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Monique Beadle

Messiah College

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Public Policy and the Thai Prostitution Industry

Messiah College
School of Education and Social Sciences
Department of Sociology and Social Work
Monique Beadle, BA Sociology
Senior Thesis, Class of 2004
Abstract

Prostitution is illegal in Thailand, yet estimates of the number of sex workers and Thai male patronage of the sex industry indicate widespread tolerance of the skin trade. Placed in the second tier of the US State Department’s annual Trafficking in Persons Report, Thailand is a source, transit, and destination country for persons trafficked into sexual exploitation and labor. This study offers a sociological, cultural, and jurisprudential analysis of the historic relationship between public policy and the Thai prostitution industry, placing four months of field experience in Northern Thailand, the weekly columns of sex tourists “Stickman” and Bernard Trink, Royal Thai Police arrest and conviction statistics, the developing Thai constitution, and national historical records next to one another. Topics discussed include the impact of: folk Buddhism, the Viet Nam War, globalization, industrialization, urbanization, corruption, and democratic reform on the landscape of the Thai sex and sex tourism industry. This thesis concludes that the prostitution industry’s growth has outpaced Thailand’s ability to articulate a well-coordinated social and political response, even as Thailand’s position in Southeast Asia grants it the capacity to lead the region in new and successful anti-trafficking efforts.

Introduction

In 1994, nearly 6000 sex trade establishments existed in Thailand – a conservative estimate published by the Ministry of Public Health (Skrobanek 1997: 57). In a nation of 62 million, 183,600-229,500 women work in prostitution in Thailand (Steinfatt 2002). “This represents 1.8-2.4% of all women aged 15-29 and 6.3-8.3 percent of all women of these ages in urban areas.” (Phongpaichit 1998: 175). Approximately 20% of these women have been forced into the trade through physical restraint or debt bondage, while another 20% are children. Since 1990, figures also suggest that 80,000 women and children have been trafficked into Thailand for prostitution, the highest numbers being from Burma/Myanmar, followed by Yunnan Province in China and Laos (ILO-IPEC, 1998: 3). Conservative estimates on the prostitution industry’s contribution to the Thai economy come in at the cool ring of $12 billion to $15 billion per year — between 2.9% and 3.6% of Thailand’s total GDP of $410 billion (these figures do not consider the sex industry’s contribution to the cosmetics, textiles, and international tourism industry). 41% of Thai men report having had sex with a prostitute in 1998, while other figures indicate nearly every Thai man has had sexual contact with a prostitute at least once (Kitsiripornchai 1998).
There are currently no reliable figures which estimate the number of foreign men using Thai prostitutes, but economists estimate they constitute 2-10% of Thailand’s sex market.

Widespread fear of HIV/AIDS, a disease which hit Thailand in the late 80’s, has contributed to growing demand for younger and young prostitutes, perceived as less likely carriers. Mahidol University’s Institute for Population and Social Research (2002) estimates 20% of Thailand’s sex workers are younger than 18:

Of this, about 12,500 were Thai and 5,500 were transnational. The number of sex workers entering sex work at early age was around 50,000.

According to Title 9, Section 282 of the Penal Code, prostitution and pimping is illegal in Thailand, yet sex is sold in multiple venues, few far from the reach of public health authorities: beer bars, massage parlors, go-go bars, cafes, discos, karaoke bars, restaurants, noodle shops, tattoo parlors, even bike repair shops. Generally, businesses offer legitimate goods and services in addition to sex, or use shop windows to avert attention from the activity indoors. Sex workers service between two and ten customers a day, exposed continually to sexually transmitted diseases. Meet Nuj, a girl whose journey into the sex trade is all too typical:

During the first three months in Bangkok I was put into an old flat by myself, and had to do all the housework for Champa. One day she took me to a beauty salon and made me wear nice dresses. She took me to work in a massage parlor called ‘Darling’. I lived with Champa and her husband, Yongyuth, who beat me and forced me to work as a prostitute. My virginity was sold for 20,000 baht, but I never saw the money. Throughout the three years I worked in that massage parlour, I never received any money for my body, even though the charge was about 60 baht for the room, and 1,500 baht for the service. Each weekday I had to work from 5 p.m. till midnight, and at weekends my work started at 11 a.m. Each night I had to give service to at least five men – mostly from Saudi Arabia and Japan, as well as Chinese. After work, Champa would bring me back to the flat, and she locked me in the room where I could watch TV. The only holidays I ever had were the religious holidays, when the massage parlours are closed by law (Skrobanek 1997: 2).

As evidenced in Nuj’s story, Thailand has gained such an extensive reputation as the “sex capital of the world” that it attracts sex tourists from the US, Germany, Australia, the UK, Saudi Arabia, Japan, Malaysia, and China. Indeed, Thailand is a destination, source, and transit country for trafficked persons (See Appendix A). Men from the far-flung corners of the world come to
Thailand looking for exotic yet docile beauties, and the company of diminutive women who seem more like rented girlfriends than the ‘low-class’ prostitutes at home. In an ethnographic study, Julia O’Connell found that British sex tourists on holiday in Thailand are “repelled by the contractual nature of sex-for-hire in the UK, benefit from the strength of the pound against the Thai baht, desire unlimited sexual access on demand, and believe Thai women to be naturally inclined to subservience.” Sexual relations between Thai women and British men are characterized by patriarchy, economic hegemony, and racism (O’Connell 1996) Much like their foreign counterparts, Thai clients of the sex industry employ the same classicist and sexist stereotypes about domestic sex workers, preferring dark and impersonal brothels to the glitz and glamour of tourist-oriented bars.

Prostitution in Thailand is hardly underground. It is an industry that relies on exposure, thus negotiations over the ‘terms of service’ between prostitutes and pimps happen in public places such as Chiang Mai’s Mexican restaurant, ‘El Toro’. There, on Saturday, January 18th, 2003, around 8pm, I watched a middle aged white American man desperately trying to make such an encounter seem somewhat romantic – never mind that he was obese and the prostitute in question had long, over-processed dyed blond hair, wore pounds of makeup, skimpily hot pants, and a too-tight polka dotted shirt. He told her she was ‘naamtaan’ (sugar). The Western connotations of the word were lost on her. She suggested to her pimp in Thai that he was too old for her. The pimp conveyed her message, to his reply, “Oh, you’ll change your mind later” as if to suggest that she would enjoy the ensuing sexual transaction. It seemed for this man that this Thai woman offered more than the domestic opportunity to deposit his sperm in an open vagina. Instead, she was a temporary girlfriend, rented for a night of domicility and pleasure. As the pimp and john negotiated, the prostitute acted stiff, shy, and nervous. Once money had changed hands, and upon leaving the restaurant, she quickly took his hand into hers and leaned her head on his
chest – giving him the very ‘intimate’ experience she knew he expected. Perhaps, she must have thought, he will give her a nice tip, or at the very least not ‘report her’ to her pimp. If she were extremely lucky that night, he might fall in love with her and send remittances through the mail upon returning home. At least these are the plausibility structures of prostitutes in Thailand presented by the anthropologist Cleo Odzer in her controversial book, “Patpong Sisters”. Odzer (1994) notes that these fantasies are reinforced by the habit of sex tourists initiating long-term relationships with sex workers in a perverse effort to transform them. This she calls the ‘Eliza Doolittle Syndrome’.

**Research Methodology**

My interest in the prevalence and accessibility of prostitution in Thailand led me on a four month investigation of the Thai sex trade from January through April of 2003. I studied Thai language, history, culture, and politics at Chiang Mai University while interning in the office of a prominent anti-sex trafficking NGO – the International Justice Mission (IJM). There, I collaborated with Western and Thai social workers, lawyers, and investigators to secure the release of child prostitutes in Chiang Mai brothels. In the office, I collected various copies of Thailand’s penal code, and enjoyed access to documents shared by diplomats and NGO workers concerning pending anti-trafficking legislation. My colleague, “Jane”, a Thai social worker and I discussed at length the challenges of addressing sex trafficking in the context of Thai society and culture. Karen Smith, the Canadian Director of the New Life Center, a prevention and aftercare center for girls at-risk of entering or recovering after exit from the prostitution industry, was also a valuable source of information.

**Bangkok: Patpong, National Statistics Office, Stickman**

Following my work with IJM in Chiang Mai, I spent a week gathering data in Bangkok. After collecting law enforcement records from the Royal Thai Police and the National Statistics
Office, I traversed the infamous red light district, Patpong, facilitated by a two-month presence in Asian Porn chat rooms on the internet. In these chat rooms, I learned of a website managed by Stickman (www.stickmanbangkok.com), a Western expatriate living in Thailand who is fond of informing other sex tourists of the inner workings of Patpong, Nana Plaza, and Soi Cowboy. With information gleaned from his website, I was able, like the sex tourists I observed, to prevent inflated drink bills at the bars and avoid the trap of the aggressive tous who offer personal escorts into special brothels. Unfortunately, Stickman took down the most helpful page on his website, “Stickman’s Guide to Naughty Nightlife in Thailand”, due to fears of prosecution. While my conversations with the sex workers in Patpong were limited by language barriers and an intimidating atmosphere, I was able, through this week, to glean insights into the economic structure of the brothel.

