

## University of St. Thomas Journal of Law and Public Policy

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Volume 12

Issue 1 *Sex Trafficking: Addressing a Global Issue in Our Backyard*

Article 1

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# Child Sex Tourism and Its Relationship to Global Human Trafficking

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### Bluebook Citation

Linda Miller, *Child Sex Tourism and Its Relationship to Global Human Trafficking*, 12 U. St. Thomas J.L. & Pub. Pol'y 1 (2017).

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# CHILD SEX TOURISM AND ITS RELATIONSHIP TO GLOBAL HUMAN TRAFFICKING

LINDA MILLER<sup>1</sup>

Civil Society is a nonprofit that has eight attorneys part-time, doing a broad spectrum of work. We provide civil legal services to victims to remedy the effects of sex trafficking, stalking, sexual assault on campus, child sex tourism, and domestic assault.

One of our goals is to reduce the demand for sex with children around the world. I'm going to talk about is demand reduction for sex with children and how we do that through civil suits. Now that the appeal period is over, I can talk about a very important case. In *Vang v. Prataya*, we got nearly a million dollars in a unanimous jury verdict eight months ago in the federal court system.<sup>2</sup>

In the *Vang v. Prataya* case the child was 14 years old.<sup>3</sup> She lived 12 hours from the capital city of Laos.<sup>4</sup> She was told by a young woman who said she was a movie star, that she would make her a movie star.<sup>5</sup> This woman told her she was going to take her to the capital city via a 12 hour bus ride.<sup>6</sup> She then brought Vang to the capital city of Laos where she was raped.<sup>7</sup> Mr. Prataya, the man who raped her, is an American citizen.<sup>8</sup> He had been living in Minnesota with his wife and nine children.<sup>9</sup> At the time, he was in his 50s and she was 14.<sup>10</sup> She did not know this man before the rape. Prataya had a previous criminal conviction for sexual assault in

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<sup>1</sup> Linda Miller, Executive Director and founder of Civil Society. These remarks were given at the Fall Symposium, "Sex Trafficking: Addressing a Global Issue in our Backyard" at the St. Thomas Sch. of Law. (Oct. 27, 2017).

<sup>2</sup> No. 12-CV-1847, WL 401942 (D. Minn. May 16, 2017)

<sup>3</sup> *Id.* at 1.

<sup>4</sup> Sarah Horner, *Raped and Pregnant at 14, she sued and won \$1M in child-sex tourism case*, Twin Cities Pioneer Press, May 12, 2017.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Vang v. Prataya*, No. 12-CV-1847, WL 401942 (D. Minn. May 16, 2017)

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

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

Minnesota.<sup>11</sup> It occurred when he was serving as an interpreter in a medical situation, and he raped the person he was interpreting for.<sup>12</sup>

I met my client, Vang, in the United States after she asked for legal services. Her father brought her here after the rape occurred in Laos.<sup>13</sup> Her father was a war refugee from Vietnam war, and he was able to reunify his family under the family reunification act.<sup>14</sup> He brought my client's mother, her, and her sister to the United States.

The federal criminal acts are very well developed because Americans and Canadians comprise about 25% of the people that are going to other countries and raping their kids.<sup>15</sup> This is giving the United States a terrible reputation. The people in Washington know this because they've traveled and are often in diplomatic circles. They have written these very strong laws, but they're difficult to enforce.

One very strong law called the PROTECT Act.<sup>16</sup> This law is effective against each situation of sexual assault of children. There are different jurisdictional issues in each case which the Protect Act covers. The subsection of the Protect Act which we used has never been used before in a civil suit.

"Masha's law" is another law we used. It allows prosecution in a civil suit without a criminal conviction of the perpetrator in order to get funds for the victim.<sup>17</sup>

The rapists know there is often no proper documentation of birth in other countries. They also know that their victims do not normally speak English making it difficult for them to communicate. These circumstances and language barriers make the laws which require proof of age of victims difficult to enforce. These perpetrators are going over, raping these kids, and hoping not to get caught. 25% of the travelers who sexually exploit children are from the United States and Canada and every year this is increasing exponentially.<sup>18</sup> In 2005 it's estimated it was over a million

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<sup>11</sup> *Vang v. Prataya*, No. 12-CV-1847, WL 401942 (D. Minn. May 16, 2017)

<sup>12</sup> *Id.*

<sup>13</sup> See Homer, *supra* note 3

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

<sup>15</sup> ECPAT USA – ENDING CHILD SLAVERY AT THE SOURCE, "Combat International Child Sex Tourism," <http://www.ecpatusa.org/combat-international-child-sex-tourism>.

<sup>16</sup> 18 USC §2423(c).

<sup>17</sup> 18 U.S.C. § 1591.

<sup>18</sup> ECPAT-USA, *Stop Sex Trafficking of Children and Young People*, [http://www.ecpat.org/wp-content/uploads/legacy/Factsheet\\_USA.pdf](http://www.ecpat.org/wp-content/uploads/legacy/Factsheet_USA.pdf).

children and then in 2007 it's around two million children.<sup>19</sup> Now it's probably ten million children. It's recognized by many people as the worst scourge that our whole world is dealing with.

