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Defining Child Trafficking & Child Prostitution: The Case of Thailand

Heather Montgomery

I. INTRODUCTION

Child trafficking is a poorly misunderstood and badly defined phenomenon. Commentators and activists frequently use the phrase “child trafficking” synonymously and interchangeably with child prostitution and sexual exploitation, and even link child trafficking with sex tourism, even though the connection between these two terms is sometimes tenuous.¹ Indeed, although children may migrate for a number of reasons and can be exposed to a variety of hazards, child trafficking has come to be seen almost entirely in the context of sexual exploitation, causing prostitution to become the main cause for international concern and advocacy. Given the horror that child trafficking for sexual purposes evokes, this might not be surprising. Yet, debate about the meaning of the term is not simply academic pedantry; instead, it is vitally important to understanding the extent and nature of the problem and how to formulate meaningful policy decisions.

This article will address the various uses of the term “child trafficking” before carefully delineating the various forms of child prostitution in Thailand. These forms of prostitution range from forcing girls (and less commonly boys) from neighboring countries and local hill tribes into prostitution, becoming “debt bonded” into brothels, to living on the streets with their peers, and voluntarily selling sex when the opportunity arises. Furthermore, child prostitution may also exist as a family trade where children live with their parents and sell sex as part of the household economy. An ethnographic case study explores this final type of child prostitution and reveals that many child prostitutes are not trafficked, but

show some willingness to participate in selling sex. In this instance, prostitution may be the best choice available for individual children who believe it to be morally acceptable.

Such a conclusion raises many uncomfortable issues and ethical dilemmas. However, by making such a statement, I am not attempting to justify child prostitution or to claim it is a good choice for children. Based on the ethnographic evidence of my own work, I have found that there are various forms of child prostitution, not all of which involve trafficking. Therefore, there is no blanket solution to the problem, and different forms of prostitution require very different methods and ideologies of intervention. Attempts to tackle the problem of child prostitution through international trafficking legislation, while important and well-meaning, have not always been successful at a grassroots level and do not always reflect the children's own priorities and stated needs.

II. DEFINING THE PROBLEM

A. The Official International Definition of Trafficking

In theory, the term trafficking ought to be easy to discuss. A clear international definition was agreed upon and set out in the UN Protocol to Prevent, Suppress and Punish Trafficking, Especially Women and Children² (also known as the "Palermo Protocol" and referred to throughout this article simply as "Protocol"). Through the ratification of the Protocol, there exists significant international agreement that trafficking is a serious form of organized crime that governments need to combat.³ The Protocol states:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.⁴

B. Criticisms of the International Definition

Despite this apparent straightforward description of trafficking, the Protocol has caused great controversy, especially over issues of consent. The heart of the debate is whether or not sex work can ever be entered into voluntarily, and if so, whether it can still be considered “trafficking.” Some activists, such as those from the Coalition Against Trafficking in Women (CATW), claim that all prostitution is involuntary, and therefore, the terms “trafficking” and “prostitution” can be used synonymously. However, others have argued that trafficking is a more complex phenomenon that does not necessarily equate to prostitution.⁵ Academics and activists who take the latter position argue that the Protocol overlooks the connections between legal and illegal forms of migration, viewing the latter as criminal and the former as acceptable, even though a likely overlap exists between the two.⁶

Since the Protocol came into force, the debate has continued. Some commentators continue to insist that trafficking is a criminal activity with recognizable victims (usually women and children) and perpetrators (usually men).⁷ Kamala Kempadoo points out that the gender stereotyping

in this view of trafficking draws on notions of women's and children's innate sexual purity and passivity and contrasts them with men's ability to act and to make active choices about migration. She argues:

Women and children by definition are trafficked—kidnapped, transported against their will over borders, and held in slavery-like conditions—due to their presumed innocence, purity, and inability to take action on their own behalf, while it is men who are thought to actively seek to be smuggled, and hence are viewed as implicated subjects.⁸

As this quote suggests, trafficking is something done *to* women and children, whereas it is something done complicitly *by* men. Men can choose; women and children cannot. In reality, of course, men may find themselves tricked into migration and become just as exploited—finding their labor conditions just as intolerable.⁹

Other activists and academics¹⁰ have challenged the paradigm of trafficking and prostitution on other grounds. Their criticisms rest on a number of issues. First, while trafficking for prostitution is seen as the most widespread form of trafficking, in reality, it may not be so.¹¹ Because so many reports of trafficking are based—these academics argue—on simplistic, sensationalistic stories and unsubstantiated numbers, the extent and nature of the problem remains unclear.¹² Furthermore, this simplistic schema can be actively damaging as it hijacks “attention away from structural, underlying causes that give rise to exploitation, structural violence, and the coercion of (migrant) workers.”¹³

Second, trafficking has become highly gendered and sexualized so that while the term should neutrally cover all forms of forced migration, it has, in reality, become unhealthily focused on just one aspect—the sexual exploitation, victimization, and degradation of women and girls.

Third, this model of trafficking almost always locates trafficked women and girls in the sex industry and brothels of red light districts. While this makes it easier to raid such places and “rescue” the victims, it ignores the

reality that not all girls and women are trafficked into the sex industry, and not all women who work in the sex industry do so in brothels. Indeed, many may work casually on the streets or in rented apartments, while others may be forced into completely nonsexual kinds of labor.¹⁴

Fourth, other criticisms of conflating trafficking and prostitution are based on the way that this model is not just sexualized, but also racialized, appealing to racist and nationalist sentiments which can be used to justify and enforce laws against illegal migration. As a result, this model may actually victimize those who have migrated illegally more severely as their “rescue” may involve being deported and returned home to where the factors that drove them out—global inequalities, war, and poverty—have not improved. In such situations, victims are vulnerable once more to illegal forms of migration.

Fifth, the question of consent and the extent to which women and even children can make any sort of informed decisions is missing from many accounts of trafficking. It is inconceivable to many activists that some women may choose to migrate illegally, even when they know the dangers, or make bad decisions and end up in a worse situation than they expected. Yet, as several authors have pointed out, many trafficked women do not see themselves as having been forcibly trafficked or tricked against their will into migration, and they do not identify with the label of victim.¹⁵ These women migrate with an awareness of the risks involved but also with an understanding of the opportunities. Even if their situations turn out to be much worse than they had imagined, these women and children still do not relate to the stereotyped representation of themselves as trafficking victims, forced against their will into prostitution.

Finally, critics of the Protocol argue that its definition confuses the morality and criminality of trafficking with that of all forms of prostitution, understanding sex work as invariably wrong and exploitative—a stance that many sex-worker advocacy groups reject.¹⁶

C. Children and Trafficking

While the debates between abolitionists and those who argue for different perspectives on sex work and trafficking have generated a great deal of attention in relation to adult trafficking, there have been no such deliberations when it comes to children.¹⁷ Under international law, the trafficking of children does not need to involve coercion or force. Any person under the age of eighteen involved in prostitution or other illegal activities is trafficked, regardless of consent or the tactics used in recruitment.¹⁸ Such safeguards were included to protect children and to support other international legislation such as the UN Convention on the Rights of the Child (UNCRC).¹⁹

However, these safeguards allow for no possibility that children are capable of making active decisions about prostitution or migration.²⁰ This is not to suggest that children have the right to choose prostitution, that it does not damage them, or that they should not be protected by every legal means possible. Yet, child trafficking, even more so than adult trafficking, has come to be seen almost entirely in the context of sexual exploitation. So much so that CATW has asserted: “Children are trafficked for forced labor, domestic work, as child soldiers, and as camel jockeys, but most children are trafficked for sexual exploitation. And girls trafficked for forced labor and domestic work often end up sexually exploited by their employers.”²¹ Although it certainly is not the express intent of such a quote, it does imply a hierarchy of abuse in which sexual exploitation is the worst possible form. Such a view minimizes other forms of suffering, focuses on the sexual exploitation of children, and ignores the real tragedies faced by other children doing dangerous work.