Bernard Trink, Nite Owl

Living and working in Thailand, I faithfully read the national English-language newspaper, the Bangkok Post. Bernard Trink, a Western expatriate who has lived in Thailand for over twenty years and frequents the red light districts of Bangkok, writes a weekly update on the ‘bar scene’ for a large audience of sex tourists. His column, titled Nite Owl, published and housed in the Bangkok Post archives, contains rich information on the climate of the sex industry for the past two decades. In it, he warns his readers of ‘legal crackdowns, dismisses law enforcement authorities’ attempts at halting the industry, and outlines legal loopholes and effective bribery strategies.

Trink’s column was widely read and discussed in the Lanna Café, a gourmet sandwich and coffee shop I frequented in Chiang Mai. Western men, attracted by its distinctly Western atmosphere and cuisine, came in droves to the café, often with their ‘rented girlfriends’ in tow. Dressed inconspicuously as a university student, I spent many mornings in Lanna Café
eavesdropping on conversations between customers and discreetly conversing with their Thai female guests while the men took extended bathroom breaks. My inconsistent presence in Lanna Café, unfortunately, never afforded me the chance to inform any subjects of my research, therefore my use of Lanna Café field notes as a source will be strictly referential.

Karen Village

Returning to the North, I lived among the Karen, one of Thailand’s hill tribe minority groups, conducting ethnographic research on the economic history of the region of Musikee. Siami (“Ajarn Tete”), the multilingual Director of the Hilltribes Development and Resources Center in Musikee, offered seasoned insights on the physical and social world of Thailand’s tribal people – those most often exploited by the sex industry.

My research was unfortunately hindered by inadequate linguistic skills, making some of the best and most comprehensive studies performed on the sex trade inaccessible. I was forced to rely on primarily white, Western informants and Thai documents which had been translated into English. Utilizing the sources discussed above, I will conduct a sociological, cultural, and jurisprudential analysis of the historic relationship between public policy and the Thai prostitution industry. Placing Trink and Stickman’s weekly columns, Royal Thai Police arrest and conviction statistics, the developing Thai constitution, and national historical records next to one another, I expected to find a positive correlation between national and international concern for the growth of the prostitution industry and the government and civil society’s success in combating its growth.
The Landscape of a Tourist-Oriented Brothel

According to Cleo Odzer, Stickman, and Trink, foreign men and women have little difficulty finding cheap sex, particularly in Bangkok’s infamous red-light districts: Patpong, Nana Plaza, and Soi Cowboy. During a week of fieldwork in Bangkok, I spent several days exploring these districts, usually with a male colleague in tow. What follows is an account of a visit to KISS, a tourist-oriented brothel in Patpong.

Michael Arensen, a fellow anthropology student from Houghton College, agreed to spend some time with me exploring Patpong on March 15th, 2003. As a tall and imposing looking white male, he came for security, and for his own perspective as a representative of the demographic sector targeted by the sex tourism industry in Patpong. We chose to enter the field from Khao Sarn Road, a strip of guesthouses and coffee shops which cater exclusively to Israeli and European tourists. Most of the taxi drivers who pick up from this area speak English, and are familiar with the whims and needs of foreign tourists in Bangkok. We got into the first taxi, “Bay Patpong, ne kah (go to Patpong, please)”, I said in Thai. “Patpong?”, the driver responded in English, “You want market or sex show?” “Sex show.” “OK,” he smiled, “300 baht.” Having lived in Thailand for several months, we recognized this was an exorbitant price for a cab ride across the city, and toned “mai chai! (no way!” before getting out of the cab. The next taxi driver charged us 50 baht for the ride and dropped us off at the McDonald’s on the corner of Patpong. Patpong’s brothels lined the buildings of one avenue, choked with neon signs and makeshift booths selling pirated CD’s, DVD’s, designer clothing and handbags, and shirts with phrases like “I survived Patpong, Thailand”. McDonald’s, Starbucks, KFC, and 7-11, all American establishments, posted their own neon signs alongside “Super Pussy”, “Star of Love”, and “My Fair Lady”. We walked up one side of the street, attempting to look more interested in pirated goods than the brothels on the side. The “touts” roaming the streets saw through our act, and
accosted us from every direction. Surprisingly, they approached me, a Western female, as often as they approached Michael. “You want sex show, miss? See live sex? See pussy go big big? You come with me. We go upstairs. Just look, no pay. You like, I promise.” Most were Thai men ages 20 to 35, however, I did spot one woman in her 40’s promoting an act with a white card listing the shows inside:

Pussy slice banana, Pussy play pingpong, Pussy blow up balloon, Pussy blow bubble, Pussy write letter, Pussy eat razor, Fucking shows: Girl-girl, boy-girl, boy-boy, 2 girls on tuk-tuk [three-wheeled taxi]

Most touts carried similar white cards, and thrust them into the faces of potential sex tourists, promising titillation at a low price. We chose to ignore the touts, knowing they would take us to ‘upstairs bars’ where explicit sex acts were on display, and where our safety was not assured. We walked further down the street, scanning the storefronts of each bar we passed. In front of each bar, three to five Thai women stood beckoning customers to come inside. Called “hello girls” by past researchers, they appeared younger than the dancers inside,
and most sat looking bored until a customer walked past. Inside the open doors of most bars, passersby could see a handful of Thai women dancing in bikinis and lingerie on raised dance floors under black lights and strobe lights.

At the end of our trip down one side of the street, we found a van bearing a large emblem, “Tourist Police”. Two police officers sat inside, wearing standard brown uniforms, and two police officers stood nearby, smoking cigarettes while scanning the crowd. They seemed
comfortable perched on this precipice of Patpong. Dozens of white men roamed the street as well, often on their own, but sometimes in groups of five or more. Rounding the next corner, we decided to enter KISS, a bar halfway down the west side of the block. Before we entered, an overweight white male exited, adjusting his belt and checking the zipper on his pants. Upon entering, we were directed to a raised bench along the wall before a small table by a waitress wearing a white shirt and black miniskirt.

Seated next to us was a white male in his 60's surrounded by two Thai dancers wearing bikinis. One flirted with him as he publicly fondled the other. A third dancer approached and pretended to grab at his crotch while giggling at him. In the middle of the bar, 9 women clad in bikinis danced on a raised bar, listlessly moving their hips to American music blared through the speakers. They scanned the crowd of customers, attempting eye contact with several of them,
including Michael, who often shifted his gaze when this happened. Each had a number pinned to their bikini tops, ranging from 1 to 79. A few men sat at the bar surrounding the dance floor, sipping their drinks while watching the women dance. The waitress returned, and asked us to order drinks. I asked for a “ladydrink”, an over-priced glass of club soda usually ordered for dancers by customers (dancers make commission from these drinks).

After ordering, the lighting in the bar changed from pink strobes to pulsing black light, and the dancers stepped off the stage, quickly replaced by 9 more dancers wearing white lingerie. A few customers walked into the bar, escorted by a tout outside, and proceeded directly up the spiral staircase to the sex show upstairs. Other customers flagged down the mamasan, a Thai woman in her 40’s, and asked to meet dancers according to the numbers pinned to their bikinis. A few sat with the dancers, after ordering ladydrinks, and carried on basic English conversations. Placing his hand on her knee, one customer watched a dancer smile at him awkwardly. Dancers walked in and out of the dressing room in the back, stopping to chat with the waitresses standing behind the bar in front of the stage. Those who emerged from the dressing room hovered in one corner of the bar in the presence of a lone Thai male in his 40’s, presumably the owner or manager.

If a customer found a particular liking for a dancer, he could pay a “bar fine” – a fee paid to the brothel owner in exchange for ‘lost revenue’ due to a dancer’s absence – and “buy her out” for the night. Once he has bought her out, he must negotiate with her the price of sexual services. short time, or one to three hours, can range from 200 to 800 baht (five to twelve dollars), while long time, or overnight, ranges from 500 to 1200 baht (nine to fifteen dollars).

The touts outside may have understood that Michael and I were interested in the brothels, however, the dancers inside quickly picked up that we were not interested in sex, and left us to share observations at the table. A Thai girl aged 9 or 10 walked into the bar selling flowers for
customers to give to dancers. She walked past several customers, and asked us for a few baht.

Growing uncomfortable with the sight of a small child in this environment, and exhausted by the sensory assault of the bar, we paid our bill and left within the hour. On the street intersecting the edge of Patpong stood a school called Christian University and Bangkok Christian University Hospital.
Floorplan of KISS, Patpong brothel catering to Westerners
Patpong Entertainment District, Bangkok, Thailand
March 15th, 2003, 11:00-11:45pm
MB= Monique Beadle  MA= Michael Arensen
National Climate and Causes

Much of the sex trade in Thailand is legitimated by precedent. The Law of the Three Seals, abolished in 1800, allowed men to buy females to become wives of the third (lowest) category. First wives were legally wed, second wives (mia noi, minor wives) bore children, and third wives functioned as sex slaves. The Bowring Treaty of 1855 opened Thailand to foreign laborers, bringing in Chinese tin workers and accompanying Chinese prostitutes (Leheny 1995). Under King Mongkut in the 1850’s, sex work was taxed “under the rubric of the ‘street tax’.” These funds were used to build Bangkok’s first roads (Loos 2003). In 1868, King Rama IV enacted the Sale of Wives by Husbands Act, forbidding husbands from selling their wives without their consent.

