

THE INTERNATIONAL TRADE OF THE CHILD SEX IMAGE: SECURITY THREAT IN THE UNITED STATES AND MEXICO

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INTRODUCTION

○ Child Pornography

- Is a form of exploitation involved in the trafficking of children for sex
- And yet, it is not considered a Human Trafficking Crime in the US.

THE BUSINESS

- Those with a sexual interest in children
- Those who seek to make a profit off those with an interest
 - Organized Crime groups
 - Extremist groups
 - Entrepreneurs

SHOULD IT BE CONSIDERED A HUMAN TRAFFICKING CRIME?

- Human Trafficking requires the child be “induced to perform a commercial sex act for the purpose of producing the pornography.”
- Think about how we define a “commercial sex act”
 - Whether it includes child porn in itself
 - Or does it require actual sexual intercourse

DOES IT RISE TO THE LEVEL OF HUMAN TRAFFICKING?

- ⦿ Physical bodies are no longer the only thing being trafficked
- ⦿ Now, their images are being exchanged on the international scene
- ⦿ Organized criminals, drug cartels, and terrorists are happy to meet the demand for child porn

CHILD PORN AS A TRAFFICKING OFFENCE

- Child porn is not a separate offence
- Child porn exists without obstacles on the internet
 - Reaches multiple jurisdictions (1)
 - Offenders form communities rather than remain in isolation (2)
 - Internet is now a tool to entice child and to view children in webcam and IM apps (3)
 - anonymity

REALITY OF CHILD PORN

- ⦿ Indicates further abuse
- ⦿ Record of sexual abuse
- ⦿ Used by Sex Offenders (1)
 - Normalize their behavior
 - Gain support
 - Relax child's inhibitions
 - Induce Children into Posing

IN CONTEXT

Mexico & United States

SECURITY THREAT

- Geography attributes to Human Trafficking in Mexico when you consider the border and drug activity (1)
- 21 out of 32 Mexican States suffer from sexual exploitation of children. (2)
- Mexico is a hot spot for exploiting children (3)
 - Sex tourism along the border and in Cancun
 - Porn in Juarez
 - Child Porn rings distributing images worldwide
 - Snuff films involving the femicide of 6000 women
 - Weak legal controls
 - Economic situation

SECURITY THREAT

- Estimated 1.2 million human trafficking victims in Mexico, taking 5th place among Latin American Countries.
- Mexico is 1st for production of Child Porn
- Mexico is 3rd for consumption of Child Porn

SECURITY THREAT

- ◉ US is destination country for child porn coming from Mexico
- ◉ USPS reported Mexico City as a leading producer in child porn videos (1)
- ◉ 1/3 of 100 of known Latin American forums where sex offenders trade child porn images come from Mexico (2)

CHALLENGES FOR THE U.S.

- U.S. considers child porn only in the form of “*visual representation*” where countries like Mexico who did not make such a reservation, consider child porn in “*any representation.*”

(Refer to the U.S.’ reservations under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography)

CHALLENGES FOR THE U.S.

- ◉ The definition of child porn under 18 USC s 2256 (8) has a “sexual activity” requirement to charge offenders
- ◉ Minor must be identifiable, not merely a “virtual” child
- ◉ Affirmative defenses enable child pornographers to produce porn with adults looking like minors or to use “virtual child pornography.”

PALERMO PROTOCOL

- ◉ Transnational agreement to cooperate in fighting trafficking in person (“TIP”) and organized crime
- ◉ Child Porn as “TIP” when you
 - Concentrate on offender’s conduct
 - Acknowledge the non-exhaustive list of “forms of sexual exploitation”

MERIDA INITIATIVE

- ◉ Securing the border involves preventing child porn from slipping through the border
- ◉ Border patrol agents tend to overlook videotape material in comparison to drugs