III. CHILD TRAFFICKING AND PROSTITUTION IN THAILAND

A. Early Roots

Thailand has a long history of being linked with prostitution and trafficking; while the country's problems are not necessarily the most acute, it is often perceived as having particularly severe problems. As early as the 1920s, the League of Nations was investigating accounts of international involvement in the Thai sex industry.²² In 1933, the League of Nations published a report on the trafficking of women and children in the East,²³ claiming that Thai, Chinese, and Russian women were selling sex in Thai brothels, and 40 percent of these women were under the age of twenty. Although fears about women trafficked as prostitutes and "mail-order brides" continued to surface in the 1970s,²⁴ anxiety over child trafficking began to receive particular attention in the 1990s when the issue of the commercial sexual exploitation of children became a major international concern.²⁵

B. Public and Media Coverage in the 1990s

In the 1990s, campaigns by the media and nongovernmental organizations (NGOs) claimed that thousands of Western men were traveling overseas in order to have sex with children. Lurid stories appeared in national and international newspapers with headlines such as "Disneyland for pedophiles," "Pedophiles find paradise on a white beach in Thailand," or "Voyage to a life of shattered dreams."²⁶ These articles would usually tell the heart-wrenching stories of a Southeast Asian girl who was either cruelly duped or sold by her impoverished and greedy parents into a life of prostitution. She would be taken to a brothel, forced to have sex with up to twenty clients a night, usually foreigners, and then be rescued by a charity or journalist, only to discover that she was HIV-positive and had a limited time to live.²⁷

One story, titled, “The Littlest Prostitutes,” is typical of many that appeared in the early 1990s:

Nit, a peasant girl from the north, was sold for the price of a television. In the Bangkok shelter where we met, she sat politely on the edge of a sofa, fidgeting with her hair. At 13, she still looked small and guileless enough to play with dolls. And she talked only in whispers. Five months ago, an agent paid her father 8,000 baht (about \$320). The agent, a soldier, told her she would wash dishes; instead, he took her to a house with 15 other girls.

Nit showed no emotion over what happened next. She kept looking at the ceiling. She whispered that she was very frightened when she faced her first client, an American. She was also impressed: he had to pay 8,000 baht because she was a virgin. It did not occur to Nit that this settled her debt.

Since her deflowering, Nit has seen her price drop like bad stocks. Her second and third clients—from Hong Kong—had to pay her boss 4,000 baht. Number five and six paid only 1,500. After that she lost count and went down to the “normal” price of 200 baht—\$8 for an hour. Her boss has kept all the money. Nit seemed oddly resigned to her plight, perhaps because it was her father’s decision. But now, she whispered, she wanted to go home

Abuse and disease are rampant [among child prostitutes in Thailand]. The harm to their bodies is easier to record: cigarette burns, self-inflicted cuts, syphilis and gonorrhea, and increasingly the virus that causes AIDS. Social workers worry also about the less visible and harder part—the interrupted childhoods, depression and distrust, the grim prediction that abused children will themselves become perpetrators.²⁸

Unfortunately, Nit was not the only identified case of a child being tricked into prostitution with the knowledge and possible connivance of her family. A similar story appeared in *Time* magazine.

A typical victim of the Thai trade in prepubescent sex is Armine Sae Li, 14 (not her real name). She was spirited away from northern Chiang Rai province at age 12 when child traffickers

convinced her parents they would give her a good job in a beach-resort restaurant. When she reached Phuket, a center for sex tourism, she was forced into prostitution in conditions of virtual slavery until she was rescued last December by Thai police. But they arrived too late; Armine has tested HIV-positive and will die of AIDS.

During Armine's brief career as a prostitute she entertained two to three customers a night, almost all of them foreigners. In recent years, Europeans, Australians, Japanese, and Americans have flocked to Southeast Asia by the thousands to engage in sex acts with Thai, Filipino, and Sri Lankan youngsters that would win them a jail term in their own countries.²⁹

These stories contain all the elements that have since come to characterize accounts of child prostitution—a young girl, coerced and tricked into prostitution many miles from home, painful initiation through paid sex with a foreigner, no means of escape, and no future other than illness and death. In these stories, trafficking and prostitution are indistinguishable—forced or deceived migration inevitably leads to coerced sex (usually with foreign clients) for pay that the child never receives and then on to death. These stories were so powerful that organizations such as End Child Prostitution in Asian Tourism (ECPAT) arose to combat the problem. International publicity and awareness-raising campaigns, including calls for a boycott of Thai goods, also became more prevalent.³⁰ Many of the cases uncovered by these campaigns were indeed horrific, involving foreigners who had sex with very young children, some even filming this abuse. Nevertheless, in the rare instances that they were caught, these Western men simply bribed their way out or jumped bail and left the country.³¹

NGO and media reports also concentrated on the large and ever-increasing scale of the problem.³² In 1989, a statement made by the Norwegian Government to the Council of Europe claimed that “[e]very year, one million children are kidnapped, bought, or in other ways forced to

enter the sex market.”³³ Activists have used this figure extensively, although sometimes modifying it to claim that the demand for young prostitutes is so great that it created “more than one million ‘fresh’ child prostitutes every year.”³⁴

C. Reacting to Stories of Trafficking and Prostitution

It is clearly very difficult to react to stories such as Nit’s or Armine Sae Li’s—or even to respond to reports of the scale of the issue—with any response other than outright condemnation and outrage. Also, reacting without anger is almost guaranteed to invite accusations of “academic voyeurism,” which, as Jean La Fontaine has argued, are “no substitute for more action on behalf of the victims.”³⁵

However, the use of such stories is problematic, and as they continue to be widely circulated, such stories have important implications for analyzing the phenomenon today. The statistics used are particularly concerning—while the figure of one million child prostitutes continues to be cited, it has little basis in accurate, reliable research. The Norwegian Save the Children Fund found no evidence for its own government’s figure of one million child prostitutes in Asia.³⁶ Other assessments of child prostitution in Thailand³⁷ suggested that numbers were much smaller than the 800,000 children sometimes claimed as working prostitutes.³⁸ Furthermore, ethnographic studies³⁹ (as I will go on to discuss) showed that the problem was very different at ground level and did not always involve trafficking or forceful coercion.⁴⁰ As Thomas Steinfatt has argued, “The publicizing of these numbers diluted the focus on child workers as they actually existed in small numbers in specific places and created an impression of a society gone berserk with paid child sexual abuse.”⁴¹

D. Types of Prostitution in Thailand

Although the Protocol makes no distinction between prostitution and trafficking where children are concerned,⁴² it is important to acknowledge

that, in reality, there are different types of child prostitution and not all involve trafficking or forced migration. Three main types of child prostitution appear in Thailand: first, there are foreign girls who have been trafficked (by force or trickery) from neighboring countries, such as China or Burma, or from the hill tribes; second, there are girls who have been “debt-bonded” into brothels either on their own accord or with parental encouragement; and finally, there are children who work freelance.

Both boys and girls exist in the final category (“freelance”); they are the ones most likely to have foreign customers. These children live with their families and sell sex as part of the overall family economy. For some children, selling sex is a rare occurrence done to supplement wages from others jobs; while for other children, it is a regular occupation and their main source of income. This category might also include those children living on the streets who sell sex on some occasions (“survival sex”) or girls who exchange sex with boys on the street in order to win their protection.⁴³

1. Foreign Girls Trafficked into Prostitution by Force or Trickery

Certainly, some evidence exists that girls are kidnapped from their homes and brought to work as prostitutes in Thailand.⁴⁴ At other times, traffickers offer bogus jobs.⁴⁵ NGOs sometimes rescue these girls, but many others do not escape their brothels until police raids occur.⁴⁶ Newspaper reports of these raids are usually accompanied by pictures of the girls trying to hide their faces and protect their identities, sometimes suggesting their rescue is as coercive as their recruitment. What usually goes less reported, however, is what happens to these girls after they leave the brothels; whether or not they run into problems with immigration officials, whether they try to return home, and whether any help is offered to them.

Girls from the hill tribes in the north of Thailand are thought to be at particular risk, given their social marginalization and lack of Thai citizenship.⁴⁷ Various endeavors, such as the Daughters’ Education Project,

have been set up to help hill tribe girls escape from prostitution by providing foster care for those at risk.