Criminalized in 1960 and again in 1966 under the Entertainment Places Act, prostitution was legal in Thailand during the reign of King Rama V (1910-1968). Brothels were first legally registered in 1909 under an act to prevent the spread of venereal disease, and most were run by Chinese men, although their clients were both Thai and Chinese.

Vietnam War

Thailand’s very name, translated roughly to “Land of the Free”, commemorates its status as the only un-colonized nation in Southeast Asia. In 1964, the United States established seven military bases in Thailand. In 1967, Thailand opened its ports to American GI’s for “rest and recreation” services during the Vietnam War; the troops affectionately called this “I&I” (intercourse and intoxication). Soon, the land of freedom was labeled a playground of “sun, sand, and sex”. American GI’s, mystified by the docile ‘brown beauties’ (immortalized in Miss Saigon and South Pacific) who welcomed them, built the infrastructure of a formal sex-for-profit industry on Thailand’s shores. In response to the GI’s demand for sex, entrepreneurs set up brothels, bars, and massage parlors in Pattaya, Phuket, and Bangkok. Following the war, the governments of
Thailand and the Philippines capitalized on the sex tourism infrastructure to promote tourism (Roffman 1997). Western men still occupy a niche in Thailand’s GDP, lured by advertisements such as this web banner link to Sunbelt Asia Properties:¹

Pictured here, an inviting Thai woman stands with her arms outstretched in a Bangkok balcony. “Move here . . . ” the ad beckons, “for the fun of it,” it continues. It is unclear in this ad which is for sale, the experience of living in Thailand, or the Thai woman.

**Folk Buddhism and Misogyny**

Ajarn Saeng of Chiang Mai University indicated in an interview that prostitution is not foreign to Thai society. In fact, Pali and Sanskrit Buddhist texts hold accounts of devout prostitutes called *naparasa pbyay-nee*, “beauties of the city”. They were celebrated for their beauty and praised for contributing the profits of their trade to local temples in acts of merit-making (Interview Feb 2 2003). The contemporary Thai prostitute is still expected to contribute a portion of her earnings toward merit-making activities, in order to repay the *breast milk* debt she owes to her mother. To repay this debt, nearly every young Thai boy is ordained as a Buddhist monk in his village temple, for a period as short as three days. This is not an option open to Thai women, at any age. At present, the only religious role for a Thai woman is characterized by subservience: upon the death of her husband she will put on the white robes of a nun, spending the remainder of her life sweeping the temple grounds, maintaining the monks’ living quarters, and preparing their meals. Because women cannot don the robes of a monk, a boy’s ordination earns merit for his

¹ www.property.th.com
mother to apply toward her next life. If she is especially devout, she may have the privilege of rebirth as a man!

While most boys remain in the temple for a period as short as three days, many choose to complete their theological and practical education as novice monks. Once a boy has entered the Sangha as a novice monk, he is no longer allowed to touch a woman — not his mother, his sister, or his friends. Even the most innocent of handshakes is forbidden. Rooted in the Buddha's doctrine of 'detachment,' this practice has devolved into a reinforcement of the perception that women are somehow contaminating. This 'touching taboo' now serves to further alienate women from monks, turning them into suspicious Others.

Within Hindu tradition, the parent faith of Buddhism, women are considered both a delight and a torment to men. In the Bhagavad Gita, Narada writes of his quest to find the cause of evil in the world. Citing women's incapacity for emotional fidelity, their impetuous nature, and constant need for affection, he concludes that women are at the root of evil. In contrast, the Ramayana, one of Hinduism's great epic myths, states:

all beings were alike in stature, sex, speech, and so on, but then the Maker made a distinction, took the best from all beings, and from this shaped woman. Good women cannot be soiled or spoiled, and like the pearl, can be found in the most sordid of environments (Bullough 1987: 83).

As in Hindu society, Thai women are cast into opposing roles as either faithful and contented wives and mothers or impetuous and demanding mistresses. Men and women grow up expecting women to remain sexually conservative, even as men are socialized (in a blooming free-market economy) to fantasize about sexual feats they would never perform with their wives. These "variety-seekers [find] it difficult to satisfy their sexual needs at home and turn to the fee-for-service system of satisfaction (Bullough 1987: 294)." Edward Glover, a late psychologist who coined the term "Maddona-Whore Syndrome", felt that

many men were able to enjoy the sex act only with people that they did not hold in high esteem. He believed that these men separated love into sacred and profane and classed their wives, female
friends, and mothers as worthy only of sacred love while they equated the prostitute with the profane. Thus the low status of the prostitute became a necessary part of the forbidden pleasure they associated with sexuality (Bullough 1987: 299).

In rural communities of Isan (the northeastern region of Thailand) in 1990, a widely circulating folk legend led hundreds of families to erect “large, carved, wooden penises, often two to three feet long or more, on village gateposts and at the entrances of most houses in an attempt to ward off deadly female spirits (Mills 1995:245).” The men of Isan feared the attack of ‘widow ghosts’ who reportedly seduced and killed men in their dreams. These widow ghosts possessed voracious sexual appetites paired with a desire to harm as many males as possible. The use of phallic images to ward off the widow ghosts “invoked understandings of male sexual potency as a positive force for social and cosmological regeneration (Mills 1995:251).” Mills’ analysis of the widow ghosts phenomenon highlights these distinct gender stereotypes further:

In Thai society, when female sexuality is not contained within a conjugal relationship it is considered immoral and the social equivalent of prostitution. Monogamy is the only acceptable practice for women. Prostitutes and other ‘loose’ women may be described as ‘having many husbands’ but the derogatory connotation of this phrase does not carry over to the male equivalent. A man with ‘many wives’ is more an object of admiration, especially among other men (Mills 1995:256).

The Coalition Against Trafficking in Women notes that women in prostitution are constructed as social and sexual necessities for men, yet they are demonised as undesirable necessities, social evils and blights on the social body. Thus it is women in prostitution who are made to bear the brunt of social disapproval and who are framed as repositories of vice and promiscuity, a threat to established conjugal and familial norms, deviants from prescribed social and sexual codes for women, corrupters of public moral sensibilities, and conduits for filth, pollution, contagion and disease (D’Cunha 2002:135).

Anna Freud asserts that “the misogyny that males feel toward women, females often accept as appropriate evaluation of themselves (Limpman-Blumen 1984: 61).” She suggests that “oppressed groups often internalize the negative stereotypes their oppressors use to describe them (ibid).” Possibly Thai women, labeled the ‘hind legs of the elephant’, valued for their ability to provide for their families, yet suspected of possessing a voracious sexual appetite, are more likely
than Western women to resign themselves to the sex trade; meanwhile, women who pursue 'legitimate' professions are likely to dismiss the illegal activities of their husbands.

The leap for a woman from the role of an inferior, contaminating, lust-inducing Other to that of a prostitute is not a large one. Called the "hind legs of the elephant" by their husbands, fathers, and brothers, Thai women are expected to provide for their family's material needs, and often utilize desperate measures to do so. In some villages, girls fulfill their highest potential as sex workers, sending their salaries home to feed and house entire families. They are praised simultaneously for their beauty and their agency, yet forsaken after contracting a fatal STD.

Globalization and Urbanization

Responding to the threat of colonialism, the central Thai government began to speak the language of civilization. By opening the country's borders for trade, bringing English instruction to secondary schools, instituting democratic reforms, and sending their children to study abroad, Thai elites minimized the legitimacy of competing claims on its soil and resources. Between 1855 and 1870, rice exports to Great Britain increased twenty times. In 1905, the King abolished the feudal system, instituting private land ownership; by 1950, 35 million rai (14 million acres) of privately owned land were in active production. Aggressive industrial development began during the World Wars, supplemented by massive exports of rice, rubber, tin, and teak. Bangkok elites swarmed to the River Ping in the 60's to build Chiang Mai (the Rose of the North), their answer to the threat of Communism.

The growth of these industrial and economic hubs, Chiang Mai and Bangkok, drew men and women from rural areas, looking for cash to supplement production on their family farms.

From 1984 to 1993, the number of people working in industry rose from 2 million to 4 million ... during the same time the urban population also grew by about four million. A large amount of this migration was from the poorest north-east region, with 1.1 million people in the 15-30 age group leaving this region, mostly for Bangkok, from 1980-1990 (CEDAW 1997).
Leaving their families behind for weeks at a time, Thai men soon neglected their responsibilities to matriloclal spirit worship. These spirits, which served as reminders of a man’s responsibility to his family in exchange for the protection of the spirit, once had the power to castrate unfaithful husbands; soon they became decorative showpieces to Thai men. In urban areas, property shifted hands so frequently that spirit worship was often deemed confusing and impossible. In its place, a brand of folk Buddhism which considers prostitution a ‘market transaction’, rather than an act contributing to negative karma, sanctioned promiscuous male behavior. Older Thai elites, even professors at Chiang Mai University, espouse similar ideas:

She is selling the sense of touch, much the same way that a model sells the sense of sight or a singer her voice. Buddhism does not consider prostitution adultery because it is only a transaction, it has no moral consequences. Adultery occurs when a man has sex with a woman who is either ‘possessed’ by her husband or her father or unwilling (Interview Feb 2 2003).

