Press, an imprint of The Haworth Press, Inc.: 2003), p. 43. Co-published in Journal of Trauma Practice (The Haworth Maltreatment & Trauma Press, an imprint of The Haworth Press, Inc.) Vol. 2, No. 3/4, 2003, pp.33-74.

³⁸ Remarks by Linda Smith, Association of Missing and Exploited Children’s Organization Conference (New Mexico: April 14, 2010).

³⁹ Melissa Farley, Ph.D., Prostitution and Trafficking in Nevada: Making the Connections (Prostitution Research & Education: 2007), pg. 112. <http://www.prostitutionresearch.com/whats_new/000168.html>. Accessed on March 30, 2010.

recommendations apply to all countries in their fight against sex trafficking and protection of the victims of this crime.

*Recommendations*⁴⁰:

Public Awareness and Prevention

- Teachers, religious leaders, medical care providers, and others who come in contact with vulnerable populations should be trained to identify trafficking victims, traffickers, sex tourists and buyers and on how to respond to an actual or potential trafficking situation.
- Research findings about demand for commercial sexual exploitation should be disseminated to a broad audience to reveal the participation and facilitation of individuals, businesses and authorities.
- Sex trafficking and sex tourism should be recognized as both local and international issues. Often crimes perpetrated by local buyers against local victims are not as widely recognized as those perpetrated internationally.
- Awareness and prevention initiatives led by men and directed to men as the primary buyers in commercial sex markets should be bolstered and encouraged, such as Shared Hope International's project The Defenders USA, which educates men on the realities and harms of the commercial sex industry and its specific links to sex trafficking.
- Prevention efforts should be designed to target young men in order to prevent them from becoming consumers of commercial sex and to recognize the harms of commercial sex.
- Tourist agencies and other businesses related to tourism, such as hotel chains and transportation outlets, must remain vigilant against facilitating sex trafficking and sex tourism. One way is to sign the ECPAT Code of Conduct; its signatories commit to helping identify and report potential abusers.
- Buyers of commercial sex from trafficking victims should be exposed. In some instances, public shame may drive them to end their behavior.

Legislation

- National and local anti-trafficking laws should be in place in all locations and regular monitoring and evaluating instituted to ensure accountability, honesty, and adherence to the laws.
- All anti-trafficking laws should contain provisions addressing the criminality of demand and authorizing funding for demand prevention activities.
- Prostitution should be illegal in all countries.

⁴⁰ DEMAND, pgs. 145-8.

- Victim-centered legislation removing criminal status from the prostituted minor or the trafficked foreign victim is critical. Proper resources for investigating the buyers of illegal commercial sex services must be allocated.
- Regulation of the Internet to help prevent facilitation through technology should be implemented, including stricter regulations on unsolicited pornographic advertising.

Law Enforcement and Prosecution

- The full range of laws should be employed to prosecute buyers of illegal commercial sex, especially sex with minors.
- Efforts to investigate domestic sex trafficking of minors and adults should be continued and strengthened in all countries, as domestic trafficking was observed in each country.
- Inter-agency and multi-disciplinary task forces should be continued where existent and created in places where they are not already in place in order to more effectively gather information on the markets and the trafficking actors for increased law enforcement and assistance to rescued victims.
- Laws allowing for confiscation of assets from those who purchase sex from victims of trafficking should be enacted where not already in place, and used in all cases.
- Cooperation between service providers and law enforcement must be encouraged to provide victims with the necessary protection and services to assist in the pursuit of cases against their traffickers and those who purchased sex with the child.
- Special procedures and personal security measures must be adopted for the protection of children who agree to testify in order to help develop better prosecutions.

SUMMARY

Four years of research by Shared Hope International in diverse countries, including the U.S. reveals a determinative commonality in the commercial sex industry: demand causes sex trafficking to occur in countries around the world. Demand is created by men and women (predominantly men) who seek to purchase sex or sexual entertainment from persons who have been subject to force, fraud or coercion or who are under the age of 18 years and are involved in commercial sex.

RÉSUMÉ

Quatre années de recherche menées par Shared Hope International dans divers pays, y compris aux États-Unis, révèlent un point commun déterminant dans l'industrie du sexe : la demande cause le trafic sexuel dans tous les pays du monde. La demande est créée par

les hommes et les femmes (surtout des hommes) qui cherchent à acheter des services sexuels ou des divertissements sexuels venant de personnes qui ont été soumises à la force, à la fraude ou à la coercition ou qui sont âgées de moins de 18 ans et qui sont impliquées dans le commerce du sexe.

RESUMEN

Cuatro años de investigación de Shared Hope International en diversos países, incluidos los EE.UU. de América, revelan un punto común determinante en la industria del sexo: la demanda causa que se produzca el tráfico sexual en países de todo el mundo. La demanda es creada por los hombres y mujeres (en su mayoría hombres) que buscan comprar sexo o entretenimiento sexual de las personas que han sido sometidas a la fuerza, fraude o coacción o que son menores de 18 años y están involucrados en el comercio sexual.