Other groups that appear particularly vulnerable are Burmese children and young women found in brothels on the Thai side of the Thai-Burmese border. In 1993, a human rights group, Asia Watch, reported on the widespread collusion of Thai officials in the indigenous sex trade and, in particular, their treatment of Burmese girls in Thailand.⁴⁸ Their report discussed a raid on a brothel in Ranong (near the Burmese border) where 148 underage Burmese girls were rescued but then arrested. The girls claimed to have been forced or tricked into the brothels; yet, rather than being treated as victims of a crime, they were arrested by the Thai police as illegal immigrants and sent back to Burma where it was claimed that those who tested HIV-positive were shot.⁴⁹

The Ranong case was controversial, and reliable facts about the fate of these girls were difficult to find. The habitual secrecy of the Burmese military regime and the embarrassment the case caused to the Thai authorities meant it was difficult to monitor these girls and, to this day, their fate is unknown. However, this case did show how politicized trafficking discourses had become. To the Thai police and government, these girls were illegal immigrants, undocumented workers, and a political headache. To the Burmese government, they were criminals who had left the country illegally and who had returned HIV-positive. But to Asia Watch, these girls were innocent victims of trafficking. What the girls believed about themselves was unclear as their voices were lost in the political arguments that raged around them.⁵⁰

While transborder trafficking dominated headlines in the early 1990s and caused great embarrassment to the Thai government, it is difficult to know how common it was or remains today. A recent report by the US government found that little has changed in the last twenty years, and underage Burmese girls still work in Thai brothels.⁵¹ These girls are likely to be among the most poorly paid prostitutes in Thailand. Their clients are

poor Burmese and their working conditions are harsh. They are also the most obvious targets of police intervention and the most likely to be publicly “rescued” from the brothels. Once found by law enforcement, these girls then face the problem of multiple illegalities—not only did they leave Burma illegally, but they also entered Thailand in violation of immigration, employment, and child protection laws.

Focusing on sexual exploitation may claim victimhood and some legal protection for these women and children, but it can also mask the structural causes of prostitution such as social inequality, restrictive emigration and immigration policies, police corruption, and national and racial prejudice.⁵² These issues are deeply entrenched, sensitive, and politically charged, but they are issues that academics who wish to understand the lives of child prostitutes must confront if they wish to view the situation holistically.

2. “Debt Bondage” Prostitution of Thai Girls

Ethnic Thai girls are also at risk of prostitution and possibly trafficking, but their danger comes from intermediaries in their own communities as well as their own parents. In many instances, girls (or their parents) sell their labor to a brothel for an advance payment, and then they must work for a certain length of time before the debt is paid off. Journalists or campaigning groups refer to this system as “debt bondage,” using this buzz phrase synonymously with both trafficking and prostitution. Media accounts (such as the two quoted earlier) mention that children are sold “for the price of a television” before suffering terrible abuse. Inevitably, these stories end with the child’s infection with HIV and an early death.

Another typical example is the horrific story of a fire at a Phuket brothel in 1984 in which five young prostitutes died while chained to their beds.⁵³ While this case was horrible and widely used as an emblematic example of the horrors of brothel life, it is hard to know how representative it was (or remains) of the conditions in many brothels. Other ethnographic work has suggested that today, while conditions in some brothels can be very harsh,

extreme abuse is relatively uncommon, and usually girls are able to exercise some choice about their clients and labor conditions.⁵⁴

3. Freelance Child Prostitutes

The third and most surprising category of child prostitution includes those who voluntarily have sex for money, usually out of familial duty or the “fun” of fraternizing with wealthy foreigners. Anthropologist and activist Lisa Rende Taylor has argued:

Most commercial sex work in Thailand does not typically involve streetwalking, beatings by pimps, or scuffling with deviant customers, nor does most involve trafficking. Commercial sex workers in the seediest brothels likely do not get to exercise any choice in their clients and work in extremely hazardous conditions, but many Thai commercial sex workers work in cafes, karaoke bars, and massage parlors, where they do have the freedom to choose and reject clients.⁵⁵

Taylor continues to quote young women who started work as prostitutes in their teens and returned to their native villages after several years. She found that some girls justified prostitution because it was the least bad option. (“The parents here say, ‘The problem isn’t that our daughter sells her body (khai tua), it’s that we have no food to eat.’”⁵⁶) Other girls admitted that there were aspects of sex work that they actually liked. One girl stated, “I had a very good income, worked short hours, indoors, it wasn’t hot, I could shop with my friends during the day, and my skin stayed white. I don’t really think it was bad.”⁵⁷

This aspect of child prostitution often goes unexplored. Prostitution does pose risks, but it may also be seen as an easier, better-paid job than factory or agricultural labor. While prostitution is not a positive choice for many children, it is nevertheless a choice made with knowledge that there are no good options.

Furthermore, it is not necessarily a death sentence as portrayed in the media. Although HIV infection rates are indeed tragically high in certain

Thai provinces, not all child prostitutes become infected. There can be life for children after prostitution, and those who can save enough money are not necessarily so traumatized that they cannot adapt or survive life-threatening illnesses.

Other studies of Thailand's prostitution business suggest that many children and young women justify their careers because it supports their families and may keep younger siblings from working as prostitutes. In her groundbreaking study of child prostitution in Thailand, Marjorie Muecke claims that sex work can be seen as a continuation of older cultural patterns of filial obligation. While previous generations would have looked after their parents by selling food or other forms of petty trading, the modern generation fulfils their duties to their parents through sex work.⁵⁸ These young women remain loyal daughters, sending home remittances to their families and functioning as the financial lynchpin of their families. Muecke summarizes the familial benefits of this way of life—although family economics pushes one daughter into sex work, the others benefit from her sacrifice.

In Northern villages, remittances from prostitutes often mean that parents and siblings do not have to work in the dry season, and have to plant only one rice crop a year. The labor of a daughter-sister who prostitutes herself can spare her family from work as well as provide them with otherwise unattainable consumer goods. Thus prostitutes invest heavily in the conservation of their families and homes. In doing so, they carry out traditional obligations of women to take care of aging parents and younger siblings.⁵⁹

The women Muecke interviewed gave a variety of reasons why they worked as prostitutes, but none claimed to have been deceived or trafficked into prostitution. Even in cases where parents had taken advances on their daughters' wages, they did not fit into classic patterns of debt bondage. Both parents and children were aware of what they were expected to do, and while some girls resented it, they nevertheless continued to go into sex work.

Equally important was the fact that several of the women whom Muecke had interviewed eventually returned to their villages after having worked as prostitutes. Instead of being so traumatized by sex work that they had no future, these women in their mid-twenties had in fact returned home after ten years of working as prostitutes. If they were successful at selling sex, had sent money home regularly, and provided houses and consumer goods for their parents,⁶⁰ they were welcomed back. It was only those who failed to send money home or were unsuccessful financially that were stigmatized as selfish, thereby suggesting that prostitution itself was not considered morally indefensible or even inherently corrupting to teenage girls. It was the lack of success as a prostitute that was negatively viewed.

4. Local Demand for Child Prostitution

Another interesting fact to consider is that the vast majority of child prostitutes' clients are local men.⁶¹ Although the issue of children selling sex to foreign men has received a disproportionate amount of attention (as in the stories of Armine Sae Li and Nit, quoted earlier), the number of children selling sex to foreigners is relatively small. Foreigners rarely frequent the brothels where the very young sell themselves cheaply or where women are chained to their beds.

Typically, both women and girls working with Western clients enjoy better conditions, more control over which men they sell sex to, more choice to refuse some men, and they earn more money. This is true even for younger children.⁶² However, it is also the case that Westerners sometimes deliberately blur the categories of child and woman, contributing to the eroticization of even the very young. Many of the bars around Patpong in Bangkok or in Pattaya—another well-known sex tourism resort—advertise “schoolgirl” bars and play on fantasies of underage sex. Some bars refer to their dancers as girls and emphasize that they are “very young” or “fresh.” Others advertise that they have virgins for sale; one researcher noted that a bar in Bangkok had a sign outside reading, “5 fresh virgins; 4 down, one to

go.”⁶³ Even discounting the bravado of such signs and their desire to shock viewers—and even if the women who work there *are* over eighteen—it is not hard to argue that men watching a sex show performed by women dressed as schoolgirls are indulging in fantasies of child sex, if not the reality.