Surveys of young men, military officers, and university students in Thailand reveal that a gross majority (estimates range from 60% to 97%) of Thai men either lost their virginity to a prostitute or continue visiting prostitutes on a regular basis. There is no word in the Thai language for male virgin. For the majority of adolescent boys, initiation into adulthood begins with a night of carousing and drinking with their buddies, and ends in the bed of a prostitute. As Kevin Bales (2000), President of Free the Slaves, explains:

Businessmen in negotiations will provide or expect sex as part of the bargaining process ... Men who travel on business are also more likely to use prostitutes ... Even first-year university students will be taken en masse to brothels in their first week as part of initiation by upperclassmen. All of this behavior is made easier by the assumption that men are not responsible when they are drunk ... an opened whiskey bottle can never be resealed (47).

Many Thai women have come to expect their husbands will visit prostitutes and even prefer such licentious behavior to an adulterous affair (or the risk that he will take on a mia noi, a minor wife). Since prostitution in Thailand acts as just another showpiece in the rapidly blooming free-market economy, many men erroneously believe that visiting a prostitute is not considered adultery within Buddhist morality. Because Thai men consider the prostitute just another
commodity to be bought and sold, their nighttime activities are never questioned and are usually ignored.

As men provide ample demand to fuel the prostitution sector of the underground economy, Thai women suffer from a lack of viable employment alternatives in other sectors. Jobs available to most rural Thai girls are limited to dishwashing in a noodle shop, hairdressing, and waitressing. While their brothers enter the economically 'non-productive' Sangha (order of monks) on their way through college, girls are effectively cut off from educational opportunities once they graduate from ninth grade — the end of their compulsory education. Due to the great symbolic debt owed to their parents, they are frequently tempted to abandon the dim prospects of their rural villages in search of the fortunes to be won in Chiang Mai and Bangkok.

Thai female migrants to the cities also suffer from their rapid exit from vast informal social networks of rural and agrarian society to the intimidating capitalist landscape of the cities. There, no longer bound by the social obligations of a 'good Thai woman', lacking the protection of a formal network or benevolent patron, yet expected to provide for her family at home while playing by the self-interested rules of capital, she is more likely to join a ring of organized crime for protection and profit. Scores of these women have been lured into the sex trade, from which many believe it is psychologically impossible to escape. Foreign sex tourists are fond of the phrase: "You can take the girl out of the bar, but you can't take the bar out of the girl." Truly, returning from the sex industry to the highly regulated life of a Northern Thai village is nearly as difficult as entering the sex industry itself.

Urbanization, largely responsible for a breakdown in spirit worship and family obligations, has also contributed to the growth of the sex trade. Despite Thailand's aggressive industrial development, prostitution is still more profitable than factory labor. To this day, Thai girls fresh out of the sixth grade constitute a great proportion of the mass exodus to the cities.
Many leave for the cities to work in factories or restaurants, only to find themselves in the hands of brothel owners.

**Karmic Economy of Sex**

Once she has sold herself (or been sold) into the brothel, a woman may initially resist the perpetual assaults on her dignity perpetrated by her owners, pimps, and customers; eventually, however, her sense of karma will lead her to become emotionally resigned to her fate. Bales vividly summarizes this fatalistic mentality: "The terrible things that happen to a person are, after all, of an individual's own making, recompense for the sins of this life or previous lives (Bales 2000: 50).” She may find solace in the fact that she can now provide for her family, earning her merit toward her next life. Accepting her circumstances quietly, she hopes to one day attain tranquility. She may eventually take pride in the attention her beauty brings her and the high prices she can extract for her services. If she remains in the trade long enough without contracting HIV/AIDS, she will become adept at manipulating her customers to suit her whims. For a brief period, she will enjoy relative independence — but only until she contracts a fatal STD or ages beyond her perceived usefulness. Still, she and her family lean on their understanding of karma in order to make sense of her situation.

In the Theravada tradition of Buddhism, one's primary objective is to make merit and attain enlightenment for oneself, rather than looking out for the needs of others. "To look too closely into someone else's affairs," Bales rightly notes, "is a serious affront to Thai culture: 'mind your own business' (yaa suek) is one of the strongest retorts in the Thai language (Bales 2000: 47)."

Men and women in Thai society, conditioned from the cradle to accept the inferiority of women and the irresponsibility of men, accept police corruption with a shrug of the shoulders and the exploitation of women with a downcast gaze. This resignation toward the sex industry trickles up through the ranks of the national political structure, keeping sex trafficking a low priority for law enforcement officials.

**Corruption**
 Numerous studies on corruption of the Thai police force and government officials indicate widespread participation in the sex trade: “the existence of sex trade establishments is widely ignored, neglected, or enjoyed by law enforcement officials (Office to Monistor and Combat Trafficking in Persons 2002)”. Additionally, there is evidence of “low-level police involvement in facilitating the movement of trafficking victims, accepting bribes, and owning brothels (ibid).” In fact, the very Tourist Police mentioned in my notes on Patpong spend more time retrieving money for tourists than on surveillance or enforcement. Frommer’s Guide to Thailand (2002) advises:

If you enter a club other than the ones listed in this book, ask up front about charges – cover charges, drink charges, show charges – these places can really try to rip you off. If you are presented with an exorbitant bill, your only logical recourse is to pay up and then call the Tourist Police after the incident to try to reclaim your money. The Tourist Police can be very helpful in situations like these – they know how to deal with problems, and they take it very seriously. If you try to argue with club managers yourself, you may be met with violence, so use caution (119).”

The Tourist Police’ ability to extract bribes from bar and brothel owners facilitates their work as tourist advocates. Frommer’s Guide (2002) even admits that “while prostitution is technically illegal in Thailand, this law is never enforced (119).” Bernard Trink (writing as the Bangkok Post’s Nite Owl) is fond of telling tales of Tourist Police in his weekly news column:

Bang Rak’s finest periodically show up in the Patpong area in force shortly before closing time and spotcheck watering holes for drugs. Residents and tourists are first told to pay up and leave. Local staffers and imbibers are instructed to pee for testing. Those found positive are booked (May 14, 1999).

Interestingly, the police wait until the 2 am closing, the single enforced regulation in Patpong, to check for drugs, when brothel owners are prepared to close the doors and stand to lose the least income from an late-night bust. Those very owners “pay police informal taxes for operating sex establishments which are illegal under the Thai law (Phonpaichit 1998).” This is similar to the ‘informal taxes’ required by traffic cops all over the city:

The friendly folks in brown uniforms who patrol the roads in the Rama 3 area have very thoughtfully made up a list of the various traffic offences in English. So for any driver who
doesn’t speak the local lingo, the traffic cops just pass you the aged laminated list of traffic infringements and point at the infringement that you purportedly just committed. Even more thoughtfully, the price is listed beside each infringement (Stickman 2004: March 14).

During times of a heightened international presence in Bangkok, such as the Asian Games of 1998, police officers are suddenly capable of enforcing temporary laws, such as “no go-go dancing in birthday suits, no live shows, no extensions of closing times, no use of force on customers refusing to pay the bill (Trink 1998: December 4).” For a national tourism promotion year, “Amazing Thailand”, 1998 to 1999, the official closing time for brothels was extended until 3 am, “2 am is too early for visitors from abroad (Trink 1998: August 1).” The Ministry of Public Health set up free clinics near the major red light districts “to check demimondaines for VD [venereal disease] and drug abuse (ibid)” and offered “free English language classes for bargirls/agogo dancers and interested parties (ibid).”

Why, if the police and government agencies have the resources to effectively manage the sex trade at chosen times, do they allow its prevalence to persist? Economists blame their convenient incompetence on low wages for all federal employees and civil servants, while historians note a legacy of patronage in the ranks of government. The patron-client relationship, which thrived in a formerly feudal Thailand, provided landowners with loyal clients, and poor farmers with generous patrons. Patrons were expected to pay for public goods such as roads, dams, and home repairs, make appearances at local festivals, and donate large sums of money to organizations in a public display of their generosity. Such ‘donations’ now exert incredible social pressure on recipients — to expose one’s patron, even a brothel owner, is to neglect one’s Confucian social obligations, while risking karmic penalty in one’s next life.

Phonpaichit (1998) notes that “operators of sex service establishments are often local influential people including financial magnates and senior officials (211).” Truly, brothel owners are a viable political and economic force. When pushed too hard, they are adept at organizing
well-planned boycotts, petitions, and protests. One brothel owner, known popularly as Chuwit, protested a raid on his brothel in late 2003 by threatening to publicize records of financial transactions between himself and prominent police officers and politicians. His charges were quietly dropped. Months after the scandal which filled newspaper headlines for weeks, Chuwit ran for public office.

In March of 2004, brothel owners organized to protest a new midnight closing policy outside of designated ‘entertainment areas’ that excluded sex districts such as Soi Cowboy and Nana Plaza in favor of Patpong. The banner pictured below, photographed by Stickman, appeared recently on Soi Cowboy (Sukhumvit). Translated into English it says "Tourists bring money into Thailand. Sukhumvit is an area for tourism. Please consider making this area a special zone". Stickman predicts this policy will soon be forgotten by Thai politicians eager to save face.

