

JustComment

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The right to childhood: Australia and the child sex tourism phenomenon

Child Sex Tourism (CST) is travel undertaken for the purpose of sexually exploiting children. It is a devastating, prolific phenomenon that is estimated to affect and involve over one million children in South East Asia alone and many more worldwide.

Figures of both affected children and CST offenders are on the rise, and whilst this is arguably attributable to new legislation and an increased policing of CST, it may also suggest that only now are we seeing CST, and the removal of childhood consequential to CST in a new light. Australia's ratification of international conventions protecting the rights of children are a critical component of the nation's future development.

The Right to Childhood

The Convention on the Rights of the Child (CRC 1989) promotes a series of rights to which children are entitled. It also implicitly preserves within these rights of childhood the right to childhood. Childhood is more than infancy, more than pre-pubescence; it is the brief, formative flash that ultimately determines the emergence of adulthood. In the broader region of South East Asia – Australia, Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), the Philippines, Singapore, Thailand and Vietnam have all ratified the CRC. (www.unicef.org/crc/crc.htm) Universal rights accorded in the CRC also include the right of the child to be protected from economic exploitation and from the performance of any work that is likely to be hazardous to, or interfere with,

the child's education, health, and physical, mental, spiritual, moral or social development (*Article 32*). The importance of traditions and cultural values to the harmonious development of the child are also accounted for, and from these basic rights extend protection from all forms of sexual exploitation and abuse (*Article 34*). This protection is most clearly awarded in the Optional Protocol on the Sale of Children, Child Prostitution and Pornography of 2002¹. However, despite new legislation and ratification of such conventions the global rise of CST and the trafficking of children raise serious concerns for the safety of children and the detrimental long-term affects.

- Child prostitution risks contraction of sexually transmitted disease and irreparable damage to the developing genitalia of the child;
- Sexual exploitation of a child during the sensitive, formative pre-pubescent years has lasting psychological and emotional affects;
- It is exceptionally difficult to reintegrate and rehabilitate the sexually exploited child. This is evidenced by the return of many removed children to sex work.

Australia and CST

In Australia we have taken some substantial steps toward protecting childhood by setting our child labour laws at a minimum age close to fifteen years; by pushing (in most of our states) the age of (heterosexual) sexual consent to sixteen years; by requiring education of the child through to the close of year ten; and by setting the attainment of the majority at the age of eighteen years.

Given then, the greater quality of childhood enjoyed by a large number of Australian children,



what connection can be drawn between CST and Australia? The sexual exploitation of the child is fed from an international CST demand of which, at times, Australians have been estimated to comprise as much as fourteen per cent². While sexual exploitation of the child has long been associated with the paedophile and pederast in their active pursuit of children as preferred sexual partners (“preferential offenders”), within CST there has emerged a new offender in the “situational offender”; persons that ‘may not be driven to offending against the child because

of a primary sexual preference... but rather find themselves in a situation where the child is available, and they have power over the child and engage the child in sexual activity.³ This category of CST, is described by Child Wise as ‘opportunistic sexual contact’, and constitutes most cases of CST. The prevalence of any type of paedophile activity is a concern for Australian society.

How important is this issue to the Australian people?

Child Wise, in their February 2003 Child Wise publication, found that a telephone survey of 750 Australians over the age of eighteen years commissioned by

Clemenger BBDO found that, at 77%, ‘more Australians are concerned about paedophiles travelling overseas for child sex than they were about any other significant social issue.’⁴

How can we control the activities of Australian nationals when they are abroad?

Australia has taken credible steps toward curbing the CST activities of nationals whilst abroad, and the Crimes (CST) Amendment Act 1994 (Cth) has been the key instrument in this campaign. Largely directed at the individual offender⁵, the real strength of the Act resides with its attempts to sever the sources and structures of CST through corporate application. The inclusion of businesses (incorporated within Australia) within the scope of the Act enables the prosecution of travel agencies facilitating sexual tourism. Where no formal charges have yet been brought against Australian businesses, a series of successful convictions have been secured against individuals. In 1996 the New South Wales District Court prosecuted an Australian who sexually assaulted a 5 year old girl in the Philippines and sentenced him to 6 years in prison under the above legislation. By May 2003, 16 Australians had been prosecuted under the legislation in its nine years of operation⁶.

How else can CST be fought?

Australia must, given the number of CST offenders fairing from our shores, assume a “preventative” assault on CST as passionately as it claims to combat CST in “destination” countries. Larger travel retailers, through their membership of international travel associations (WTO, IAATA, FIYTO, SATA for instance) and, domestically, through the Australian Federation of Travel Agents Ltd. (AFTA) and the Australian Travel Professionals Program (ATTP) therein, have been encouraged to aid in the elimination of CST. It is important to immediately clarify, however, that such encouragement falls considerably short of a compulsion

to prevent CST. Travel agents and agencies are subject to guidelines that oppose CST, but the failure to establish company counter-CST policy and procedure; the obstacles presented by current Australian privacy legislation⁷; and the increasing anonymity of the e-commerce propelled traveller, all amount to continuing policing setbacks.

The resources required to affect change are already in place: Child Wise Australia offer program and campaign development⁸, and Australian travel retailers have effective mediums in their publications, distributions and web resources to launch these campaigns both nationally and internationally. However, there has been insufficient public awareness of the prolific spread of CST and of the preventative role that Australian tourism must undertake. AFTA and the international travel organisations with which Australian retailers are affiliated must direct more pressure on the industry. The development and institution of a National Code of Conduct specific to CST, following the progressive steps of European airlines, travel retailers and hotels, is one such development that could potentially assert this long required pressure.

Just Action

What can travellers do to help prevent Child Sex Tourism?

Use larger, well known travel retailers. ECPAT endorsed retailers include:

- Intrepid Travel Australia
- Peregrine Adventures
- STA Travel
- ACCOR Hotels International (Novotel, Ibis, Grand Mercure)
- Pan Pacific Hotels
- Air France

Place pressure on travel retailers to promote “child-conscious” company policy;

Report incidents of CST (whether suspected or witnessed) throughout travel:

Federal Police Hotline: 1800 813 784 CHILD WISE: 1800 991 099

Thanks to Ben Lee for work on this publication

Where can i find out more?

- Australian Institute of Criminology: www.aic.gov.au
- Child Wise Australia: www.childwise.net (Order a publication or make a donation)
- Crimes (Child Sex Tourism) Amendment Act 1994 (Cth) www.austlii.edu.au
- Department of Foreign Affairs and Trade: www.dfat.gov.au
- ECPAT International: www.ecpat.org
- Human Rights Internet: www.hri.ca/./projects/child_sex_tourism.html
file:///A:\projects\child_sex_tourism.html
file:///A:\contact_us/index.html
file:///A:\contact_us/index.html
- International Bureau for Children’s Rights: <http://www.ibcr.org>
- National Children’s and Youth Law Centre: <http://ncylc.org.au>
- Parliamentary Joint Committee on the National Crime Authority: http://www.aph.gov.au/senate/committee/nca_ctte/ncapedo/ncapedo.htm
- UNICEF: <http://www.unicef.org>



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