Nevertheless, while Westerners are certainly the most visible clients of child prostitutes, they are not necessarily the most numerous.⁶⁴ This certainly does not mean that Thai men are more depraved than Westerners; it simply means that it is often much cheaper to have sex with a child than with an adult woman. What is a fetishized “luxury” for a foreigner is actually a second-rate substitute for a poor, local client seeking a woman. As Judith Ennew has argued:

Children are not necessarily at the high price range of prostitution as something exotic and hard to find. Often they are the cheapest. . . . [T]hey are sought out by the most poor and marginalized as something they can have power over. They do not know the price of their own sexuality and will sell themselves for a cigarette. . . . The attraction of children [for the very poor] may be simply that they are social failures and that the child’s social status and small size provides a means of exercising power which is otherwise not available to them.⁶⁵

The Burmese girls in the brothels of Ranong were not selling sex to foreigners or even to Thai men but to poor, Burmese migrants, many of whom could not afford women and had to make do with a child.

As discussed in this section, there are a variety of forms of child prostitution in Thailand, and children may be brought into the sex industry in a number of ways. Although child prostitution involving foreigners has received the most attention from the international media and from NGOs, this form of prostitution represents only one facet of the problem. From the brief descriptions above, it is also clear that different manifestations of the problem require different responses. For example, while prosecuting traffickers and reuniting children with their families would help in the case

of children brought in from neighboring countries, it would not help those children working as freelance prostitutes. Similarly, removing children from debt bondage in brothels and returning them home, though their families are still heavily indebted to agents and middlemen, is unlikely to protect them from being debt bonded again. The next section will look in detail at one particular community in Thailand where children carried out freelance sex work. That section will show that it is important to listen to prostituted children's own views and opinions on what they did (and why they did it) when formulating policy responses.

IV. AN ETHNOGRAPHIC STUDY OF CHILD PROSTITUTION IN BAAN NUA

The complex nature of child prostitution in Thailand became apparent when I undertook ethnographic fieldwork between 1993 and 1994 in a small slum community, which I have called Baan Nua. Situated on the edge of a larger tourist resort in Thailand, Baan Nua was a poor community that survived through the prostitution of its children. The children's clients were exclusively Western, and the children's parents were not only well aware of their conduct, but even encouraged it. Approximately 150 people lived in Baan Nua, including sixty-five children, around thirty-five of whom worked as prostitutes. My research focused on boys and girls between the ages of six and fourteen. I spent fifteen months doing this research, interviewing the children, gathering life histories, and acting as a participant observer in their lives.⁶⁶

Given the community's extreme poverty and lack of resources, a culture of need led these children into prostitution. The people of Baan Nua had migrated to this resort approximately fifteen years earlier to look for work in the informal economy and had put up makeshift houses of scrap wood and corrugated iron. It was a poor community without running water and only intermittent electricity, which the inhabitants patched into illegally from the supply of a local supermarket. The number of households

fluctuated throughout the year as partners changed, children moved out, or the makeshift houses collapsed.

One of the most striking facts about the children in Baan Nua was that they lived with their parents. In contrast to the image presented in the media, the children had not been trafficked, debt bonded, or tricked. The children were therefore technically “free” and able to exercise a certain amount of control over their clients. There was no formal organization for prostitution in Baan Nua. Children entered the trade through the encouragement of friends or older siblings who introduced them to clients, showed them what acts they had to perform, and looked after them afterwards. The clients of these children were from several European countries with three men in particular (from Spain, the United Kingdom, and Italy) having the most contact with the children. Generally, the children stayed in the village and lived with their families, but sometimes they stayed overnight with clients. In a few cases, the older children (those over fourteen) stayed for a period of a month or two with visiting men but frequently returned to the village during the day if they were not needed by their clients.

A. Viewing Paid Sex and its Income as a Familial Obligation

Within Baan Nua, as in much of rural Thailand, children were seen as a parental investment with an anticipated return, and they were expected to work for the family as soon as they were able. This emphasis on filial duty has been a constant theme in ethnographic and other studies of prostitution in Thailand. As mentioned previously, Muecke argues that while girls in the past would have earned money through market trading, contemporary young women are likely to earn money through prostitution.⁶⁷ Economist Pasuk Phongpaichit made a similar point in an early study of young prostitutes in Thailand. She argued that daughters who left their rural homes to work as prostitutes had not run away, had not been coerced into prostitution, and had not discarded the principles of support and repayment.

These women and girls were fulfilling their obligations as best they could in a changed environment by earning money elsewhere and sending home the remittances.⁶⁸

Concepts of gratitude and obedience towards parents remained important cultural reference points. Whenever I asked the children in Baan Nua about prostitution, they almost always referred to these concepts. I was constantly told that prostitution was a means to an end, a way of fulfilling the filial obligations that the children felt were demanded of them by their families. Despite the stigma against prostitution, a powerful mitigating circumstance for many of them was the financial support they provided for their parents, particularly their mothers.⁶⁹

This is not to argue that child prostitution is an intrinsic part of Thai culture or that it is not abusive, but these responses do suggest that the children's view of prostitution should be understood through the cultural reference points of duty and obligation. From the observations I made of these children, it was clear that they had profoundly different understandings of sex than Western observers. For these children, neither prostitution nor sexuality were the focus of their identity, which was based instead on belonging to a society and fulfilling obligations to their family and the community. The children felt that by earning money for their parents and keeping the family together, they were acting in socially sanctioned roles as dutiful daughters and sons. Prostituting themselves with the "right" intentions meant that there was little opprobrium on what they did. While outsiders might label prostitution with foreign clients as abusive, exploitative, and a form of trafficking, in the children's view, selling sex was about social relationships and fulfilling their filial obligations to their families.⁷⁰

However misguided the children might have been, and however little they understood the wider political, social, and economic contrast of their situation, they remained adamant throughout the interviews I conducted with them that they were agents who could exercise some sort of choice.

The children had strategies for rationalizing prostitution and for coming to terms with it. They consistently refused to admit to prostitution, rejecting the term when I used it, calling it an ugly thing that had no meaning in their lives. In their terms, it was only children in brothels who could be called prostitutes. The children also continually emphasized that they did not “sell sex,” but rather they went “out for fun with foreigners” or had “guests.”

Furthermore, these children had an ethical system whereby the public selling of their bodies did not affect their private sense of humanity and identity. When I asked one thirteen-year-old about selling her body, she replied, “it’s only my body.” She could make a clear conceptual difference between her body and what she perceived to be her innermost “self” and her personal sense of identity and morality. When I asked her about the difference between adultery and prostitution, she told me that adultery was very wrong. In her eyes, adultery was a betrayal of a private relationship, whereas prostitution was simply done for money. Betraying family members, failing to provide for parents, or cheating on spouses or boyfriends were roundly condemned, but exchanging sex for money—especially when that money was used for moral ends—was not blameworthy nor did it violate any ethical codes. Furthermore, ideas about sexual abuse played limited parts in these children’s understandings of what they did.

My study also showed very different understandings about both the short- and long-term effects of sex on these children. In Western psychological terms, such acts would be seen as causing life-long damage, but sex was understood very differently in this context. When a mother was asked about whether or not she was worried that her eight-year-old son was a prostitute, she replied, “It’s just for one hour. What harm can happen to him in one hour?” The reality that a child’s body is too small for penetration by an adult was ignored, despite evidence of harm done by these men seen in the bleeding and tearing that occurred during these encounters.⁷¹ Mothers would condemn such acts and do whatever they could to help their children

overcome the pain, but these mothers still claimed not to see it as fundamentally harmful to their children in the long-term or damaging to their mental health. Such occurrences were viewed entirely in physical—rather than psychological—terms, and there was no belief that long-term damage could be inflicted on a child in “just one hour.”

B. Viewing Clients as “Friends”

Another strategy deployed by the children to justify what they did was consistently refusing to see their clients as abusers and, instead, choosing to view their clients as friends and even protectors. Although the Western men who visited the children in Baan Nua had superior financial and structural power, the children were able to manipulate these men to some extent and, in certain cases, make them enter into reciprocal arrangements. The mother of one fourteen-year-old girl frequently sent requests to one man for money, and the fact that he always responded enabled her to see him as a friend. He played a similar role in another family’s life, whereby their twelve-year-old daughter had sex with him and found him other child sex partners in return for regular payments made to the mother. These two families were very protective of him, and the children were also very loyal to his cause. During the holiday season, several children asked me how to write “Thank you” and “We love you” in English on Christmas cards that they intended to give this man.