**Statutory v Traditional Law**

In a book published by the World Bank, *Engendering Development* (2001), statutory law is defined as law “that pertains to all parts of the formal legal system, from legislation issued by different levels of administration to regulations to judicial rulings and laws made by judges” while traditional law “pertains to rules that exist side by side with statutory law but derive their legitimacy from tradition and custom rather than a government act” (113). Often, statutory and traditional laws operate in conflict; this often weakens a government’s ability to provide adequate enforcement of existing laws.
When police officers, government officials, even justices and attorneys operate out of a paradigm dominated by traditional law, then statutory law counts for little. The rights of those protected by statutory law are also often neglected until the surrounding culture ‘catches up’ with ideologies imposed upon a nation by external ruling bodies such as the United Nations. There are several potential areas of conflict between statutory and traditional law:

First, it may be impossible for one set of rules to take into account wide diversity of laws within a population . . . Second, statutory law does not necessarily reflect social consensus. In fact, its legitimacy may come not from a majority vote but from a powerful minority . . . Third, customary laws are dynamic, flexible, and responsive to environmental factors . . . (140).

Pre-globalization, customary law in Thailand often directly preceded statutory law. King Chulalongkorn (in the controversial film, *Anna and the King*), rather than revising and adapting ancient laws to meet modern needs, initiated sweeping legal reform and created the Ministry of Justice in 1892, an institution many elites were hesitant to embrace. The Ministry of Justice subsequently codified existing statutory and customary laws, leading to the promulgation of the Penal Code in 1908.

Nasty remnants of Thailand’s customary law linger in the Penal and Civil Code. Even today, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has acknowledged publicly another woman as his wife (US State Department 2003: Section 5). Laws criminalizing prostitution are used more frequently to imprison sex workers, rather than brothel owners, pimps, and mamans:

According to the statistics from the Ministry of Justice, over a two-year period (from January 1996 to December 1997), a total of 325 women and 64 men were convicted as prostitutes under sections 5 to 8 of the Prostitution Act. In this same period, 52 persons were convicted under sections 9 and 12 of the Prostitution Act as traffickers, and there were 19 convictions under section 11 of people who had supported prostitution (brothel-keeping). (D’Cunha 2002).

Even smaller are the numbers reported of prostitutes freed and rehabilitated for alternative work. This is partially related to low levels of female representation in ministerial and sub-ministerial government positions, 10% and 6% respectively. Women are still denied admission to military
academies, the traditional path to politics. International affairs experts agree that a critical mass of 1/3 female participation is essential for successful women’s rights advocacy.

Tribal minorities, who migrated from southern China and Northeast Burma following the Lanna Kingdom’s consolidation with the Thai Kingdom (and subsequent distribution of Thai citizenship papers), endure discrimination under the 1979 Immigration Act. Under Chapter 7, Section 57, “Any person claiming to be a Thai national will be regarded as an alien until sufficient evidence of nationality is produced.” Section 58 continues, “Aliens are presumed to have entered the country in violation of the Act if they do not have documentation to show otherwise.” Few hilltribe peoples possess such papers, thus Thai officials consider themselves free of responsibility toward them. Their village headmen are denied legitimate requests for public goods while they are subject to extortion at the hands of civil servants. Due to substandard educational opportunities in the hills, many hilltribe peoples speak little Thai – this compounded with a lack of citizenship rights make them particularly vulnerable for exploitation in the sex trade.

Simmel’s Tragedy of Culture

Multiple foreign governments, advisers, and international organizations have lent their support to Thai policy reformers. Consequently, while all the appropriate laws rest in the books, there is little sense of ownership of these new laws by the Thai public. “Laws are only effective, asserts Abby Richardson (2003), “if enforced; enforcement is possible only with understanding and acceptance; and respect for the law is secured only when the people believe in its necessity.”

The recent onslaught of Western material goods, judicial standards, and democratic reforms has contributed to a phenomenon Simmel calls ‘culture lag’. Thailand’s subjective culture, or the capacity of individuals to regulate and make sense of their material environment, lags behind its objective culture, or the volume of goods and industries it produces. This is the
tragedy of culture: the prostitution industry has enjoyed a presence in Thai society for centuries, yet its growth has outpaced Thailand’s ability to articulate a well-coordinated social and political response.

**Structural Functionalism**

Merton’s theory of structural functionalism points out that sometimes social structures benefit society as a whole at the expense of minority interest groups. Prostitution may be functional in many ways: it provides a source of income for prostitutes, pimps, and the social workers and human rights activists who work on their behalf. It provides an outlet for the expression of sexual desires that men are not socially conditioned to fulfill with their wives, thus sparing countless women from the horrors of ‘weird sex acts’. It even functions to draw customers to Thailand who subsequently inject foreign currencies into the Thai economy.

Yet there are many latent functions of prostitution which do not serve Thailand well: AIDS is spreading at an increasing rate, resulting in increased government costs related to healthcare and lost work hours. Thailand has gained a reputation as the playground for white men; consequently, other parts of the tourism industry suffer. The women of Thailand are exploited, and Thailand ‘loses face’ in the eyes of the international community that it so fears.
Response

NGO's

The *International Justice Mission (IJM)*, an organization of human rights professionals who take referrals from Christian missionary organizations who witness abuses of power - documents human rights abuses, coordinates intervention for victims, arranges suitable aftercare for victims, pursues prosecution of perpetrators, and encourages structural changes to prevent future injustice. Its office in Chiang Mai, the *Thailand Justice Center (TJC)*, works primarily on cases of forced child prostitution and citizenship rights for tribal people and ethnic minorities. TJC investigators collect evidence in local brothels and cooperate with an anti-trafficking commission to refer appropriate cases to the Royal Thai Police. Staff social workers coordinate aftercare for rescued sex trafficking victims, and administer funding to local NGO's engaged in prevention and aftercare. With a substantial US federal grant, TJC currently supports an important initiative spearheaded by the *Karen Baptist Church (KBC)*.

The Karen, Thailand's largest hill tribe group, migrated from Yunan, China into the Lanna Kingdom after its consolidation with the Thai Kingdom (composed of ethnic Tais). Their unique language, traditional dress, living patterns, staple crops, and subsistence farming techniques (slash and burn) are eyed with suspicion by central Thais dwelling in the lowlands. In a cruel manifestation of institutional racism, Karen must prove that their parents and grandparents resided in Thailand in order to receive Thai citizenship. The bureaucratic process is confusing and expensive; consequently, thousands of Karen lack citizenship papers, leaving them vulnerable to exploitation by traffickers and pimps.

Caseworkers trained by the Karen Baptist Church assist Karen hilltribe villagers in attaining Thai citizenship. They travel to remote villages, hold meetings with village headmen and local elders, and work with individual families on citizenship paperwork. In 2002 alone, this KBC
project helped 6000 Karen villagers complete citizenship applications. Now supported by TJC, KBC caseworkers have an avenue to refer cases of extortion when forced to bribe civil servants processing their papers.

After graduating from college in Northeastern India, Dr. Zothansiami Ralte (Ajarn Tete) moved to Northern Thailand to begin work with hill tribe people. After teaching English in a rural school for several years and marrying a Karen man, Soradaet, she founded the *Hill Tribes Resources and Development Center of Musikee* in 1989. The Center houses Karen children from remote villages during the school year; often these children come from difficult family situations. The Center aims to "provide physical, spiritual, and educational services for hill tribe children in Northern Thailand" while fostering their independence, preserving their culture, and preventing future exploitation. Through two vocational centers, female residents learn traditional weaving, dress making, knitting, handicrafts, and baking, while male residents develop carpentry and farming skills. A number of orphaned children have been ‘adopted’ into the Center community, including the iconic toddler twins, Yuupi and Yuupa (pictured above). Some of the Center graduates have set up similar centers in their own villages.
In 1987, an American Baptist missionary opened the New Life Center (NLC), providing shelter to eighteen women living in Thailand. Currently housing 200 women from ages twelve to twenty-five in its Chiang Mai and Chiang Rai houses, NLC exists:

- To provide shelter to tribal women, in order that they may receive an education.
- To support and encourage residents to develop a full range of vocational skills.
- To provide life skills training to residents (e.g., personal health and safety, nutrition, food preparation and handling, human and citizenship rights).
- To equip and empower young tribal girls with the knowledge they need to make good choices for themselves.
- To provide an opportunity for young women who have been exploited in any way to realize their potential as people of dignity and worth.
- To actively protest the sex trade industry, human trafficking, and all other forms of exploitation of women.
- To present the Christian message to residents through Bible studies, games and activities, and through the example of Christian living on the part of the staff.

Approximately 70% of the young women housed at NLC are considered “at-risk cases”. They come to the Center orphaned, uneducated, with physical disabilities, or from families and villages with a high number of opium-addicted adults. 20-25% of the residents are considered “emergency cases”, having escaped the sex trade and other exploitative labor situations. These residents are given appropriate medical care and psychological counseling. Experienced caseworkers conduct careful home assessments before repatriating the girls to their villages. A few “leadership development residents” further their education through NLC funding. All NLC residents attend night school. During the day, they are tutored in math, Thai, English, and literacy in their own tribal languages. Some attend vocational school during the day, while those who have not yet achieved literacy in Thai at the 5th grade level learn handicraft skills at the Center and produce NLC Dolls, dressed in authentic miniature tribal clothing, which are sold to foreign visitors.