Why are the children of the world suffering this? It's the attitude. This attitude is, I have money so I can do what I want, I can do what I want in other countries. It's okay to exploit children in other countries, they don't have the same laws that we do. Or it's, we're helping them because these poor children wouldn't get food unless you give money to do this. Or it is a sense of superiority that these people are from a lesser race, so-called, and nobody really cares about them.

That's not true, none of these things are true. My client is a person and she has a mother who loves her and a father who loves her and sisters and brothers who love her. Now she has a wonderful husband and children that love her. She's just like us only she's from a different country.

This quote from the deposition of the perpetrator in that case demonstrates some of the attitudes that result in a vast amount of sexual assault against children in other countries:

Q. : "What were you worried about?"

A. : "I wasn't worried about anything"

Q. : "You weren't worried about her age?"

A. : "I was not worried."

Q. : "Why?"

A. : "Because in the Hmong culture, I mean, if the daughter is 12, 13 ... doesn't matter the age..."

Q. : "Were you worried about the possibility that having sex with [a minor] was a crime?"

A. : "I was not worried, whatever I'm doing is right in Laos."<sup>20</sup>

This conveys a lot of the attitude of what is happening.

This foreign market in sex trafficking children is creating a demand in the United States. There's also a club mentality - the hobbyists. They meet, and they talk together to make phone calls to the other country. In this case, it's Laos. Laos is in a different time zone, so my client at age 14 received many phone calls in the middle of the night, which was followed by people sending money to her.

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<sup>19</sup> U.S. DEP'T. OF STATE, 2005 TRAFFICKING IN PERSONS REP. (June 3, 2005); U.S. DEP'T. OF STATE, 2007 TRAFFICKING IN PERSONS REP. (June 12, 2007).

<sup>20</sup> Deposition of Thiawachu Prataya, September 4, 2013, p.130

There's a belief that a criminal prosecution is necessary before a civil case can be brought. This is not true. The nearly million dollars verdict proves it. My client was lucky enough to have her father who could legally bring her to the U.S. Once she came to the United States, I met her and saw the potential in her case. I knew I had to bring this case. We know that we would be the first to bring a case using this law, and it would show the community the importance of enforcing these laws.

There are three types of child sex tourists.<sup>21</sup> The first is situational sex tourists. Situationalists are those who travel with peer groups and hobbyists who encourage each other and even make rape of children a game.<sup>22</sup> The second is preferential. This group focuses their sexual activity on young people, under 18 years old, and are influenced by hobbyist-type behavior.<sup>23</sup> Lastly, there are pedophiles. This is a different group altogether. Pedophilia is a diagnosed disorder that increases the focus on sexual use of children.<sup>24</sup>

The Protect Act is a series of laws. We focused on 18 USC § 2423(c); however, there is a large difference between 18 USC § 2423(c) and 18 USC § 2423(b).<sup>25</sup> In part 18 USC § 2423 (c), they can provide an alternative reason for travel; however, in part (b) it must be proved that there is specific intent to travel for sex trafficking.<sup>26</sup> There are far fewer prosecutions under (b) because it's hard to prove the intent, because people often have another reason for traveling.<sup>27</sup> They go to parties, visit families, and go to conventions. This additional reason makes it very difficult to prove they had the intent to rape a child.

18 USC § 2423(c) requires a US citizen or permanent resident to participate in foreign commerce.<sup>28</sup> The jurisdiction is gained under the Commerce Clause because once you pay money for a ticket or a hotel you are intending to engage in foreign commerce. In our case, the judge only allowed us to discuss engaging in illicit conduct in front of the jury because the other issues (including engaging in foreign commerce) had already been proven to the Judge.

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<sup>21</sup> ECPAT-USA, *Protecting Children from Sexual Exploitation in Tourism: An ECPAT Training Resource Kit*, [http://www.ecpat.org/wp-content/uploads/legacy/ECPAT\\_CST\\_Code\\_Toolkit.pdf](http://www.ecpat.org/wp-content/uploads/legacy/ECPAT_CST_Code_Toolkit.pdf).

<sup>22</sup> *Id.*

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

<sup>24</sup> *Id.*

<sup>25</sup> Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act, 18 U.S.C. § 2423 (2003).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

The PROTECT act is a series of our federal criminal acts against sex with children in the United States.<sup>29</sup> We did not have to prove that the act occurred in the United States.<sup>30</sup> We then used 18 U.S.C. § 2423(c), because then we did not have to prove intent, but rather, just that he committed the crime.<sup>31</sup>

To prove she was 14, we had to use documents that her father brought to the United States years after the initial crime. Without a birth certificate, we had to use information related to the village where she grew up; however, there was not much information available. At trial, we were successful in proving she was a minor through photographs of the village and various events that occurred.

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

<sup>30</sup> *Supra* note 1

<sup>31</sup> James Asa High Jr., *The Basis for Jurisdiction over U.S. Sex Tourists: an examination of the case against Michael Lewis Clark*, 11 U.C. DAVIS J. INT'L L. & POL'Y 343 at 350 (2005)