Another client, a British businessman who had lived in Thailand for many years and had paid for sex with a number of children, was protected and defended in a similar way. The children told me that, in the year before I did my fieldwork, a girl from another slum in the city had told her parents that this man had propositioned her and tried to pay her for sex. This child’s parents reported him to the police and gave the police the names of several children in Baan Nua. When the police investigated the situation, however, the people in Baan Nua gave this man a character reference, saying how much he had helped them and how he had given scholarships to some of

their children to attend school. (I found no evidence that these children had ever been to school.) The police did not press charges. The man was released and continued to live in the city, paying for sex with the children. By the time I was doing my fieldwork, he had become such a regular visitor that nobody referred to the fact that he bought sex from the children. He was always euphemistically referred to as a “friend” by the adults and as a “boyfriend” by the children themselves.

For the children, the length of time that these men had been coming to them—as well as the help these men had given them—meant that they never viewed time spent with these clients as work. Instead, children would say that they were “visiting friends,” or that their “guests were in town.” While sex and money were exchanged, this money was claimed as incidental to wider ties of friendship and obligation. One of the ways this was made easier was that nobody set a fixed rate for prostitution. The men paid them after sex, but this was given as a “gift” or a “tip”—never as a direct payment for services rendered.⁷² The sums of money they received were relatively substantial; often enough to re-roof family houses or buy televisions or stereos. The children would claim that this money was given as a sign of friendship rather than for the prostitution services rendered. The fact that they were sometimes given money even when they had not exchanged sex made this claim easier to substantiate.

C. Prostitution and Other Work

Children in Baan Nua turned to prostitution only after they had tried a variety of other jobs such as scavenging, working in sweatshops, or begging. Prostitution paid them considerably more than these jobs, and they perceived it as less physically demanding. Begging, for instance, while potentially lucrative in the high tourist season, could bring in nothing during the rainy season when tourists were far fewer. Furthermore, the children did not like to beg because there was a risk of being arrested by the police or having their money stolen by older street children. They also did not like to

scavenge at the nearby rubbish dump, both because of the rats and fears that they would hurt themselves on broken glass or metal.

While they never claimed to like prostitution, the children often described it to me as better than other jobs they had tried. Although the children seemed willfully ignorant of the threat of pregnancy or sexually transmitted diseases, they argued that prostitution gave them access to benefits such as staying in good hotels or apartments, eating well, and occasionally being given large payments.

D. Viewing the Fuller Picture of Risks and Consequences

I am in no way suggesting that these children were not abused simply because they did not feel abused. Whatever the children said, they did not know the wider political and economic forces under which they made their decisions, and I remained deeply unhappy about the children's denial of abuse and their rejection of victimhood. While acknowledging their resilience, I believed (and continue to believe) that when an older, richer man from the West is buying sex with young children, exploitation is inevitable.

Even though the children claimed that their clients treated them well, this must be set against the risks they faced and certain other aspects of their behavior. A high level of drug and alcohol use, unwanted pregnancies, and sexually transmitted infections existed in Baan Nua among these children. While almost never mentioned, there was also the threat of HIV. Towards the end of my fieldwork, one twenty-year-old—who had worked for several years as a prostitute—died of tuberculosis, which I believe was AIDS-related, although her family always denied it⁷³

Given these circumstances, issues of consent or agency were largely irrelevant. Whatever the children's own claims, they quite clearly did exchange sex for money, and both their clients and their parents had recruited, harbored, and facilitated child prostitution, making them traffickers under international law. Yet the children themselves were

adamant that they had not been trafficked, debt-bonded, or repeatedly raped by foreigners in a brothel. The children were introduced to prostitution by their friends and neighbors, not unknown adults, and the children were loved and supported by their parents within their communities. The children understood prostitution in terms of filial duty—not abuse—and rejected the model of child prostitution projected by the media. For these children, selling sex did not involve being kidnapped or having their virginity bought for high sums.

Regardless, I remain deeply uneasy about their views and would argue that whatever the semantics used to describe it, appalling sexual exploitation was being inflicted on these children. What was clear from the time I spent with these children, however, was that the sort of prostitution which occurred in Baan Nua did not involve trafficking, and any attempts to intervene in their lives needed to be based on understandings of the children's own realities and motivations. As I will go on to discuss, this realization has not always been apparent in solutions proposed—whether they be policy, legal, or practical solutions.

IV. INTERNATIONAL REGULATIONS: A DISCUSSION

A. Criminal Justice System Regulations

Many of the interventions to end child prostitution have framed the problem in terms of its criminality by relying on solutions that originate in the criminal justice system. Also, because foreign involvement in the sex industry has been particularly emphasized, the majority of efforts to end child prostitution have focused on the demand side of the problem. These efforts have concentrated on both preventing foreigners from coming to Thailand to abuse children and prosecuting those that do. The apparent invulnerability of such men, the appalling nature of the crimes being committed, and the public outcry has led several countries to pass extraterritorial legislation enabling them to prosecute men in their home

countries for offenses committed against children on foreign soil.⁷⁴ In 1994, Australia became the first country to introduce extraterritorial legislation, passing the Crimes (Child Sex Tourism) Amendment Act, which brought in penalties of up to seventeen years imprisonment for those convicted of sexual crimes against children overseas.⁷⁵ Norway, Germany, France, Belgium, New Zealand, and Sweden have passed similar laws⁷⁶ and obtained several successful prosecutions.⁷⁷

International law is also essential for fighting prostitution, especially when it happens across borders such as Thailand's. The push for changes in international legislation has happened alongside an increased willingness for tourist-receiving countries to prosecute foreign nationals under their own domestic child protection laws. There is evidence of more men being arrested and convicted through the criminal justice systems of the countries in which the crime occurred—not only in Thailand, but also in Kenya, Albania, and India.⁷⁸ In response to international pressure and the shame of developing a reputation as a pedophiles' playground, Thailand introduced new laws in 1996 designed to protect children. Among other benefits, these laws allowed for the prosecution of parents, procurers, and customers of child prostitutes so that anyone who had sex with a child under fifteen could be sent to jail for between two and six years, and the defendant could be imprisoned for up to three years if the child was between fifteen and eighteen years old. The laws apply to both foreign and local men.

It is hard to know what effect these legal changes have had on the behavior of men who are tempted to travel overseas to have sex with children or those who decide to buy sex from a child once there. Although prosecutions in both tourist-receiving and tourist-sending countries have increased, the numbers of men who continue to escape justice is not known. Nor is it clear if these men have stopped going to Thailand and now instead go to Vietnam and Cambodia where enforcement is less strict, or if they have stopped abusing children abroad all together.⁷⁹

There is certainly no room for complacency, and a trawl through the *Pattaya Daily News* (Pattaya is still one of the main destinations for sex tourism in Thailand) shows that the problem continues to be rife. In May 2008, a headline read, “British Man Arrested In Pattaya For Luring Underage Boy For Sexual Purposes,” while in December of that year, the paper sounded positively weary: “Yet Another Foreign Gay Arrested In Pattaya With Underage Boys.” The following May, it announced, “2 Swedish, 1 British Pedophiles Arrested in Pattaya.”⁸⁰ Despite the risks and dangers, there obviously still remains a belief that it is possible to get away with the sexual abuse of children overseas in a way that it is impossible elsewhere else. Clearly, in some parts of Thailand, the message has still not been received, and it is safe to assume that while a handful of men have been arrested, there are plenty of others who have not and who continue to buy sex from children.⁸¹ Such cases show the gaps in the system which some men are still using to exploit children.