Upon graduation from the Center and completion of their ninth grade studies, NLC residents are encouraged to continue through the twelfth grade with institutional assistance. The Center employs the largest female tribal staff of any organization in Thailand. Two-thirds of the
staff are NLC graduates, four hold bachelor's degrees, and one has finished a Master's from Chiang Mai University.

*Thai Woman of Tomorrow (TWT)*, a unique prevention project based in the Faculty of Social Sciences at Chiang Mai University, was established in 1992 by Dr. Chakrapand Wongburanavart, following research on “Attitudes Toward Education and Careers of Young Women in the Area Where Daughters Were Encouraged to Enter Sex Service and Human Rights Problems”. The project's main objectives include: extending educational opportunities to at-risk girls, changing parental and community attitudes toward sex work, and providing vocational training to young women who have completed the ninth grade. TWT accomplishes these objectives by: offering scholarships to at-risk girls to continue their educations, sponsoring video campaigns promoting ideal Thai female behavior, and training young women with specific vocational skills suitable for the following fields:

- 3-strain hybrid chicken raising, fish farming, frog farming, fish scale flower making, batik cloth making, cement vase making, embroidery, mushroom farming, toasted bread and herb medicine, ice cream sales, picture frame making, baked goods and banana snacks, fresh milk and toast sales, silk screened handkerchiefs, flower making, and Thai dessert making.

An organization to “End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes,” ECPAT's global network of NGO's is headquartered in Bangkok. ECPAT serves as an important link between anti-trafficking NGO's, provides training for trafficking victims' rehabilitators, and works independently to:

- Motivate local communities to find strategies which will protect children
- Involve young people in seeking solutions to commercial sexual exploitation of children
- Address the flow of child pornography in shops and on the Internet
- Provide expert consultancy to governments on legal changes needed to protect children
- Collaborate with Interpol and local law enforcers to ensure laws are implemented
- Assist the tourism industry in its campaign to end sex tourism
- Monitor the implementation of the Agenda for Action adopted at the World Congress Against Commerical Sexual Exploitation of Children in Stockholm in 1996

*Empower Foundation*, an organization based in Patpong and hailed by prostitutes-rights advocate Cleo Odzer, works directly with prostitutes in Bangkok and Chiang Mai. Empower
offers English language classes, hygiene and sexual health training, and contraceptives to female participants. Just outside Patpong, Empower runs a mobile classroom where hilltribe, Burmese, Laotian, and Cambodian women learn to read and write Thai. Patpong women also run a store, selling goods produced by members; “it’s a place where women can generate some income with pride.” In a Chiang Mai ‘safe house’, Empower participants study Thai, English, massage, and sewing and receive check-ups from a registered nurse. There, “women in trouble can stay for a bit”. Empower runs a resource library in Nonthaburi which carries information about HIV/AIDS, prostitution, womens’ movements around the world, and human rights. Empower’s critics point out that its programs offer empowerment to women only in the context of prostitution, rather than liberation or separation from prostitution:

A lot of organizations I talked to do not want the criminalization of anybody, not clients, not pimps, no one, because they say, ‘if you penalize the clients and pimps, then you disadvantage the women in the way they operate’ (D’Cunha 2002).

**Legalization**

In the past decade, the Netherlands, Germany, Czech Republic, Australia, New Zealand, and the State of Nevada have all legalized prostitution within their borders, fueling an international debate about decriminalization and regulation. Dennis Altman states provocatively in his book, *Global Sex* (2001), that prohibition of the sex trade is ineffectual:

prohibition increases the risks to the health and security of workers, and benefits organized crime. When the mayor of Manila closed down the city’s brothels a few years ago he succeeded only in pushing the trade into adjoining cities – or farther underground. The criminalization of prostitution – and the denial of basic civil rights to sex workers – is a significant factor in the perpetuation of a whole set of practices which amount to sexual slavery (114).

He makes an important point: in the past, enforcement efforts have wrongly targeted sex workers, rather than brothel owners, pimps, mamasans, and customers. However, a carte blanche dismissal of enforcement followed by intimations of the legitimacy of the legalization of prostitution are too hasty. Australia, the Netherlands, the Czech Republic, and New Zealand have demonstrated that while legalizing prostitution does bring the industry under state control and surveillance, and
even diminishes the impact of venereal diseases on the general population, legalized sex work is no less exploitative. Sex workers in Amsterdam and Syndey are required to undergo monthly vaginal inspections and blood tests – a policy that protects exclusively the sexual and physical health of their customers, even as they are subjected to the threat of contamination from an ‘uninspected’ customer. The Coalition Against Trafficking in Women (D’Cunha 2002) further contends that legalizing prostitution results in the expansion of the sex industry, especially the illegal sector.

An investigative report by Victoria’s Age newspaper in 1999 found an increase in the number of legal brothels from 40 a decade ago to 94 today along with 84 escort agencies … The over 100 unlicensed brothels outnumbered the legitimate sex businesses in 1999 and had trebled in 12 months. Child prostitution, abuse of prostituted women by big business, trafficking of women, especially from poorer countries into Australia by organized crime are on the rise. Convicted criminals fronted by supposedly more reputable people remain in the business (citing Sullivan and Jeffreys, 2000).

The legalization of prostitution represents a government’s absolute failure address the structural forces pushing women into prostitution, or to encourage empowering gender relations and legitimate market patterns. By decriminalizing the very kind of sexual behavior considered violent harrassment in any other workplace, “More boys and men will be socialized to maltreat women as normal practice, thus progressively also dehumanising men. More girls and women will be drawn into prostitution, violated, and the individual and collective rights of women will be eroded (D’Cunha 2002:160).” Social commentators have noted that the proliferation of legal pornographic materials accomplishes the same outcome. It is the writer’s opinion that, however tempting and expedient the legalization of prostitution may appear to Thai policy makers, if enacted, it will only encourage the growth of the domestic sex trade while nurturing the export of Thai women for foreign consumption.
Thai Legislation

Under the Prostitution Prevention and Suppression Act, passed in 1996, “anyone who procures, seduces, or takes away another person with or without their consent to commit prostitution within or outside Thailand, shall be punished with imprisonment of up to ten years and a fine of 20,000 to 200,000 baht.” Parents, in Section 10, are subject to punishment if they are aware of the nature of their child’s work when approving of their departure (this is difficult to prove in court, as one must prove the parent connived in the commission of the offence). If deception, threats, violence, immoral influence, or any other means of mental coercion are used, the penalty is increased by one-third. Customers are liable under Section 6, for “congregat[ing] with another person in a prostitution establishment for the benefit of prostitution of that person”, while pimps and touts are subject to charges of “advertis[ing], induc[ing], or distribut[ing] information to the public in an obvious manner of solicitation or communication for prostitution of that person or any other person.” Owners, supervisors, managers, and controllers (mamasans) are subject to three to fifteen year prison sentences. Critics of this Act note that it “defines an establishment providing sex services as a place specifically arranged for this purpose. But most prostitution takes place in establishments not specified as brothels (Phonpaichit 1998: 211).”

The Penal Code Amendment Act of 1997 revises Sections 282 and 283 of the Penal Code to include this phrase:

Whoever, for sexual gratification of another person, procures, lures, or traffics a man or woman for an indecent sexual act, even with his or her consent, shall be punished with imprisonment of one to ten years, and a fine of two thousand to thirty thousand baht.

Additionally, if such acts victimize a person under fifteen, the trafficker is subject to five to twenty years in prison, or a fine of ten thousand to forty thousand baht.

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2 Section 9
3 Section 12
4 Section 7
5 Section 11
Amending the 1928 Traffic of Women and Girls Act, the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act prescribes that traffickers should be charged under the Penal Code, Prostitution Prevention and Suppression Act, Safety and Welfare of Children and Youths Act and punished accordingly, with a maximum five-year penalty for conspiracy to commit these offences. Police may only detain trafficking victims for a short period of time, and must provide them with food, shelter, and repatriation to their home country. Significantlly, this Act makes it an offence to transfer any woman or child for sexual gratification, whether or not the woman or child concerned has consented to the transfer or any of the acts committed.

Signed by the Prime Minister, Head of the Royal Police, Ministry of Public Welfare and various NGO’s, The 1999 Memorandum of Understanding (MOU) on Common Guidelines of Practices among Concerned Agencies for Operation in Case Women and Children are Victims of Human Trafficking established a standard of care for sex trafficking victims in the hands of government agencies and NGO’s, as well as guidelines for prosecuting traffickers. The MOU incorporates the Penal Code, the Measures for Suppression and Prevention of Trafficking in Women and Children Act of 1997, the Prostitution Prevention and Suppression Act of 1996, and the Immigration Act of 1979 into a non-binding legal agreement.

Women who have been trafficking into Thailand should not be treated as illegal migrants, according to the MOU, but should be granted leniency under Section 54 of the Immigration Act. If a victim agrees to testify against her traffickers, she should be housed in a shelter for the duration of the trial, provided with food, clothing, medical care, and counseling. Unfortunately, the MOU is seldom utilized by Thai police and health officials aware of trafficking cases, due to an appropriate fear that the police cannot offer adequate protection to witnesses, due to their involvement in organized crime. In addition, many trafficking victims cannot afford to spend
several months in a shelter waiting to testify, considering the very reason they left home (whether forcibly or willingly) was to engage in economically profitable activities, often to support families at home. Further, many trafficked women are still arrested, despite the MOU; in the case of a Burmese trafficking victim, Win Win, NGO staff reported:

We spent a long time trying to negotiate with the police to make them accept that this is a trafficking case. There was no need to send the women to the Immigration Detention Centre. We had to argue the case with the police to follow MOU. Finally the police sent them to stay at a government shelter (Foundation for Women Bangkok 2002).