FOOTNOTES

- Slides 2 and 4: State Department, *What is Modern Slavery?*, available at <http://www.state.gov/g/tip/what/index.htm>, (accessed on April 18, 2011)
- Slide 3: Interpol, *Crimes against Children*, 1 (available at <http://www.interpol.int/Public/ICPO/factSheets/THB03.pdf>) [accessed on April 19, 2011]
- Slide 5: For an illustration, refer to James R. Marsh, *Symposium: Predators, Porn, & the Law: America's Children in the Internet Era: Masha's Law: A Federal Civil Remedy for Child Pornography Victims*, 61 *Syracuse L. Rev.* 459 (2011).
- Slide 6 cmt. 1 and 3: Jonathan Clough, *Principles of Cybercrime*, 251 (Cambridge University Press, New York 2010).
- Slide 6 cmt. 2: Alberto Gonzales, *Internet Service Providers Should be Mandated to Retain Subscriber Data*, printed in *At Issue: Child Pornography*, pages 78-83, 79.
- Slide 7 cmt. 1: 61 *Syracuse L. Rev.* at 460 citing Sharon W. Cooper, et. Al. 1 *Medical, Legal, and Social Science Aspects of Child Sexual Exploitation: A Comprehensive Review of Pornography, Prostitution, and Internet Crimes* 258, 267 (2005).
- Slide 9 cmt 1: San Antonio Express-News, *Our Turn: Deliver drug war funds to Mexico*, editorial February 13, 2011 [accessed on LexisNexis.com.com April 16, 2011.]
- Slide 9 cmt. 2: Paul Day, *Rights Group Combatting Sexual Abuse of Children*, the News, April 9, 1999, Mexico, D.F. (accessed on Lexis Nexis.com, April 16, 2011).
- Slide 9 cmt. 3: W.E. Gutman, *Part II The Ugliest Part of Tourism: Child Prostitution—Sex Tourism Threatens Central America's Youth: Child Prostitution: a growing scourge*, *The Panama News*, Vol. 10 No. 7 April 17, 2004, Page 3, available at http://www.thepanamanews.com/pn/v_10/issue_07/travel_01.html, (accessed on April 19, 2011); Heather Gehlert, *Child Pornography and Human Trafficking: Cancun's Dark Side*, *AlterNet*, May 3, 2007, available at <http://www.alternet.org/rights/51326/>. (accessed on April 19, 2011); Jim Herrera, *Child Sexual Abuse on the Rise "U.S. Child Pornography Ring Hits Cd. Juarez and Border Region," Frontera Norte Sur* February 2000, available at <http://www.nmsu.edu/~frontera/feb00/feat7.html>. (accessed on April 19, 2011); Charles Darnay, *Indymedia: 1000s women murdered for snuff movies*, December 13, 2004. "Rape, Torture, Mutilation, and Murder of Thousands of Women in Guatemala and Mexico." Article courtesy of Indymedia San Francisco, available at <http://www.scoop.co.nz/stories/WO0412/S00166.htm>. (accessed on May 6, 2011)
- Slide 10: Insight, *Mexico 5th in Latin America in Terms of Human Trafficking*, Tuesday, 30 November 2010, available at <http://www.insightcrime.org/insight-latest-news/item/295-mexico-5th-in-latin-america-in-terms-of-human-trafficking>. (accessed on April 18, 2011); San Antonio Express-News, *Our Turn: Deliver drug war funds to Mexico*, editorial February 13, 2011 [accessed on LexisNexis.com.com April 16, 2011.]
- Slide 11 cmt. 1: Donna M. Hughes, Laura Joy Sporcic, Nadine Z. Mendelsohn and Vanessa Chirgwin, *Factbook on Global Sexual Exploitation*, Coalition against Trafficking in Women, available at <http://www.uri.edu/artsci/wms/hughes/mexico.htm>. (accessed on April 18, 2011)
- Slide 11 cmt 2: Deigo Cevallos, *Rights-Mexico Major Blow to Child Porn Ring*, April 23, 2009, IPA Inter Press Service, available at <http://ipsnews.net/news.asp?idnews=46608>. (accessed on May 5, 2011)
- Slide 13: 18 U.S.C. §2256 (8) Definitions; 18 U.S.C. §2252A; 18 U.S.C. §2252A (C)
- Slide 14: *Trafficking in Women and Prostitution in the Baltic States: Social and Legal Aspects*, 27-28 (International Organization for Migration, 2001); United Nations Office on Drugs and Crime, Vienna. *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, Page 43 Article 3 (d) (United Nations: New York, 2004), available at <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.
- Slide 15: Jim Herrera, *Child Sexual Abuse on the Rise "U.S. Child Pornography Ring Hits Cd. Juarez and Border Region," Frontera Norte Sur* February 2000, available at <http://www.nmsu.edu/~frontera/feb00/feat7.html>. (accessed on April 19, 2011).