B. Other Initiatives to Help Child Prostitutes

More attention must be given to issues of police willingness and ability to track and arrest the clients of child prostitutes. The endemic poverty of several South East Asian countries makes some families willing to allow their sons and daughters to work as prostitutes.⁸² Compared to the low wages and conditions of many local brothels, selling sex to foreigners often brings in relatively high income and is not always seen as the worst form of exploitation.⁸³ While it may sound deeply crass to make this point, the children that I knew in Baan Nua were very vocal on this subject. Prostitution was not something they liked doing, but it gave them the chance to eat well, go to places they could not otherwise afford (such as amusement arcades or theme parks), and paradoxically, enjoy some aspects of a childhood otherwise denied to them. Compared with working in a sweatshop, scavenging for rubbish, begging, or even being bossed around

for low wages in a “respectable” job like hairdressing, this lifestyle was a better option in their minds.

Other initiatives aimed at helping children and their parents have had some success at providing financial alternatives to prostitution.⁸⁴ The government, with moral and financial support from members of the Thai royal family, set up a system of scholarships to provide money to families who keep their daughters in school until they are sixteen. This is expensive, however, and has largely relied on private charities so far to supply the funds.⁸⁵ However, by emphasizing prevention and recognizing that economic hardship and family obligations are two of the many factors which contribute to child prostitution, schemes such as these make welcome steps away from a one-size-fits-all intervention that is based on the belief that all child prostitutes are victims of trafficking.

C. Deciding Where to Target Assistance

As more research is being done on child prostitutes in Thailand, intriguing patterns suggest the need for targeting assistance to particular girls who may be most vulnerable. Rende Taylor, who carried out ethnographic work with child prostitutes (as discussed previously) has found that the pattern of entry into prostitution is not uniform across families—first-born girls are less likely to enter sex work, while their younger sisters, especially last-born girls, are at much greater risk.⁸⁶ Because the oldest daughter in Thai families has long taken on heavy responsibilities around the house as the principle caregiver for younger siblings, her work is too valuable at home for her parents to allow her to sell sex. Rende Taylor makes the point that neither poverty nor lack of education *per se* affects the likelihood of girls becoming prostitutes, but family structures and the order in which girls are born are the most important conditions. These sorts of small-scale studies show where help is needed and where it would be best targeted.

In the case of Baan Nua, the children clearly needed particular forms of help. In the short term, they needed a source of income which would provide enough money for them to support their families but did not involve prostitution. However, such jobs were very hard to come by—the children were largely uneducated, and with such little schooling, they could not aspire to work in a shop or office. Options for girls included finding someone who would teach them hairdressing or dressmaking and working as that person's apprentice for several years. For boys, the choices included working on building sites or setting up small businesses. All these options were paid poorly, however, and required regular attendance of which many children had no experience. In order to transition successfully out of prostitution, these children needed intensive, long-term psychological and educational help. Furthermore, this help needed to be aimed at their parents as well. Instead of criminalizing parents, and even imprisoning them, the welfare authorities needed to work with them, teaching them that prostitution was a dangerous option for their children, and showing them that other forms of work could be as lucrative. In the longer term, they also needed to understand that education could produce quantifiable benefits and secure their futures and that financial help was available for children who wished to stay in school.

Baan Nua children also needed help that was culturally sensitive and that celebrated their resilience and their loyalty to their families. One of the strongest impressions of these children that I took away from my field research was their remarkable strength. Acknowledging this did not lead me to condone prostitution in any way or excuse their clients' manipulation and abuse; instead, it warned me against destroying these children's own pride and strategic involvement in their families' survival by recasting them as helpless and pathetic.

VI. CONCLUSION

Unfortunately, all the new laws and initiatives came too late for the children of Baan Nua. A week before I left the field, the first confirmed AIDS-related death shocked an already vulnerable community and it quickly disbanded. Some families traveled to Bangkok while others returned to rural communities, continuing to sell sex to foreigners while they still could. Neither foreign laws nor initiatives of extraterritoriality, nor local laws on child protection would have made much impact on their lives. The children and their families had no interest in seeing their clients prosecuted or even stopped from entering Baan Nua. In the absence of any social support or welfare assistance, these men were the only form of protection the community had—no matter how damaging that might seem to outsiders. The people of Baan Nua would never testify against these “friends.”

Secondly, changes in Thai law that came into effect in 1996 meant that parents could be prosecuted if they allowed or encouraged their children to work as prostitutes.⁸⁷ Given the emphasis that the children placed on family relationships and filial obligations, such laws would have made it extremely difficult for the children to have asked for help, even if they recognized that they needed it. Keeping the family together was their primary justification for what they did; the prosecution and imprisonment of their parents was their worst fear. As suggested previously, initiatives to end child prostitution need to work with parents and ensure, as far as possible, that families stay together. Few children would go to the police or welfare authorities if they believed that their parents could be prosecuted. Furthermore, such a law gave the state immunity by privatizing the issue and laying the blame at the feet of the family, whereas wider social, cultural, and economic factors were also crucially important.

What all child prostitutes need are sympathetic interventions which take account of their individual circumstances, their own values and, if appropriate, enable them to stay with their parents. What are not helpful are

punitive sanctions against the adults they love most. It needs to be acknowledged that not all child prostitutes in Thailand (or, indeed, elsewhere) have been trafficked or debt-bonded, and many will one day leave prostitution. Policies need to be formulated to help these children now as they make the transitions out of prostitution.

While a good body of ethnographic evidence about the lives of young prostitutes in Thailand has now been built up, the findings of such studies have not always filtered down to NGOs and the wider public. Trafficking and prostitution continue to be thought of as interchangeable, which can lead to unhelpful interventions which are, at best, futile; and, at worst, damaging to the very children they are designed to help. There is still not enough of an understanding of the different types of prostitution, its links (or lack thereof) to trafficking, the clients of these children, the different interventions needed, or the scale of the problem. Future research needs to take the children's own views as a starting point and promote appropriate interventions on this basis. Children need to be partners in this process, consulted and involved at every stage. Their strength and resilience needs to be acknowledged, and processes must be put in place so that children can access help without risk to their parents.

Trafficking and prostitution will always remain emotive issues, especially when they concern children. As more cases are revealed, there will always be outrage and calls for more to be done to combat the problem. Legal solutions are a useful starting point, but they can also be blunt instruments in need of constant and sympathetic enforcement. Certainly, national and international NGOs—backed by international law—have the very best of intentions, but without a full understanding of the problems on the ground, their proposed solutions can exacerbate the problem and alienate the very children they most want to help.

¹ Jyoti Sanghera, *Unpacking the Trafficking Discourse*, in *TRAFFICKING AND PROSTITUTION RECONSIDERED: NEW PERSPECTIVES ON MIGRATION, SEX WORK, AND HUMAN RIGHTS*, 3–24 (Kamala Kempadoo, Jyoti Sanghera & Bandana Pattanaik, eds. 2005) [hereinafter Sanghera].

² G.A. Res. 55/25, Annex II, U.N. Doc. A/Res/55/25 (Jan. 8, 2001), [hereinafter Palermo Protocol]. This Protocol supplemented the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Mar. 21, 1950, 96 U.N.T.S. 271, and gave added protections to those discussed in the Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

³ Palermo Protocol, *supra* note 2, at Art. 2. According to the United Nations Office on Drugs and Crime, as of 2010, 110 States have signed and ratified the Protocol although conviction rates remain very low and few victims are helped or even identified. *Human Trafficking*, United Nations Office of Drugs and Crime <http://www.unodc.org/unodc/en/human-trafficking/what-is-humantrafficking.html?ref=menuaside> (last visited March 3, 2011).

⁴ G.A. Res. 55/25, Annex II, Article III, U.N. Doc. A/Res/55/25 (Jan. 8, 2001).

⁵ Jo Doezema, *Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol*, 10 *GENDER & DEV.* 20, 20–21 (Mar. 2002), available at <http://www.jstor.org/stable/4030678>; see also BRIDGET ANDERSON & JULIA O'CONNELL-DAVIDSON, *TRAFFICKING—A DEMAND LED PROBLEM?* 8–9 (2002) [hereinafter ANDERSON].

⁶ ANDERSON, *supra* note 5, at 7.

⁷ See Melissa Ditmore, *Trafficking in Lives: How Ideology Shapes Policy*, in *TRAFFICKING AND PROSTITUTION RECONSIDERED: NEW PERSPECTIVES ON MIGRATION, SEX WORK, AND HUMAN RIGHTS* 107, 109 (Kamala Kempadoo, Jyoti Sanghera & Bandana Pattanaik eds., 2005) [hereinafter Ditmore].