A more effective Criminal Procedure Amendment Act of 1999 (a binding legal agreement), has done more to protect the rights of trafficking victims who testify against their traffickers. Under Section 12 of the Act, witnesses have the right to assistance from a psychologist or social worker, in addition to legal counsel. If the witness is a child, their statement “shall be taken in privacy in a suitable place for the child”.\footnote{6} Unfortunately, victims are still required to hear their statement read while the accused is present in the courtroom, raising fears of identification and retaliation.

**Combating Sex Tourism**

Section 2423(b), Title 18, of the United States Code, as amended by the *Child Protection and Sexual Predator Punishment Act of 1998* prohibits travel overseas by United States citizens, and aliens who are permanently resident in the United States, with the intent of taking part in a sexual act with a minor, with a possible sentence of up to 15 years imprisonment.\footnote{7} Prosecutors have run into difficulty enforcing this act, as it is necessary to demonstrate that a defendant charged under the act did indeed travel intending to have sex with a minor. Thus, Congress is currently working on an amendment to close this loophole.

**International Law**

\footnote{6} Section 5
\footnote{7} Section 2423(b), Chapter 117 “Transportation for illegal sexual activity and related crimes”
Part I, Article 6 of *the Convention on the Elimination of Discrimination Against Women (CEDAW)*, adopted in 1979 by the UN General Assembly, states vaguely: “State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” Without setting forth minimum standards or guidelines, CEDAW allows individual countries to determine whether ‘appropriate measures’ mean “strict criminal penalties or merely official admonitions against trafficking and forced prostitution (Roffman 1997).”

The *Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, the first internationally agreed upon definition of trafficking, defines trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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 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.

Most importantly, the Protocol establishes the irrelevance of the victim’s consent to the intended exploitation, freeing trafficking victims from the burden of proof in a criminal trial, and assures their protection and assistance. This is a loophole traffickers have used in the past to avoid prosecution. In addition, “in recognizing that much trafficking is for prostitution and other forms of sexual exploitation, the definition affirms that prostitution and trafficking cannot be separated (D’Cunha 2002).”

**Implementation**

Sex tourists and brothel investigators note that brothel raids did not commence until the passage of the 1996 Prostitution Act. Since then, however, honest enforcement officials have made headway with a number of arrests and convictions of brothel owners and customers. From January 1996 to December 1997, according to the Ministry of Justice, “52 people were convicted
under sections 9 and 12 of the Prostitution Act as traffickers,” along with “19 convictions under section 11 of people who had supported prostitution (brothel-keeping) (Foundation for Women Bangkok 2002).” David Leheny argued in 1995 that “recent government efforts to curb the sex industry can be viewed, in part, as greatly facilitated by changes in the demand for tourism in the region”. Noting an influx of Japanese tourists, particularly female tourists who detest the sight of brothels, and whose preference for luxury goods purchased from small businesses produce minimal leakage and most fully contribute to the Thai economy, he argues “by investing in Thailand, the Japanese government is reconfiguring social relations there, probably unintentionally, and making the Thai government more responsive to Japanese needs, by aligning interests (Leheny 1995: 382).”

A majority of today’s brothel-busts are criticized as symbolic, face-saving measures. Trink reports that during raids in Patpong,

The medical books of the lasses aren’t checked to determine whether they’ve regularly been examined for VD [venereal diseases] and the dreaded disease [HIV]. What does matter is that they aren’t found with drugs and 2 am closing time is adhered to. Every once in awhile their ages are looked into, to ensure that none is under 18, in which case they become freelancers (October 23 1998).

The few instances in the late 90’s when police did not notify brothel owners (or other cops) of coming raids were usually during drug-related raids, when they forced customers (who are engaging in illegal activities!) to evacuate and performed urine tests on the sex workers, serving jail time to those found positive (Trink December 18 1998). This policy only backfired, as many sex workers consume amphetamines to cope with degrading work conditions, and find little redemption in the local police station, where many cops rape them without pay. Nu, a Thai woman trafficked to Japan, reported a similar story:

Most of us consumed drugs or gulped down alcohol before leaving for work. Our regular supply came from the mama-san and was added to our debts. I used a drug called domikum which made me feel happy, funny and carefree. It helped me lose all inhibitions and I never felt intense pain when on it. Most of us didn’t know Japanese and were forced to engage in body communication with clients. We had to sit very close to clients, touch and be touched by them, wear short dresses
with spaghetti straps without any underwear, or walk around the bar stark naked to attract customers. I could only do this when high (D’Cunha 2002: 153).

In 2000, “there was broad and blunt public discussion of the corrosive effect of corruption on Thai society (Office to Monitor and Combat Trafficking in Persons 2001).” The government set up a national Committee on Trafficking in Women and Children, and began cooperating with regional governments through a Mekong Sub-Regional Project Committee (ibid). In 2001, The US State Department noted in its 2002 Trafficking in Persons (TIP) Report\(^8\) that Thailand had “entered into cooperative agreements with industry leaders to promote employment of girls and women outside the sex industry” and “created a working group to combat trafficking in women and children to improve interagency coordination, build law enforcement capacity, and draft legislation (ibid).” In 2002, “there were three arrests and no prosecutions during the year for parents who allowed a child to enter the [sex] trade (US State Department 2003).” In the same year, TIP reported “504 trafficking related arrests, resulting in 42 prosecutions and 21 jail sentences (Office to Monitor and Combat Trafficking in Persons 2003).”

The monarchy, led by King Rama IX, Bhumibol Adulyadej, has evidenced concern for the growing problem of sex trafficking by financing and founding many foundations and educational initiatives aimed at prevention. The Thai government cooperates well with NGO’s, and provides in-kind assistance for the social services they offer to rescued sex trafficking victims. Still, Thailand remains on the second tier of the TIP Report, indicating it has made significant strides to combat sex trafficking through its borders, yet fails to meet minimum

\(^{8}\) As a result of the 2000 US Trafficking Victims Protection Act, the State Department set up the Office to Monitor and Combat Trafficking in Persons, a body that publishes the annual Trafficking in Persons (TIP) Report, ranking countries on a 3-tier scale indicating their efforts (or lack thereof) to stem the problem. Under this act, countries on the third tier have two years to show progress in combating trafficking before risking the loss of non-humanitarian aid. This report covers "severe forms of trafficking in persons" defined as: "(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."
enforcement standards. Efforts are now underway to establish “a special transnational crime department, which will have a unit dedicated to combating trafficking” and to ensure “foreign victims are not treated as illegal migrants (ibid).” The UN and the US State Department have called on Thailand to beef up security at the porous Thai-Burmese border through which drug lords and corrupt police shuttle hundreds of thousands of girls each year. At this point, however, placing more cops on the border will more likely increase the bribes required to get girls over the border than diminish the trade.

Impact

In the wake of all these efforts, what is the state of the Thai sex industry today? According to Thailand’s Ministry of Public Health, there was a 3\% increase in the total number of prostitutes from 1996 to 1999.9 In 1999, Phonpaichit (1998) noted that “over thirty years have passed, yet there is no sign that prostitution in Thailand is in decline. Indeed with economic development, increased wealth has raised the demand for sex services (his emphasis).” Thai male participation is still high, as AIDS awareness efforts have increased condom use but failed to minimize other risk behaviors, such as visiting sex workers. 1.8\% of the population is infected with HIV (US State Department 2003), and citizens and foreign sex tourists still engage in pedophilia, whether out of perversion or a naïve attempt to avoid infection.

Due to better-informed educational efforts aimed at hilltribe children, including successful citizenship applications of thousands of hilltribe villagers, hilltribe girls’ situation is improving. Most village headmen can clearly articulate to their neighbors the dangers of sending their daughters to work in the cities, and allow only sons to migrate for work. Thus, trafficking patterns have quickly changed:

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9 Venereal Control Division, Results of Annual Survey on Sex Establishments in Thailand
Fewer girls from Northern Thailand have entered the sex industry in the past few years. As their numbers decline, they are replaced by women and girls from Burma and Southern China. Girls from China are often 12-18 years of age.\textsuperscript{10}

Unable to easily exploit tribal girls, traffickers now shuttle approximately 10,000 Burmese girls (particularly ethnic Shan, currently persecuted by the military junta) each year through Chiang Rai, Ranong, and Mae Hong Son.\textsuperscript{11} According to the Bangkok Post, 60\% of these girls are under 18 years of age.\textsuperscript{12} Cambodian women and girls are trafficked through Trat and Sa Kaew; Laotian girls through Mukdahan and Nong Khai; and Malaysian girls through Yala and Narathiwat.\textsuperscript{13}

Meanwhile, foreign demand for Thai women has grown in the Netherlands, Germany, Japan, Australia, India, Malaysia, United Arab Emirates, Saudi Arabia, Switzerland, Austria, Czech Republic, New Zealand, and the United States. “There are more than 150,000 foreign women in prostitution in Japan, 40\% are Thai”,\textsuperscript{14} and “700 Thai women in prostitution in Bern, Switzerland, who make up a large portion of the total number of prostitutes.”\textsuperscript{15} Traffickers:

employ a spectrum of methods to enslave women and children in prostitution. These are kidnapping, abduction, rape and sale, material inducements to parents, relatives and guardians to sell women family members, deceit in the form of promises of well-paying, legitimate jobs, better quality of life, residency status (Australia), or befriending, declarations of love, and fake marriages. Newer and more sophisticated methods of force and violence are being used to facilitate brokering, networks, and market linkages for the sexual exploitation and enslavement of women and children. These range from international marriage alliances and the mail-order bride system to the use of Internet services — news groups and Web sites for the global exchange of sex-related services, advertisements of commercial sex tours and mailorder bride catalogues (D'Cunha 2002).