⁸ Kamala Kempadoo, *From Moral Panic to Global Justice: Changing Perspectives on Trafficking*, in *TRAFFICKING AND PROSTITUTION RECONSIDERED: NEW PERSPECTIVES ON MIGRATION, SEX WORK, AND HUMAN RIGHTS* vii, xxiii (Kamala Kempadoo, Jyoti Sanghera & Bandana Pattanaik eds., 2005) [hereinafter Kempadoo].

⁹ For accounts of these conditions, see generally Kevin Bales, *DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY* (2004) and Christien van den Anker, *THE POLITICAL ECONOMY OF SLAVERY* (2004).

¹⁰ Sanghera, *supra* note 1, at 11; Anderson, *supra* note 5, at 7.

¹¹ ANDERSON, *supra* note 5, at 7.

¹² In particular, see Sanghera, *supra* note 1 at 11.

¹³ ANDERSON, *supra* note 5; Kempadoo, *supra* note 8, at vii–xxxiv; Sanghera, *supra* note 1, at 3.

¹⁴ Kempadoo, *supra* note 8; Sanghera, *supra* note 1.

¹⁵ Elaine Pearson, *HUMAN TRAFFIC, HUMAN RIGHTS: REDEFINING VICTIM PROTECTION*, (2002); Ditmore, *supra* note 7; Siriporn Skrobaneek, Nattaya Jantakeero and Chutima Boonpakdi, *THE TRAFFIC IN WOMEN: HUMAN REALITIES OF THE INTERNATIONAL SEX TRADE* (1997).

¹⁶ KEMPADOO, *supra* note 8, at ix.

- ¹⁷ For a notable exception see Sanghera, *supra* note 1, at 11.
- ¹⁸ Kinsey Alden Dinan, *United Nations Trafficking Protocol*, in *ENCYCLOPEDIA OF PROSTITUTION AND SEX WORK* 512, 512–13 (Melissa Hope Ditmore ed., 2006).
- ¹⁹ Convention on the Rights of the Child, 1577 U.N.T.S. 3 (1989) [hereinafter UNCRC]. Article 34, for example, forbids anyone under the age of eighteen from becoming involved in any form of prostitution or pornography.
- ²⁰ Sanghera, *supra* note 1.
- ²¹ Coalition Against Trafficking of Women, *Child Trafficking*, http://www.catwinternational.org/child_trafficking.php (last visited Aug. 9, 2010).
- ²² *Reports presented by the Comm. of Enquiry into Traffic in Women and Children in the East*, League of Nations Doc. C.849.M.393.1932.IV, 312 (1932).
- ²³ *Id.*
- ²⁴ Kempadoo, *supra* note 8, at xi.
- ²⁵ HEATHER MONTGOMERY, *MODERN BABYLON? PROSTITUTING CHILDREN IN THAILAND* (2001).
- ²⁶ Ryan Bishop & Lillian S. Robinson, *NIGHT MARKET: SEXUAL CULTURES AND THE THAI ECONOMIC MIRACLE* (1998); MONTGOMERY, *supra* note 25.
- ²⁷ For examples on the similarities between these stories and those told one hundred years earlier during the white slavery panics of the 1880s, see Jo Doezema, *Loose Women or Lost Women? The Re-emergence of the Myth of White Slavery in Contemporary Discourses of Trafficking in Women*, 18 *GENDER ISSUES* 23, 23 (2000).
- ²⁸ Marlise Simons, *The Littlest Prostitutes*, *N.Y. TIMES*, Jan. 16, 1994, at 35, available at <http://www.nytimes.com/1994/01/16/magazine/the-littlestprostitutes.html?pagewanted=all&src=pm>.
- ²⁹ Margot Hornblower, *The Skin Trade*, *TIME*, June 21, 1993, at 28.
- ³⁰ Wikipedia, *Don't Buy! Thai!*, http://en.wikipedia.org/wiki/Don't_Buy!_Thai! (last visited Aug. 9, 2010).
- ³¹ Heather Montgomery, *Child Sex Tourism: Is Extra-Territorial Legislation the Answer?*, in *TOURISM AND CRIME: KEY THEMES* 69, 72–73 (David Botterill & Trevor Jones eds., 2010).
- ³² Judith Ennew, et. al, *CHILDREN AND PROSTITUTION: HOW CAN WE MEASURE AND MONITOR THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN? LITERATURE REVIEW AND ANNOTATED BIBLIOGRAPHY* 24–30 (1996); Sanghera, *supra* note 1.
- ³³ Maggie Black, *Home Truths*, *NEW INTERNATIONALIST*, Feb. 1994, at 11–12, available at <http://www.newint.org/features/1994/02/05/home/>.
- ³⁴ Quoted in Alison Murray, *Debt-bondage and Trafficking: Don't Believe the Hype*, in *GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION* 51, 55 (Kamala Kempadoo & Jo Doezema, eds. 1998); see also Ennew, *supra* note 32, at 24–30; MONTGOMERY, *supra* note 25.
- ³⁵ Jean La Fontaine, *CHILD SEXUAL ABUSE* 17 (1990).
- ³⁶ In 1989 Norwegian Save the Children (Redd Barna) published a full report, funded by NORAD (Norwegian Agency for International Development), on the extent and nature of child prostitution. It gave no statistics and acknowledged the difficult nature of defining and counting child prostitutes. It also emphasized the unreliability of many of the sources

for these numbers. OVE NARVESEN, THE SEXUAL EXPLOITATION OF CHILDREN IN DEVELOPING COUNTRIES 24 (1989).

³⁷ Philip Guest, *Guesstimating the Unestimateable: The Number of Child Prostitutes in Thailand*, in CHILD PROSTITUTION IN THAILAND: A DOCUMENTARY ANALYSIS AND ESTIMATION OF THE NUMBER OF CHILD PROSTITUTES 73, 94–95 (Orathai Ard-am & Chanya Sethaput eds., 1994); Thomas Steinfatt, *Trafficking, Politics and Propaganda*, in ENCYCLOPEDIA OF PROSTITUTION AND SEX WORK 494, 497 (Melissa Hope Ditmore ed., 2006).

³⁸ Steinfatt, *supra* note 37, at 498.

³⁹ For ethnographic accounts providing different perspectives about the nature of the problem, see Marjorie A. Muecke, *Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution*, 35 SOC. SCI. MED. 891 (1992); Montgomery, *supra* note 25; Lisa Rende Taylor, *Dangerous Trade-offs: The Behavioral Ecology of Child Labor and Prostitution in Rural Northern Thailand*, 46 CURRENT ANTHROPOLOGY 411 (2005). For excellent introductions and challenges to the dominant narratives, see generally, JULIA O'CONNELL DAVIDSON, CHILDREN IN THE GLOBAL SEX TRADE, (2005); Steinfatt, *supra* note 37, at 496.

⁴⁰ This is not to claim that there is no trafficking, only that the scale and extent have been exaggerated and confused with other forms of prostitution. It should also be noted that not all child trafficking in Thailand is for the purposes of sexual exploitation, and there is some evidence of Cambodian children being brought to Thailand for the purposes of begging or adoption. See Steinfatt, *supra* note 37.

⁴¹ Steinfatt, *supra* note 37, at 497.

⁴² It is also worth noting that some commentators will not use the phrase “child prostitution,” believing that as long as children cannot consent to sexual exploitation they should always be referred to as prostituted children. See MONTGOMERY, *supra* note 25, at 89–91.

⁴³ For a discussion of the links between survival sex and street children, see Jody, M. Greene, Susan T. Ennett, & Christopher Ringwalt, *Prevalence and Correlates of Survival Sex among Runaway and Homeless Youth*, 89 AM J. OF PUBLIC HEALTH 1406 (1999).

⁴⁴ O'CONNELL DAVIDSON, *supra* note 39; Centre for the Protection of Children's Rights, PREVENTION OF TRAFFICKING AND SALE OF CHILDREN IN THAILAND (unpublished manuscript).