A handful of successful cases of criminal proceedings have begun to establish judicial precedence. From 1999 to 2001, FACE (Fight Against Child Exploitation), an NGO, examined

\textsuperscript{10} Archavanitku, Kritaya. (“The Passage of Women in Neighboring Countries Into the Sex Trade in Thailand”) cited in “Academic urges action in war against flesh trade” The Nation, 28 May 1997.
\textsuperscript{14} Coalition Against Trafficking in Women International. Winter 1998. “Asia Pacific Newsletter.”
\textsuperscript{15} Srisamorn Thoy, Xenia, Mukadawan Sakboon, “Thai sex workers hit by recession in Switzerland” The Nation 5 May 1997.
87 cases of procurement, 11 of brothel keeping, and 12 of forced prostitution. Out of these cases,

72 were brought before a prosecutor, 54 cases were issued with a prosecution order and 21 cases were dismissed. Twenty-one traffickers were convicted under section 9 of the Prostitution Act. These statistics relate to both trafficked women and children. In cases of trafficked women only, 24 cases were prosecuted and seven cases were dismissed. The reason for dismissing most of the cases was lack of evidence (Foundation for Women Bankgkok 2002).

Stickman reports (February 8, 2004): “Word out of Cowboy is that the police intend to intermittently pop into bars and check the IDs of both staff AND patrons. If anyone is found under the age of 20, the bar can expect to be closed.” Sex tourists, discouraged by recent crackdowns in tourist-oriented sex districts, show signs of moving on to Cambodia, where sex is cheaper and children are younger. Stickman continues, “The Thai police make the average law abiding farang very nervous indeed (ibid).”

The whole atmosphere and feeling is that you have to tread very carefully, being careful about what you do and even what you say! If you say or do the wrong thing, specifically something that is not in line with the current regime’s plans, then there is very much a feeling that the boys in brown will come around the corner and whisk you away to some sort of interrogation chamber with medieval weapons to punish you. Ok, so one still has the freedom to do and say as they please, but it doesn’t feel like that. It is quite amazing to watch people engaged in conversation about certain issues, and move their head from side to side, checking to see who may be listening, before offering any thoughts that might be construed as less than positive about the government (Stickman February 22 2004)

Sex tourists show signs of moving on to Cambodia, discouraged by pending midnight closing legislation in bars/brothels: “Many readers are saying that they will boycott Thailand. I even read a website that someone has just created trying to get others to boycott Thailand too! (Stickman 2004: Feb 15)”

Noting that the Thai public prefers a more ‘respectable’ brand of tourist, Stickman predicts that sex tourists who leave will be adequately replaced by families, backpackers, and business travelers (ibid). In addition, he hopes the existing ‘naughty nightlife bars’, redundantly “run on exactly the same model and sophisticated management and marketing” will adapt to changing circumstances in harder times:
Is the writing on the wall for Thailand, so often considered a good time place with the over-riding idea of *kumik?* Policies have been known to change frequently in Thailand and enforcement of the law is not always as strict as it could be. But despite all of this, it looks as though the shape of night time entertainment in Thailand is going to change drastically. The party might not be over, but the lights sure are being dimmed (ibid).

Sex tourists and human rights advocates alike are ambivalent about the current shape of Thailand’s sex industry. “It looked as if Thailand didn’t care,” reported Karen Smith, “but now that’s changing (Beadle 2003: March 13).”

**Conclusions and Recommendations**

Thailand’s unique history has unfortunately provided fertile ground for a domestic and international sex trade. Women and children are continually trafficked over its porous borders for sexual exploitation-for-profit at the hands of Thai and Western men. A long legacy of misogyny and corruption, aggravated by the crippling social upheaval of capitalism, industrialization, globalization, and urbanization, crushes thousands of women and children under its nasty heel.

- **Redirect enforcement efforts:** Numerous scholars and human rights activists have called on Thailand to direct enforcement efforts against traffickers, pimps, owners, and customers, rather than prostitutes, saving scarce rehabilitation resources for trafficking victims. As long as prostitutes are considered perpetrators, they will flee police intervention and protect the identities of kingpin traffickers. Additionally, better pay and improved performance reviews for police should diminish police’ dependence on extortion. The Indian state, Andhra Pradesh, has demonstrated success by linking law enforcement officers’ performance appraisal “to his or her efforts to apprehend and investigate human traffickers (Office to Monitor and Combat Trafficking in Persons 2003).” Thailand has received praise for developing an interagency working group to develop and implement anti-trafficking strategies, a group I interacted with during my internship at IJM: “NGOs work to identify victims, pass that information along to the government, which can raid brothels, then refers victims’ names and addresses to the NGOs for shelter and assistance. NGOs uncover information, such as the traffickers’ names and addresses, from the victims and then pass that information back to the government to assist police work. The process makes for a regular exchange of information at a tactical level (ibid).” Threatening to publish the names of brothel owners, as South Korean police do (ibid), could go a long way to deter businessmen from setting up new establishments. Despite complicated land title procedures which allow landowners to wash their hands of responsibility for activities taking place in buildings they own, the names of ‘the fish behind the trade’ are not difficult to uncover.

- **Education Reform:** Currently, Thai children enter high school through lengthy placement tests, and their parents often resort to institutional bribery to get their children into school. As the economy (and the federal budget) grows, Thailand should aim to
provide free education for all children up to the twelfth grade. This will provide poor rural women with alternatives to sex work, and awareness necessary to avoid exploitation. Education campaigns, currently limited to school curriculum and the occasional print ad, should reach vast and broader swathes of the Thai public, including villages in the impoverished Northeast. The Government of Bangladesh “organized a month-long road march campaign throughout the country to highlight trafficking in persons and other crimes against women. Bangladeshi and government officials participated in the marches that educated communities about how to reintegrate, assist, and accept trafficking victims back into their home communities (ibid).”

- **Foreign Relations:** As the status and awareness of Thai women improves, Thailand must engage in efforts to prevent the exploitation of poorer Burmese, Cambodian, Laotian, and Chinese girls by securing its long land borders, stationing border officials and investigators at key trafficking points, and assisting its neighbors with efforts at economic development and political reform.

- **Support from the Sangha:** To do all these things, however, the Thai government needs the moral support of the state-funded Sangha (order of monks). As the most influential federal organization, with temples stationed in every one of Thailand’s 32,000 villages, the Sangha’s participation is crucial to the fight to end the sexual exploitation of women and children in Thailand’s borders. Contrary to conventional theories of development, Thailand has not welcomed modernity’s alleged bedfellow, secularism. Thus, Buddhism as a religious and cultural institution still wields considerable influence in Thai society. So far, however, no coordinated effort to address the victimization and exploitation of women in Thai society has emerged from Thai Buddhism’s halls of wisdom. As long as the majority of Thai society, as yet unmoored by its shepherds, the Sangha, sits on its hands, not only do the efforts of Thailand’s parliament and royal family fall flat, the Buddha’s rich teachings on compassion and lovingkindness are soundly ignored. Thai monks could model their efforts on the UNICEF funded Sangha Metta Project, which has successfully educated and mobilized monks in HIV/AIDS prevention and care. In line with their traditional role as teachers, monks could inform parents of the dangers of sending their daughters to work in the cities, while deconstructing the deceptively glamorous image of the sex worker in the minds of young girls. Utilizing their status as the voice of wisdom in their communities, Thai monks could expound on the negative karma accumulated by visiting prostitutes. Acting in their own self-interest, then, Thai men would have one less incentive to visit the nearest red-light district once the sun has set. Additionally, Thai women, now empowered to protest when their husbands use or sell prostitutes, would cause the sex industry’s customers to lose face in their local communities. Shame, in Thai society, is a powerful mechanism for social control.

If the Sangha were to engage in a coordinated endeavor to address the problem of sex trafficking and prostitution in Thailand, the potential impact would be dramatic. The prostitution industry’s growth has outpaced Thailand’s ability to articulate a well-coordinated social and political response, even as Thailand’s position in Southeast Asia grants it the capacity to lead the region in new and successful anti-trafficking efforts. A grassroots effort led by saffron-robed holy men could forge the final link in the chain of social actors looking out for the welfare of Thailand’s women and children.
Appendix A

QuickTime™ and a
TIFF (LZW) decompressor
are needed to see this picture.
Works Cited


References