⁴⁵ O'CONNELL DAVIDSON, *supra* note 39; Center For the Protection of Children's Rights, *supra* note 44; ANDERSON, *supra* note 5; see generally LEONARD TERRITO & GEORGE KIRKHAM, INTERNATIONAL SEX TRAFFICKING OF WOMEN AND CHILDREN: UNDERSTANDING THE GLOBAL EPIDEMIC (2010).

⁴⁶ Official figures are difficult to find. In addition, NGO and media reports are often extremely unreliable and fail to disaggregate by age and sex. See Yvonne Rafferty, *Children for Sale: Child Trafficking in Southeast Asia*, 16 CHILD ABUSE REV. 401 (2007), available at <http://onlinelibrary.wiley.com/doi/10.1002/car.1009/pdf>. For a discussion of the political charges made of such numbers, see also Steinfatt, *supra* note 37.

⁴⁷ LESLIE JEFFREY, SEX AND BORDERS: GENDER, NATIONAL IDENTITY, AND PROSTITUTION POLICY IN THAILAND (2002).

⁴⁸ ASIA WATCH, A MODERN FORM OF SLAVERY TRAFFICKING OF BURMESE WOMEN AND GIRLS INTO BROTHELS IN THAILAND (1993).

⁴⁹ In 1995, Coalition Against Trafficking in Women-Asia Pacific, claimed on its website that “[r]epatriated prostituted Burmese women found to be HIV infected were killed by authorities.” However, this report was unsourced and there has been no independent verification. Coalition Against Trafficking in Women, *Burma-Myanmar*, http://www.catwinternational.org/factbook/Burma_Myanmar.php (last visited March 3, 2011).

⁵⁰ See generally MONTGOMERY, *supra* note 25.

⁵¹ See US Department of State Bureau of Democracy, Human Rights, and Labor, *Human Rights Report, THAILAND* (2008), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100539.htm>.

⁵² In the Thai newspaper, *The Nation*, Pol. Lt. Gen. Sudjai Yanrat was quoted as saying, “In my opinion it is disgraceful to let Burmese men frequent Thai prostitutes. Therefore, I have been flexible in allowing Burmese prostitutes to work here. Most of their clients are Burmese men.” *Ranong Brothel Raids net 148 Burmese Girls*, THE NATION (Thailand), July 16, 1993, at A1.

⁵³ Rakkit Rattachumpoth, *The Economics of Sex*, THE NATION (Thailand), Feb. 3, 1994, at 3; Samut Sakhon, *Two Burn to Death in Brothel Fire*, BANGKOK POST (Thailand), June 13, 1994, at 7.

⁵⁴ See Pamela Da Grossa, *Kamphaeng Din: A Study of Prostitution in the All-Thai brothels of Chiang Mai City*, 4 CROSS-ROADS, 1–7 (1989); see also GRAHAM FORDHAM, A NEW LOOK AT THAI AIDS: PERSPECTIVES FROM THE MARGIN (2005).

⁵⁵ TAYLOR, *supra* note 39, at 416.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ See Muecke, *supra* note 39.

⁵⁹ *Id.* at 897.

⁶⁰ *Id.*

⁶¹ See generally FORDHAM, *supra* note 54.

⁶² Black, *supra* note 33, at 13.

⁶³ Michelle Gilkes, *Prostitution in Thailand*, 30 (Unpublished B.A. Thesis, Long Island University) (On file with author).

⁶⁴ Black, *supra* note 33, at 13.

⁶⁵ JUDITH ENNEW, THE SEXUAL EXPLOITATION OF CHILDREN 83 (1986).

⁶⁶ For a full discussion of methods and ethical dilemmas, see Heather Montgomery, *Working with Child Prostitutes in Thailand: Problems of Practice and Interpretation* 14 in CHILDHOOD 415 (2007). I carried out this research as part of a doctorate in social anthropology between 1994 and 1995. Although many anthropologists use the ethnographic present when discussing their research, I have used the past tense to describe the situation that I worked in. Shortly after I finished the research, the community disbanded, and the inhabitants of Baan Nua migrated to other parts of Thailand. For this reason, the use of the past tense seems most apt.

⁶⁷ Muecke, *supra* note 39, at 897.

⁶⁸ See generally PASUK PHONGPAICHT, FROM PEASANT GIRLS TO BANGKOK MASSEUSES (1982).

⁶⁹ Such a view is not uncommon, and other studies with both adults and children have shown that how a person spends their earnings can help mitigate the stigma of sex work. For a vivid example of this see PATTY KELLY, LYDIA'S OPEN DOOR: INSIDE MEXICO'S MOST MODERN BROTHEL (2008).

⁷⁰ MONTGOMERY, *supra* note 25, at 82–84.

⁷¹ Brian M Willis & Barry S Levy, *Child Prostitution: Global Health Burden, Research Needs, and Interventions*, 359 THE LANCET 1417 (2002), available at http://www.popcenter.org/problems/trafficked_women/PDFs/Willis&Levy_2002.pdf.

⁷² For a discussion of the “incomplete commercialization” of prostitute/client relationships in Thailand, see Eric Cohen, *Thai Girls and Farang Men: The Edge of Ambiguity*, 9 ANN TOURISM RES 403 (1982). See also generally Black, *supra* note 33; FORDHAM, *supra* note 54.

⁷³ Heather Montgomery, *Motherhood, Fertility and Ambivalence among Young Prostitutes in Thailand*, in MANAGING REPRODUCTIVE LIFE: CROSS CULTURAL THEMES IN SEXUALITY AND FERTILITY, 71–84, (Soraya Tremayne, ed. 2001).

⁷⁴ MICHAEL HIRST, JURISDICTION AND THE AMBIT OF THE CRIMINAL LAW 268 (2003).

⁷⁵ See C. Michael Hall, *The Legal and Political Dimensions of Sex Tourism: The Case of Australia's Child Sex Tourism Legislation*, in SEX TOURISM AND PROSTITUTION: ASPECTS OF LEISURE, RECREATION, AND WORK, 87–96 (Martin Oppermann ed., 1998); NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN, PROSTITUTION OF CHILDREN AND CHILD-SEX TOURISM: AN ANALYSIS OF DOMESTIC AND INTERNATIONAL RESPONSES, (1999); see generally JEREMY SEABROOK, NO HIDING PLACE: CHILD SEX TOURISM AND THE ROLE OF EXTRA-TERRITORIAL LEGISLATION (2000).

⁷⁶ For a summary of the laws in each country see WORLD TOURISM ORGANISATION, PROTECTION OF CHILDREN IN TOURISM—LEGISLATION, http://www.unwto.org/protect_children/campaign/en/legislation.php?op=1&subop=7 (last visited Aug. 9, 2010).

⁷⁷ Since 1997, there have been five convictions in the UK, at least sixty-five in the US, and twenty-eight in Australia. CHRISTINE BEDDOE, RETURN TO SENDER: BRITISH CHILD SEX OFFENDERS ABROAD—WHY MORE MUST BE DONE, 18 (2008), available at http://lastradainternational.org/lisdocs/Return_to_Sender.pdf.

⁷⁸ MONTGOMERY, *supra* note 25.

⁷⁹ Montgomery, *supra* note 31.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² See generally FORDHAM, *supra* note 54.

⁸³ MONTGOMERY, *supra* note 25; FORDHAM, *supra* note 54.

⁸⁴ It is also worth noting a decline in the population of girls aged between ten and sixteen which has also led to a decline in the overall numbers of children entering prostitution from the Chiang Rai region. Simon Baker, *The Changing Situation of Child Prostitution in Northern Thailand: A Study of Chiang Rai* (Dec. 10, 2000), available at http://www.childtrafficking.com/Docs/baker_2000_changing_situation_child_prostitution_thailand_5.pdf.

⁸⁵ Baker, *supra* note 84, points out, however, that there have been criticisms from community groups that not enough money is given to parents so that it is still more profitable for their daughters to enter prostitution. It is also unclear as to how successful these schemes are long term, whether they keep girls out of the sex trade permanently or simply for a few more years.

⁸⁶ See generally Taylor, *supra* note 39.

⁸⁷ Thailand's Prevention and Suppression of Prostitution Act, Section X, B.E. 2539 (1996).